Stakeholder Comments Template

Subject: Regional Resource Adequacy Initiative

Submitted by	Company	Date Submitted
Vicken Kasarjian (760) 482-3601 | email: vekasarjian@ @iid.com	*Imperial Irrigation District*	*1/10/2017*

CAISO Maximum Import Capability (MIC) Methodology Changes Proposal for Regional Resource Adequacy (RA) Framework

Summary and Impacts to IID

Proposal Paper and Presentation:
http://www.ca CAISO.com/Documents/RegionalFrameworkProposal-RegionalResourceAdequacy.pdf
http://www.ca CAISO.com/Documents/Agenda-Presentation-RegionalResourceAdequacy-Dec8-2016.pdf

Summary of IID understanding of CAISO Regional RA proposal:
CAISO's Regional Resource Adequacy Framework Proposal was developed after a year-long stakeholder process to identify and address "need-to-have" items that were necessary to implement a multi-state process for Resource Adequacy (RA). In this context, the objective was to build upon the existing framework and incorporate only needed changes to the capacity procurement process so it can work across multiple states and regional regulatory authorities. The stakeholder process focused on the following topics:

- Load Forecasting,
- Reliability Assessment, including planning reserve margin, uniform counting rules, resource adequacy showings and validation process, and backstop procurement need determination and cost allocation,
- Maximum Import Capability
- Imports for RA
- Resource substitution issues
- Allocating RA requirements to LSEs or LRAs
- Monitoring local RA needs and procurements, and
- Updating CAISO tariff to be more generic and less California-centric

This discussion focuses on summarizing the changes proposed to the Maximum Import Capability (MIC) methodology and calculation.

IID understands that CAISO uses its MIC methodology to assess deliverability of RA imports. CAISO's MIC methodology establishes the baseline import capability based on historical usage, looking at the maximum amount of simultaneous energy schedules into CAISO BAA, at the CAISO coincident peak system load hours over last two years. CAISO proposes to modify the MIC calculation for limited situations where the peak load of a "new" region added to the expanded balancing area occurs seasonally, non-coincidental with the peak load of the rest of the system and there are no simultaneous constraints between areas. The CAISO's reasoning for this proposed change is that if it continues to determine MIC at the expanded BAA system's coincident peak, it will *"unduly restrict the MW amount that can actually be reliably achieved for certain branch groups."* CAISO proposes to use previous operational or planning studies to determine if simultaneous import constraints exist between the new system joining the CAISO

and the existing CAISO. If none exist, then MIC will be calculated for non-simultaneous peak conditions. Expectedly, the modification proposed is intended to assure that the addition of PacifiCorp's system to the CAISO's balancing authority does not limit import capability from potential RA resources throughout the West during non-simultaneous peak periods. CAISO's analysis states:

> *"The CAISO has also determined that there currently are no simultaneous import constraints between the existing CAISO system and the PacifiCorp system. Therefore, the CAISO can determine the MIC into the existing CAISO system and into PacifiCorp on a nonsimultaneous basis without causing reliability issues."*

Based on stakeholder comments, CAISO further clarifies its MIC calculation proposal with the following implementation details and notes:

a) This new approach will be used for new PTOs joining the expanded CAISO BAA and there is no need to reassess for existing CAISO PTOs since they have the same seasonal peak.
b) Constraints and the conditions to be studied by CAISO will be done in a public and transparent manner via the annual Transmission Planning Process (TPP). CAISO intends to assess under multiple load scenarios (summer, winter, fall and spring) and run relevant sensitivities and consider prevalent scheduling practices.
c) CAISO intends to run deliverability studies that review all resources (NQC) before any new PTO joins. *"At this time, the CAISO expects little to no impact to the current or queued internal resources NQC values as a result of this proposed modification to the MIC calculations."*

