

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



October 28, 2008

To: California Independent System Operator
From: California Public Utilities Commission Staff

Re: CPUC Staff Comments on the CAISO's Standardized Capacity Product Development Timeline

California Public Utilities Commission (CPUC) staff appreciates the opportunity to provide comments in response to CAISO's Standardized Capacity Product (SCP) Development Timeline, discussed at the October 20, 2008 stakeholder telephone call.

Staff understands that this particular opportunity to comment is designed to reflect procedural issues rather than substantive matters. The CPUC staff observes, however, that there are a number of areas in which the substantial issues raised in the CAISO's August 27, 2008, Issue Paper overlap with both legal process as well as CAISO stakeholder process issues. As discussed further below, the CPUC staff urges the CAISO to focus its energies on areas in which stakeholders agree that the CAISO has a positive role to play in improving California's Resource Adequacy (RA) capacity market: the development of CAISO tariff language describing standard RA generator obligations and generator performance metrics/penalties. Accordingly, the CPUC staff urges the CAISO to avoid investing time in areas which the FERC has already determined that the CPUC is the primary jurisdictional authority. Many stakeholders have observed that certain issues will be subject to substantial contention and are therefore unlikely to be resolved within the timeframe identified in the CAISO's SCP Development Timeline.

The CPUC Retains Authority Over Design And Administration Of The RA Program.

In its initial Issue Paper, issued on August 28, the CAISO identifies several areas of discussion that would implicitly or explicitly change the definition of the existing RA product and/or the administration of the RA program.¹ The CPUC here reiterates that in no way should the CPUC's support for the CAISO's development of a barebones standardized generator obligation for RA providers and related performance metrics and penalties be construed to request or direct the CAISO to change the existing CPUC RA program.² The FERC previously ordered after substantial briefing that the CPUC is the primary authority for development and administration of its RA program. The FERC stated,

¹ E.g., The Issue Paper asked stakeholders in question number three, "What is required of the RA capacity or supplier within the delivery period? In particular, what modifications to the existing RA-MOO are needed? Do parties agree that RA capacity must be available to provide Ancillary Services to the extent they are certified? What other obligations need to be specified in the RA-MOO?" (Stakeholder Comments Template[,] Subject: Standard Capacity Product at question 3.)

² With reference to template question three, the CPUC responded, "The AS MOO is not currently part of the SCP definition, nor is it part of the CPUC's RA requirement. If the CAISO wishes to have the CPUC define the CPUC RA requirement in such a way that includes an AS MOO, then they may participate in Phase 2 of CPUC proceeding R.08-01-025 and request the CPUC to make the necessary changes."

“While we find that resource adequacy is necessary for the reliable operation of the grid . . . we are not establishing planning reserve requirements, but instead are adopting those set by state and Local Regulatory Authorities in the first instance. . . . We share with these entities a common commitment to ensure that California markets never again face a situation where there is inadequate supply to serve load. In particular, we commend the CPUC for taking responsible action to ensure that all LSEs subject to its jurisdiction have adequate resources. Our action today does not disturb or impede the CPUC’s progressive efforts in this area.” (*Order Conditionally Accepting The California Independent System Operator’s Electric Tariff Filing To Reflect Market Redesign And Technology Upgrade*, issued September 21, 2006 in FERC Docket No. ER06-615, et. al. at ¶ 1118.)

Accordingly, the CAISO should abide by FERC’s ruling and refrain from attempts to “disturb or impede the CPUC’s” RA program.³

A variety of additional stakeholders either explicitly or implicitly questioned the CAISO’s authority to redefine the current RA product.⁴ As summarized in the joint comments of the California Manufacturers and Technology Association and Californian Large Energy Consumers Association (CMTA/CLECA), “It is the appropriate role of the California Public Utilities Commission or Local Regulatory Authority to establish the Resource Adequacy (RA) and the Planning Reserve Margin requirements, including NQC and counting rules. It is both unwise and unnecessary to open up the CPUC’s fundamental RA rules for discussion as part of this stakeholder process.” (CMTA/CLECA comments at p. 2).

