

Comments of Strategic Energy, L.L.C. to the California Independent System Operator's February 6, 2007 proposed Tariff language to Load Scheduling Requirements

I. Introduction

In light of the short amount of time provided for review and comment of the California Independent System Operator's ("CAISO") proposed Tariff language to Load Scheduling Requirements, issued on February 6, 2007, Strategic Energy, L.L.C. ("Strategic") hereby offers its preliminary comments to such proposed changes. Strategic reserves its rights to file additional comments at such time as the CAISO files tariff revisions at the Federal Energy Regulatory Commission ("FERC" or "Commission").

The CAISO Whitepaper entitled "Potential Modifications to Amendment 72 Day Ahead Scheduling Requirements", issued on December 11, 2006, initiated a stakeholder process to review Tariff Amendment 72,¹ and Strategic participated in this stakeholder process, as did Strategic's retail alliance, Alliance for Retail Markets (AReM), and various other market participants. See Supplemental Comments of Strategic Energy, L.L.C. on the CAISO's December 11, 2006 White Paper ("Strategic Comments"); Comments of the Alliance for Retail Energy Markets on the CAISO's December 11, 2006 White Paper ("AReM Comments"); Comments of City of Anaheim, Commerce Energy, Inc., Coral Power, L.L.C., Sempra Energy Solutions, Strategic Energy, L.L.C. (collectively, the "Joint Parties") to the CAISO December 22, 2006 Addendum on Potential Modifications to Amendment 72. Strategic is appreciative of the fact that the CAISO solicited comments from market participants,

¹ Amendment 72 requires Scheduling Coordinators ("SCs") to submit day-ahead schedules equal to at least 95% of their forecast demand for each UDC area, for each hour of the next day.

and held a stakeholder conference call to discuss such comments. However, it is Strategic's position that the process was hollow, and did not truly take the stakeholder comments into account in issuing the final whitepaper entitled "Recommended Modifications to Amendment 72 Day Ahead Scheduling Requirements," or in drafting proposed revised tariff sheets. This is demonstrated by the proposed revisions, which ignore many bona fide issues with Amendment 72 proposed modifications which were presented by suppliers during the abbreviated stakeholder process, but which seem to have been ignored. Strategic implores the CAISO to reconsider, prior to filing proposed tariff revisions with FERC, the comments submitted by the stakeholders throughout this process, particularly those of Strategic, AReM and the Joint Parties. Furthermore, and apart from the stakeholder process itself, Strategic finds the proposed revised tariff sheets to be overly onerous, needlessly complicated, and difficult for SCs to ensure compliance therewith. Strategic offers various comments with respect to these difficulties below, and asks that the CAISO take such comments into consideration in further revising its proposed tariff modifications prior to filing them with the FERC.

II. The CAISO Should Have Provided More Consideration to Stakeholder Comments

While the CAISO stakeholder process clearly resulted in an improvement to the requirements of Amendment 72, the stakeholder process was in and of itself a hollow process, designed to engage in the appearance of taking into account stakeholder input, without actually doing so. For example, the CAISO failed to engage in any sort of stakeholder process prior to issuing its Whitepaper on December 11, 2006. The hollowness of the process is further evidenced by the fact, as described in more detail

below, that many of the important issues raised by stakeholders were not acknowledged or taken into account by the CAISO in making revisions to Amendment 72. See AReM Comments, Strategic Comments, and Joint Parties Comments. The fact that the CAISO gave interested parties less than one week to review and comment on the proposed revised tariff sheets indicates that the CAISO is not wholly concerned about stakeholder input. See February 6, 2007 Market Notice.

The proposed revisions do not address many of the important issues raised by Strategic and other stakeholders, including, but not limited to:

- the compliance difficulties as a result of the obstacles in the market in obtaining load-shaping products to supplement generally available standard peak and off-peak products. See AReM Comments, p. 3-4; Strategic Comments, p. 3-4.
- the requested 25 MW threshold for violations, which would alleviate many compliance difficulties. See Strategic Comments, p. 5; AReM Comments, p. 7.
- the difficulties with verifying compliance, including the significant problems with the CAISO portal and the CAISO's maintenance and integrity of data. See AReM Comments, p. 5; Joint Parties Comments, p. 1-2.
- the fact that permitted deviations should be on a per-megawatt basis, not a percentage basis, to allow for equal allocation of deviations across all load-serving entities, regardless of size. See Joint Parties Comments, p. 2.