The CAISO also proposes to change its MIC allocation methodology to allocate the shares of MIC based on LSE's load-ratio share in the Regional TAC sub-regions. CAISO believes this allocation methodology aligns with the proposed Regional TAC framework to split the MIC allocation based upon TAC sub-regions that are paying for the underlying transmission of the overall system. In effect, the allocation methodology is intended to give the similar MIC access to CAISO's existing LSEs at the interties as they have currently. Similarly, new LSEs joining will have full access to the MIC capability at the interties to their sub-region. And, all LSEs will be able to nominate "Remaining Import Capability" (RIC) at any intertie connecting to the sub-regions where it has load. CAISO provides an example of how it plans to track and validate MIC allocations based on load-ratio share in its 3rd Revised Proposal document, pgs. 32-35, http://www.ca CAISO.com/Documents/ThirdRevisedStrawProposal-RegionalResourceAdequacy.pdf.

The example demonstrates that entities with the largest share of load within a sub-region will initially receive the majority of the MIC allocations at interties excluding any ETC, TOR or Pre-RA import commitments (through Step 7). At Step 8, any LSE will have the opportunity to bilaterally trade MIC allocations to be able to utilize MIC at other sub-regions. And at Step 13, if any remaining MIC exists, LSEs will be able to nominate such capability for RA imports.

Lastly, with this proposal, CAISO recommends an approach for allocating MIC created by new regionally cost-shared transmission projects. In the proposed framework, if new projects approved under its regional TPP increase MIC, CAISO would allocate the shared transmission capability proportionally to each sub-regional TAC area based on the relative shares of the costs of the project included in that sub-regional TAC areas rate.

Impact to IID:
The changes to MIC calculation and allocation methodology proposed with the Regional RA Framework does not improve MIC import capability from the IID area, since this proposal only addresses issues affecting new PTOs joining the expanded CAISO BAA, in particular those affecting PacifiCorp. Under this framework, MIC calculated from the IID interties to the expanded BAA will continue to use historical flows from the last two years under the same simultaneous peak load scenarios as studied today. ETC, TOR and Pre-RA commitments will continue to be honored, reducing total capability available for MIC. CAISO narrowly focused its changes presuming that its current MIC methodology effectively determines MIC from other California BAAs into the existing CAISO footprint. By design, this presumption was not re-assessed through the stakeholder initiative and, as a result, CAISO's MIC from other non-PTO California BAAs, such as IID, will always be more restrictive than the intertie's path ratings.

With respect to increased MIC resulting from regionally cost-shared transmission projects, CAISO appears to be on the right track to allocate MIC based on the share of TRR allocated to the sub-regions. However, it remains unstated as to what consideration, if any, CAISO provides to external transmission upgrades that benefit MIC. That is, if an external transmission project is demonstrated to increase potential MIC, will the CAISO consider these benefits and how will it be allocated to LSEs? This proposal does not address such scenarios.

Comments to CAISO:
It seems that the Regional RA Framework initiative would be an appropriate forum to address existing concerns about limitations of CAISO's use of historical import flows for MIC from other California BAAs into an expanded regional CAISO BAA. However, CAISO narrowly focuses its proposal to address issues for select entities rather than seek to expand RA market opportunities and efficiencies for the entire WECC region. The CAISO proposal is discriminatory as it allows different MIC calculations for certain entities based on an arbitrary set of criteria and not based on the actual physical characteristics of the system and cost-effectiveness, thus choosing winners and losers. Instead, CAISO should focus on establishing MIC that (1) maximizes the utilization of existing assets (2) minimizes the cost of RA to California ratepayers (3) promote consistent policies across all BAAs in the WECC region. For instance, if resources from IID can deliver more cost effective RA, then resources from PacifiCorp should not be selected over resources from IID.

In summary, IID respectfully objects to CAISO considering multi-state resource adequacy options for regionalization because no legislative authority exists for such planning. The governor has postponed any further legislative action on regionalization and IID is of the settled belief it is premature at best for CAISO to be planning how to obtain multi-state resource adequacy under a regionalization paradigm that is not likely to exist.