³ *Ibid.*

⁴ For example, A coalition including the Alliance for Retail Energy Markets (AReM), Calpine Corporation, Constellation Energy, Direct Energy, J. Aron & Company, and Sempra Energy Solutions LLC (AReM, et. al.) stated, “It is neither necessary nor appropriate for the ISO to undertake a reevaluation of RA criteria, . . . as part of developing the SCP tariff amendments. The SCP should be designed to be consistent with the CPUC’s existing RA policies. If the CAISO or stakeholders believe that the definitions of outages and their impact on unit availability metrics need to be redefined, that should be done in a separate CPUC proceeding, such that the results ultimately feed back into the CAISO’s tariff. (AReM, et. al. at p. 6.) Calpine, in the overview portion of its individual comments, urged “that the overall administration of the RA program should be left unchanged in the short run.” (Comments of Calpine Corporation [Calpine Comments] at p. 1.) Further, Calpine observed, “modifications to the RA administration and enhancements to price transparency, as would be embodied in the ‘bulletin board’ and ‘registry’ concepts, should be deferred until after the CPUC issues an order in Phase 2 of the RA docket.” (Calpine Comments at p. 2.) Even the California Forward Capacity Market Advocates (CFCMA); which includes FPL Energy, NRG Energy, Reliant Energy, San Diego Gas & Electric Company and Southern California Edison Company; urges that “This CAISO process should focus narrowly on the development of the SCP and the associated performance standard and compliance incentives and penalties in the CAISO Tariff. . . . [¶] CFCMA believes that any CAISO effort spent defining or developing an electronic bulletin board is an unnecessary and harmful distraction from the essential business at hand: defining the SCP. Further discussion, beyond defining the SCP, should be addressed after the CPUC has made a decision in the RA Phase 2 process addressing the structure of the RA market.” (CFCMA comments at p. 4.) Indeed, the CFCMA urges that any decisions beyond the basics of generator obligations and performance penalties are beyond the scope of this stakeholder process and arguably beyond the CAISO’s scope of authority: “To the extent [the consideration of design of a bulletin board for trading RA capacity] is even appropriate for the CAISO, it can and should be deferred until after the development of the SCP and after the CPUC has made a decision in the RA Phase 2 Track 2 proceeding (CPUC R.05-12-013).” (CFCMA comments at p. 4. See also p. 6, at which the CFCMA states, “the CAISO should continue the existing [RA showing] procedures until the CPUC has ruled on the structure of the RA market in the Phase 2 Track 2 proceeding (CPUC R.05-12-013).”

CPUC Staff And Stakeholders Generally Agree That The CAISO Should Limit The Scope Of Its Current Stakeholder Process To Generator Obligations And Performance Metrics.

Similarly, a variety of stakeholders expressly stated that the CAISO should focus on generator obligations and performance standards rather than attempting to engage in an overall revamp of the definition of the RA capacity product and/or RA administration process because of the unnecessary complications and contentiousness of such adventures.⁵ The CFCMA provides useful insight:

“CFCMA is concerned that the stakeholder process is very compressed and may not allow sufficient time for thoughtful deliberation and consideration of the full ramifications of various proposals and counterproposals that will emerge during this proceeding. . . . It is very important, in our view, that this filing go to FERC with widespread stakeholder approval, especially from the CPUC and other LRAs, and we believe achieving functional and equitable rules is worth potential delay inside the CAISO.” (CFCMA Comments at p. 15.)

The CPUC staff believes that adding items for consideration beyond the necessary tariff definition of generator obligations and penalties would add unneeded legal and analytical complexity to the already complex issues at hand. Therefore, the CPUC staff strongly urges the CAISO to include only a minimal SCP in its February filing to FERC.

Coordination with CPUC RA Proceeding

On the October 20 stakeholder conference call, some participants questioned the relation of this stakeholder proceeding to the CPUC’s RA proceeding. This issue is in scope of Phase 2 of R.08-01-025 at the CPUC. The Assigned Commissioner describes the issue as it is to be considered:

“In conjunction with CAISO stakeholder processes, review the Calpine Proposal and any other proposals for a standardized resource adequacy contract and associated resource obligations.” (Assigned Commissioner’s Phase 2 Ruling and Scoping Memo at p. 4.)

During the October 6 workshop in R.08-01-025, facilitated by the Energy Division, CPUC staff described the coordination of these proceedings. As part of a broader discussion of the schedule of R.08-01-025, staff mentioned that the CAISO and other parties should plan to submit proposals to the CPUC on January 9, 2009. Parties should submit proposals that address whether and if so how the CPUC should adopt the CAISO’s proposed SCP. The CAISO should include in its proposal the details of the SCP that is expected to be sent to FERC in February. Consistent with the scoping memo, proposals should not discuss SCP issues beyond a “standardized resource adequacy contract and associated resource obligations”.

⁵ AReM, et. al. observes, “In order to meet the February 2009 FERC filing target, neither a bulletin board nor an RA Registry should be pursued at this time.” (AReM, et. al. at p. 8.) “Calpine sees no immediate need for modifications to the RA demonstrations or compliance filings.” (Calpine Comments at p. 2.) “CFCMA believes that any CAISO effort spent defining or developing an electronic bulletin board is an unnecessary and harmful distraction from the essential business at hand: defining the SCP.” (CFCMA Comments at p. 4.)

Parties generally should make any proposals for changes in CPUC RA rules that are appropriate to enable the proposed SCP; parties who wish the CAISO's SCP to count toward CPUC RA requirements should explicitly make this proposal. Further, proposals should address what, if any, other products should also count for RA. In making a decision whether to adopt the CAISO's SCP for the RA program, the CPUC will also consider the final filing to FERC and FERC's disposition of the filing.

Although this schedule has not yet been adopted by the ALJ, dates discussed in the October 6 workshop relevant to the SCP process in R.08-01-025 are:

1/9/2009	Proposals on Phase 2 issues
Week of 1/19/2009	Workshops on Phase 2 proposals
2/13/2009	Comments on Phase 2 issues, other than 2010 LCR
2/27/2009	Reply comments on Phase 2 issues, other than 2010 LCR

Parties to the RA proceeding should expect to provide input to the CPUC on the CAISO's SCP proposal consistent with the schedule adopted in R.08-01-025.

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