Rather than re-iterating all of its prior comments filed as part of this process, Strategic requests that the CAISO re-review and sincerely reconsider all stakeholder comments, particularly those of Strategic, AReM, and the Joint Parties, and issue revised tariff sheets prior to filing them with the FERC. Moreover, in any tariff submittal, the CAISO should acknowledge that there have been considerable obstacles to verification of compliance since the inception of Amendment 72, due to limitations

in the CAISO portal. The CAISO should acknowledge that not all of the limitations of the CAISO portal have been fixed and that a relaxation of compliance requirements is appropriate in light of the difficulties faced by suppliers in verifying their compliance using submissions to the CAISO portal and the limited information that suppliers receive back from the CAISO.

III. Technical Comments on Proposed Revised Tariff Provisions

The revised tariff sheets as proposed by the CAISO on February 6, 2007, are ambiguous, complicated, conflicting, and difficult to ensure compliance therewith. First and foremost, the manner in which the changes regarding Amendment 72 are made throughout different sections of the tariff is unnecessarily confusing. It would make more sense if all requirements of Amendment 72 were laid out in one section, or at least summarized in one section, with reference to additional sections where the particular requirements are laid out in detail. Some of Strategic's initial observations as they relate to the technical requirements of the revised tariff sheets include, but are not limited to, the following:

1. The revisions to Section 19 are unsound, and leave no clear indication of exactly what the revised Section 19 requires of scheduling coordinators. Various stakeholders, including Strategic and AReM, commented that Section 19 is obsolete, redundant, and should be deleted. While the CAISO did delete a significant portion of Section 19, including the onerous provision in Section 19.1.1 which required SCs to submit weekly peak demand forecasts for the following 52 weeks, a significant portion of Section 19 remains. The import of the remaining portions of Section 19 as they apply to scheduling coordinators are unclear, as they address demand forecasts, yet

provide no timeline submission for such forecasts, and do not add anything to the requirements of Section 31.1.4, which already addresses the requirements for demand forecasts. Specifically, Section 19.1.4 seems to directly duplicate Section 31.1.4.1. Further, Section 4.5.4.2.1 also discusses “forecast Demand,” as it relates to the 95% or 75% requirements. Sections 19, 31, and 4.5.4.2.1 appear to be related, but it is unclear why this information is contained in three separate provisions in various portions of the Tariff. Thus, Strategic proposes that Section 19 be deleted in its entirety, and that Section 4.5.4.2.1.1 and 31, and any other provisions that discuss demand forecasts, be clarified and consolidated.

2. Additionally, the language contained in Section 4.5.4.2.1.1 is inappropriate. Section 4.5.4.2.1.1 states “[s]ubject to the allowances provided in Sections 4.5.4.2.1.2 and 4.5.4.2.1.3, each Scheduling Coordinator shall submit to the ISO a Day-Ahead Schedule....” Sections 4.5.4.2.1.2 and 4.5.4.2.1.3 discuss the permissible deviations from the 95% and 75% requirements. Thus, the term “allowances” in Section 4.5.4.2.1.1 does not seem appropriate. Rather, the statement should read “[s]ubject to the permitted deviations provided in Sections 4.5.4.2.1.2 and 4.5.4.2.1.3, each Scheduling Coordinator shall submit to the ISO a Day-Ahead Schedule...” Strategic requests that the CAISO make this change.

3. Section 4.5.4.2.1.3 states that “[m]inor deviations do not include any deviations within the allowances for deviations specified in Section 4.5.4.2.1.2.” Strategic requests clarification on the true meaning of minor deviations and allowances, as discussed in this particular statement.

4. Finally, Strategic takes issue with Section 20.2, in that it protects the confidentiality of data provided by Scheduling Coordinators pursuant to 31.1.4 and 19.1.4, but makes no mention of data provided pursuant to 4.5.4.2.1.1 or 30.3. Strategic requests that data provided pursuant to these provisions also be afforded confidential treatment.

IV. Conclusion

Strategic very much appreciates the opportunity to participate in the White Paper process, as well as to comment upon the proposed revised Tariff sheets. Strategic implores, however, that the CAISO give greater consideration to stakeholder comments, as detailed above. Any questions or comments should be directed to Andrea Morrison at (916) 759-7052 or amorrison@strategicenergy.com.

Respectfully submitted,

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