Moreover, IID is concerned CAISO's multi-state planning resource adequacy planning will trigger preemption and dormant commerce clause problems for California renewable energy policies[1]. These concerns are explained in detail in the legal opinions CAISO obtained from The Utilities Reform Network (U.S. SUPREME COURT UPHOLDS PREEMPTION OF MARYLAND RESOURCE PLANNING EFFORTS-*Understanding the potential consequences for California*) and UC law professor Ethan Elkind's 3 May 2016 email both, of which are in CAISO's possession (see attachment).

In addition to these concerns, we note above that CAISO continues its policies of denying IID adequate access to the CAISO grid to allow full development of renewable resources in the Imperial Valley.

[1] See *Hughes v. Tolen Energy Marketing* 136 S. Ct. 1288 and *North Dakota v. Heydinger*, 825 F.3d 912.

From:	Ulmer, Andrew
Sent:	Friday, April 22, 2016 11:35 AM
To:	'William C. Boyd'; Carlson, Ann; 'Daniel Farber'; Ethan Elkind
Cc:	Ivancovich, Anthony
Subject:	CAISO project
Attachments:	TURNAnalysis_Hughes_v_Talen_April20.docx

Dear all:

In light of the Hughes v. Talen opinion issued earlier this week, I thought I should some information with you.

The first is a summary Anthony prepared:

In 2015, the Supreme Court agreed to hear arguments in two linked cases involving a Maryland program providing incentives to new power generation – *Hughes v. PPL EnergyPlus* (14-614) and *CPV Maryland v. PPLEnergyPlus* (14-623). In *PPL EnergyPlus et al. v. Nazarian, et al.*, 753 F. 3d 467 (4th Cir.2014), the Fourth Circuit Court of Appeals found that the state program infringed on FERC's jurisdiction. Under the Maryland program, the state solicited offers to construct new natural gas-fired power plants and compelled utilities to sign long-term contracts with the winning generation developers that guaranteed the developers a fixed price for their capacity for the term of their contract, provided the capacity cleared PJM's capacity market. Under the Maryland program, unlike bi-lateral contracts in California, the utilities did not purchase the capacity of the power plants but, instead, the contracts required the capacity to clear through PJM's capacity market and, if it did, the supplier would be eligible for payments amounting to the difference between the revenue requirement set forth in the winning bid and the price received in the capacity market. The costs would then be passed through to the utilities' customers. While not addressed by the court, it is noteworthy that neither Maryland nor the respective utilities, elected to opt out of PJM's capacity market, which would have allowed them to procure capacity bilaterally and not have to clear capacity through PJM's capacity market.

The Fourth Circuit Courts of Appeal found that the Maryland program was field preempted by the Federal Power Act because, based on the rules established by FERC, generators that clear PJM's capacity market receive the price set by that market; however, generators winning the state-sponsored solicitations and clearing the capacity market would be paid the price resulting from the solicitation, not the clearing price of the capacity market. In other words, the contracts for differences guaranteed by the states had the effect of setting the ultimate price that the generator would receive for its sale of capacity in the PJM capacity market, thereby intruding on FERC's exclusive authority to set wholesale rates. Accordingly, the Fourth Circuit concluded that the State program sought to regulate a field that the Federal Power Act already occupies essentially setting a wholesale rate.

Today, the Supreme Court upheld the Fourth Circuit decision. The Court stated that FERC approved the PJM capacity market as the sole rate-setting mechanism for the sales of capacity to PJM, and deemed the clearing price to be per se just and reasonable. The Court found that, by adjusting an interstate wholesale rate, Maryland's program invades FERC's regulatory turf. The Court stated that States interfere with FERC's authority by disregarding interstate wholesale rates FERC has deemed to be just and reasonable, even when States exercise their traditional authority over retail rates or, as here, in-state generation.

