

**COMMENTS OF THE ALLIANCE FOR RETAIL ENERGY MARKETS,
CONSTELLATION ENERGY, DIRECT ENERGY LLC, AND J. ARON &
COMPANY ON THE STANDARD RA CAPACITY PRODUCT
October 27, 2008**

The Alliance for Retail Energy Markets (AReM),¹ Constellation Energy, Direct Energy, LLC, and J. Aron & Company (Joint Parties) appreciate the opportunity to provide additional comments on the CAISO's stakeholder process for facilitating the market development of a Standard Resource Adequacy (RA) Capacity Product (SCP). The Joint Parties would like to thank the CAISO for holding an additional stakeholder conference call on October 20, 2008 and for allowing stakeholders to present their views on the process going forward. The Joint Parties continue to believe that the two key issues being addressed in this process, the availability of RA resources and financial penalties, would be most easily resolved in face-to-face stakeholder meetings. However, the Joint Parties also recognize that the current schedule leading to a January Board decision and a February 2009 FERC filing leaves little time for such additional meetings. The Joint Parties' highest priority is for a February FERC filing, which would allow time for the market to develop and implement the SCP and associated confirms for 2010 RA compliance. The Joint Parties firmly believe that a filing date later than February 2009 jeopardizes market development of the SCP in time for 2010 RA compliance. Accordingly the Joint Parties strongly support the CAISO's current schedule presented at the 10/20/08 conference call and will oppose any actions or proposals that would delay the FERC filing beyond February 2009. To assist the CAISO's efforts, the Joint Parties attach a proposed framework for the February filing that identifies the key issues to be addressed.

However, the Joint Parties believe that one or two additional stakeholder meetings after the CAISO's issuance of its straw proposal on 11/6/08 would be beneficial to resolve contentious issues, if they did not lead to a delay in the February filing deadline. Because of the tight timetable proposed by the CAISO, the Joint Parties suggest adding a day to the November 18th meeting. If that provides adequate opportunity for building consensus, then no additional meetings would be necessary. Another day could also be added before/after the December 11th MSC/stakeholder meeting. However, the additional stakeholder meetings should only be held if the CAISO: (1) commits to participate in the meetings; and (2) specifies that these additional meetings would not delay the February 2009 FERC filing.

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On Behalf of the Joint Parties

¹ AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California's direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

**FRAMEWORK FOR FEBRUARY TARIFF FILING TO FACILITATE
DEVELOPMENT OF A STANDARDIZED CAPACITY PRODUCT (SCP)**

*Proposed by the Alliance for Retail Energy Markets, Constellation Energy, Direct
Energy LLC, and J. Aron & Company*

October 27, 2008

I. Goals of SCP Filing:

To incorporate into a CAISO tariff filing by February, 2009 the following MRTU Tariff modifications are needed:

- Define SCP Tag and how it may be used.
- Establish protocols for performance/availability standards and the financial consequences to resource owners of the performance standards.
- Specify any required transition rules – if necessary to reflect existing RA transactions.
- Specify credit requirements, if any -- CAISO to demonstrate need for credit requirements.

II. SCP Tag and SCP Program Components:

A. Define SCP and SCP Tag

1. What does the Tag include?
 - a. 1 SCP Tag = 1 MW of NQC, although fractional MW amounts should be allowed; most SCP Tags will be in whole MW denominations, but some NQCs are in 0.01 MWs and, therefore, the Tag should be designed to accommodate such fractional amounts.
 - b. RA Resource ID from NQC list.
 - c. Whether System RA or Local RA (further discussion needed to decide if this designation is a component of the Tag or just needs to be included on NQC list).
2. What is the term of the Tag? (Decide on preferred option.)
 - a. Annual but tradable within the year; or
 - b. Annual only (as suggested by some commenters).

3. Is the use of the Tag for RA compliance optional or mandatory?

B. When will SCP and associated Tags be effective? (*Decide on preferred option.*)

1. Immediately upon FERC approval (available for 2009 monthly RA compliance); or
2. For 2010 compliance.

B. When are Tags for new RA resources effective?

1. As of date resource available for meeting RA compliance (RA counting rule set by LRA).

C. What are the resource owner obligations?

1. Compliance with RA-MOO.
2. Any other obligations as specified in tariff or participating generator obligations.

D. What is the LSE obligation?

1. Specify that LSE obligation ends with submittal of SCP Tags/RA capacity to LRAs/CAISO

E. Components of NQC List:

1. NQC List should continue to include:
 - a. System RA;
 - b. Local RA; and
 - c. South/North Path 26.
2. Consider improvements to NQC List for 2010 Compliance:
 - a. Complete final NQC no later than July of each year.
 - b. Make following improvements:
 - i. Specify Category 1 - 4 of Maximum Cumulative Contribution (MCC).
 - ii. Include the NQC of demand resources and intermittents as those NQC's have been determined by the LRAs.

F. Others?

III. Performance/Availability Metrics and Non-Performance Penalty

A. Define performance/availability requirement (*Suggest proponents make presentation or pros/cons of suggested approach at 11/18/08 stakeholder meeting*)

1. $\geq 80\%$ -- Calpine *et al*;
2. $\geq 95\%$ -- Powerex; or
3. CFCMA approach.

B. Define financial penalties for failing to meet availability requirement

C. Define ability for resource owner to replace capacity in lieu of financial penalty

IV. Transition Requirements, if any: Stakeholders that recommend grandfathering RA contracts should provide assessment of how many contracts and for how long.

V. Credit Requirements, if any: CAISO to present credit requirements rationale.

VI. Other Issues Not Required To Be Addressed for Feb 2009 Filing

A. Standard SCP Confirm Language in MRTU Tariff -- Confirm language to be developed by the market once the MRTU Tariff changes are adopted.

B. Changes to RA Counting Rules and RAR – Set by LRAs (including a new A/S obligation for the RA-MOO, which is currently being considered in the CPUC RA Phase 2 proceeding)

C. Changes to calculation of NQC – Such changes are separate from the SCP.

D. Specifying testing process for checking NQC – The tariff has provisions that could be clarified, but this is a separate issue from SCP.

E. Changes to RA backstop/need for replacement capacity – RA backstop has always been treated as a separate issue; recent FERC order approves ICPM with 12/31/10 sunset date, so no need for changes at present.

F. Bulletin Board/Registry – These would improve the market, but can be addressed separately from the SCP.