The Supreme Court acknowledged that States may regulate within the domain Congress assigned to them even when their laws incidentally affect areas subject to FERC's domain, However, States may not seek to achieve ends however legitimate through regulatory means that intrude on FERC's authority over interstate wholesale rates, as Maryland did.

Importantly, the Supreme Court stressed that its decision was "limited." The Court noted that it was rejecting Maryland's program only because it disregards an interstate wholesale rate required by FERC. The Court stated that "[n]othing in this opinion should be read to foreclose Maryland and other States from encouraging production of new or clean generation through measures 'untethered' to a generator's wholesale market participation." The Court further stated that "[s]o long as a State does not condition payment of funds on capacity clearing the auction, the State's program would not suffer from the fatal defect that renders Maryland's program unacceptable." The full paragraph from the Court's decision (which was 8-0) follows:

> Our holding is limited: We reject Maryland's program only because it disregards an interstate wholesale rate required by FERC. We therefore need not and do not address the permissibility of various other measures States might employ to encourage development of new or clean generation, including tax incentives, land grants, direct subsidies, construction of state-owned generation facilities, or re-regulation of the energy sector. Nothing in this opinion should be read to foreclose Maryland and other States from encouraging production of new or clean generation through measures "untethered to a generator's wholesale market participation." Brief for Respondents 40. So long as a State does not condition payment of funds on capacity clearing the [PJM] auction, the State's program would not suffer from the fatal defect that renders Maryland's program unacceptable.

The second is a blog written by NRDC: https://www.nrdc.org/experts/allison-clements/supreme-court-decision-striking-down-maryland-program-contains-good-news

The third is an overview of concerns prepared by an attorney at The Utility Reform Network (TURN). I've attached that document. TURN's overview should provide some additional context for this project.

I would like to propose that we schedule a call for next Thursday, if possible, to discuss the current draft, the process for Dan and Ethan to provide input and steps to complete the project.

Best,

Andrew

Andrew Ulmer
Director, Federal Regulatory Affairs
California Independent System Operator Corp.

US SUPREME COURT UPHOLDS PREEMPTION OF MARYLAND RESOURCE PLANNING EFFORTS

Understanding the potential consequences for California

On April 19th, the US Supreme Court issued a decision *Hughes v. Talen Energy Marketing*. The Court affirmed the 4th Circuit and held that Maryland's effort to promote the development of new local generation is preempted under the Federal Power Act. The implications for California are potentially significant.

In 2006, the PJM Regional Transmission Organization developed a centralized capacity market through a settlement joined by all participating states (including Maryland). The settlement specified that states within PJM retained the right to direct, via regulation or legislation, the development of new generating capacity as needed to satisfy local resource needs and bid the capacity into the PJM market as a "price taker" (willing to accept any price set by the market). This settlement provision was critical to gaining state support for the new market and was designed to ensure that states could act if the capacity market failed to produce new local generation at reasonable prices. When Maryland subsequently determined that the PJM capacity market was not successfully encouraging needed new local generation, the state first petitioned FERC to change the capacity market rules to provide 10-year payments to new generation (rather than the 3-year payments for new generation authorized under the rules). When FERC rejected this petition, Maryland initiated processes pursuant to the settlement to provide long-term revenue guarantees as incentives for new local generation.

Under the approach originally adopted by Maryland, the state held an auction for new local generation and picked winning bids on a least-cost basis. The winning generator was required to participate in (and clear) the capacity market, meaning they would effectively bid their capacity as "price takers". The states' load-serving entities would execute 20-year "contracts for differences" allowing the generator to receive a long-term fixed price with Maryland ratepayers responsible for any differences (positive or negative) between the guaranteed contract price and the market clearing price received from the PJM capacity market. In short, the states would get needed local generation built by having the retail customers of the Maryland load-serving entities taking on all of the capacity market risk.

In response to these state initiatives, private generating companies successfully lobbied PJM in 2011 to propose a change to its own tariff to remove the relevant settlement provision that allowed PJM states to direct the development of new local resources that are bid into the capacity market as a "price taker". Over the objections of the states that had originally insisted upon this right in exchange for their support for the settlement, FERC approved the modification and eliminated this right. Private generators subsequently sued Maryland arguing that their actions were preempted under the Federal Power Act.

The Supreme Court's decision in *Hughes* concludes that Maryland's actions were preempted by the Federal Power Act. The decision explains that interstate wholesale rates can be set through auctions run by a grid operator that set prices for day ahead energy, real-time energy, and future capacity. Any effort by states to "intrude on FERC's authority over interstate wholesale rates" (page 13) is subject to preemption under the Federal Power Act. The decision primarily focuses on the specific mechanism used by Maryland to promote in-state generation through the "contract for differences" approach. The

Court distinguishes this arrangement from a traditional bilateral contract between a utility and a generator by noting that the contract for differences specified that the capacity would be sold from the generator into the PJM auction rather than transferred to the utilities outside the auction (as would be the case in a traditional bilateral contract). As a result, the Court found that the Maryland policy was an effort to circumvent the interstate wholesale rate set in the PJM capacity auction. The Court notes that Maryland's goal of encouraging the development of new in-state generation "does not save its program" because "states may not seek to achieve ends, however legitimate, through regulatory means that intrude on FERC's authority over interstate wholesale rates" (pages 12-13).

The decision claims that "our holding is limited" and asserts that the decision does not "address the permissibility of various other measures States might employ to encourage development of new or clean generation, including tax incentives, land grants, direct subsidies, construction of state-owned generation facilities, or re-regulation of the energy sector." (page 15) The Court also states "nothing in this opinion should be read to foreclose Maryland and other States from encouraging production of new or clean generation through measures 'untethered to a generator's wholesale market participation.' So long as a State does not condition payment of funds on capacity clearing the auction, the State's program would not suffer from the fatal defect that renders Maryland's program unacceptable" (page 15).

While some instant analysis has characterized the decision as having a limited impact on states' rights, a leading commenter on Supreme Court decisions (SCOTUSblog) observes that the decision "reinforced the authority of the federal government's energy regulators in the ongoing national-state competition to manage the markets for electricity."[1] Any analysis of the potential impacts on California and other states must consider the following relevant issues:

(1) States have a poor record defending against preemption challenges brought under the Federal Power Act (FPA) in federal courts. The Court's holding continues a near-perfect string of losses by states seeking to preserve their authority. There is no specific reason to hope that future challenges brought against state resource planning efforts will fail simply because the facts are somewhat different than those presented in the Maryland case.

(2) Maryland and New Jersey originally agreed to the PJM capacity market through a settlement that guaranteed these states a right to direct the development of local resources that could bid into the capacity market as a "price taker". Several years later, this provision was eliminated by FERC in response to a PJM proposal. The lesson is that conditions originally obtained by states in exchange for their support for a regional market can be eliminated after the market is operating even if the states protest these changes. Any deal to retain specific states' rights is neither durable nor enforceable once jurisdiction is transferred to FERC.

(3) The Court did not hold that other types of state resource planning initiatives are protected against preemption in a regional market. The decision ONLY addresses the limited issue of the mechanism adopted by Maryland. There is no basis to conclude that any other state program to promote local

[1] http://www.scotusblog.com/2016/04/opinion-analysis-u-s-energy-regulators-authority-grows/

resources would necessarily survive a similar challenge.

(4) The decision references measures available to states that are extraordinarily limited (tax incentives, land grants, direct subsidies, state-owned generation). None of these are comparable to the kind of resource planning and direct contracting requirements used in California. The decision also references "re-regulation" but that would seem to suggest the highly improbable situation where FERC-regulated wholesale markets are eliminated and utilities are fully vertically integrated. Missing from this list are renewable portfolio standards, preferred resource carve-outs, utility procurement requirements, and distribution-level incentives to generation selling into wholesale markets. None of California's policy tools to move towards a low carbon grid appear on the Court's safe harbor list.

(5) The Decision points to a variety of "competitive wholesale auctions" that could justify preemption. These include "a 'same-day auction' for immediate delivery of electricity to LSEs facing a sudden spike in demand; a 'next-day auction' to satisfy LSEs' anticipated near-term demand; and a 'capacity auction' to ensure the availability of an adequate supply of power at some point far in the future" (page 3). The CAISO already runs two of these three types of "wholesale auctions" in the form of day ahead and real-time energy markets. Any state policies that direct load-serving entities to procure resources and have a direct effect on prices in these markets could be subject to challenge.

(6) Although no centralized capacity market currently exists for California, the California Independent System Operator (CAISO) has historically favored this type of centralized auction to both promote new generation and compensate existing units. Prior efforts by CAISO have failed due to stiff opposition from the CPUC and other California stakeholders. If CAISO regional expansion occurs, there is a serious risk that the new ISO will propose (and FERC will approve) a region-wide capacity market in the coming years. Even if California obtains an assurance from CAISO that no capacity market will be created in the future, the experience with PJM demonstrates that any conditions obtained by a state (even in a settlement) can be eliminated at a later date.

(7) If a regional capacity market is established in the future, it is not clear that new preferred and renewable resources located in California could bid into such a market as "price takers" due to FERC's preference for Minimum Offer Price Rules (MOPRs) designed to prevent this type of bidding behavior. Under a MOPR, new clean generation under contract to California utilities could fail to clear a regional capacity market. This outcome could lead to additional and unnecessary expenditures on dirty fossil plants that do clear the capacity auction, resulting in an oversupply of resources and higher costs to California customers.

(8) The Court's suggestion that states may encourage new or clean generation through measures "untethered to a generator's wholesale market participation" may be difficult to accomplish in practice. All generation built in California (except for resources located in the service territories of non-CAISO member utilities, such as SMUD, IID and LADWP) participates in wholesale energy markets and receives compensation based on the day ahead and/or real-time prices. California's preferred resource policies guarantee fixed prices (paid by retail customers) to resources that sell their output into FERC-regulated markets and act as "price takers". As a result, there may be few meaningful differences between the mechanisms prohibited in *Hughes* and those favored by California to promote

clean, local generation.

(9) The risks of federal court challenges to California policy are likely to increase if the CAISO expands to become a regional transmission operator (like PJM). Once freed from obligations to act consistent with California law, CAISO would be emboldened to develop new regional energy and capacity markets regardless of objections raised by California political leaders and state regulators. This evolution would increase the likelihood of conflicts between FERC-regulated wholesale markets and California policy measures. Claims could be raised in federal court or at FERC by private parties (as was the case in *Hughes*) claiming that the innovative policies favored by California are distorting wholesale markets and disadvantaging fossil fuel generation.

Although it is impossible to predict the outcome of future litigation, the trend towards greater reliance on FERC-authorized regional markets significantly increases the risk that California will find itself in the crosshairs and potentially on the losing end of a preemption challenge. Policymakers concerned about this possibility should carefully consider whether the expansion of FERC-regulated wholesale markets will ultimately serve California's goal of being an international leader on clean energy and climate policy.

EXHIBIT 2

From: Carlson, Ann <carlson@law.ucla.edu>
Sent: Thursday, May 05, 2016 12:42 PM
To: Ulmer, Andrew
Cc: William C. Boyd; Ethan Elkind; 'Daniel Farber'
Subject: Fw: CAISO project

Follow Up Flag: Follow up
Flag Status: Flagged

< EXTERNAL email. Evaluate before clicking. >

HI Andrew,

I'm forwarding you comments from Dan and Ethan. We will wait to get your comments and perhaps to talk them all over before revising the memo.

Best,

Ann

Ann Carlson
Shirley Shapiro Professor of Environmental Law
Faculty Co-Director, Emmett Institute on Climate Change and the Environment
UCLA School of Law

From: Ethan Elkind
Sent: Tuesday, May 3, 2016 11:51 AM
To: William C. Boyd; Carlson, Ann
Cc: 'Daniel Farber'
Subject: Re: CAISO project

Hi William and Ann,
Thanks for sharing this draft. Both Dan and I had a chance to review and overall think it looks strong and reads very well and clearly.

One question I have is whether or not we need to be more on guard for opposition arguments against these conclusions. Even a small chance that CAISO expansion could call into question California's renewable policies would be hugely detrimental, and so I wonder if we should more explicitly address potential counter-arguments.

For example, it seems that some of the areas of law we're looking at are not exactly settled. The Minnesota case (correct me if I'm wrong) is on appeal and could wind up in the Supreme Court, which could resolve any conflict in reasoning with the 9th Circuit in an adverse way for CAISO. While I agree with the conclusion that California's policies are distinguishable from the Minnesota law, the policies are not exactly apples and

oranges either -- particularly to a potentially hostile Supreme Court with a Trump appointee as the deciding vote. Similarly, the CPUC decision on California's RPS has not been challenged -- is it too late to challenge it? What if it is challenged and the CPUC receives an adverse decision?

I'm not suggesting that we try to game out the politics in this memo, but perhaps we could acknowledge more of the legal uncertainty in our conclusions and try to address the counter-arguments more explicitly.

In addition, I found the conclusion here persuasive that geographic expansion is not the issue with FERC jurisdiction, but rather the nature of the potential interference in wholesale markets. But couldn't someone argue that the nature of this particular geographic expansion, with its attendant and largely unprecedented conditions related to clean energy, will end up creating an impermissible effect on the wholesale market? One thing that seemed clear to me from the Hughes decision, even though it was limited in scope to get the 8-0 vote, was that the Court is very protective of the wholesale market from state action that could affect prices. I know there was a specific mechanism involved that is not present here (the contract for differences), but could geographic expansion lead to enough of an impact on wholesale prices with these clean energy policies that the Court might feel that CAISO (and California) is overstepping?

To be clear, I wouldn't agree with those conclusions and don't find them necessarily persuasive, but I could certainly imagine a court might. So perhaps we could acknowledge and forcibly refute the best arguments to the contrary.

I hope these comments are helpful and not too far outside of the scope of what CAISO would like from us. I'm also happy to discuss by phone if that would be of use. Overall, I think the document is very well done and look forward to hearing what our friends at CAISO think.

Best,
Ethan

On 4/29/2016 5:26 AM, William C. Boyd wrote:

> Dear Dan and Ethan,
>
> I am attaching a draft of the CAISO memo per Ann's conversation with Ethan yesterday. We just sent this draft to Andrew as well. As you will see, we still need to add some general descriptive material to the introduction and I don't think Ann has had a chance to incorporate some of the comments she received earlier from CAISO folks on the commerce clause section. Looking forward to your feedback.
>
> Thanks and all best from a snowy Boulder!
>
> William

--
Ethan N. Elkind
UC Berkeley / UCLA Schools of Law

Stakeholder Comments Template

Subject: Regional Resource Adequacy Initiative

Submitted by	Company	Date Submitted
(submitter name and phone number)	*(company name)*	*(date)*
Robert Laurie Assistant General Counsel, Energy (760) 791-1094	Imperial Irrigation District	January 11, 2017

This template has been created for submission of stakeholder comments on the Draft Regional Framework Proposal for the Regional Resource Adequacy initiative that was posted on December 1, 2016. Upon completion of this template, please submit it to initiativecomments@caiso.com. Submissions are requested by close of business on **January 11, 2017.**

Please provide feedback on the Regional RA Draft Regional Framework Proposal below.

The ISO is especially interested in receiving feedback that indicates if your organization supports particular aspects of the proposal. Alternatively, if your organization does not support particular aspects of the proposal, please indicate why your organization does not support those aspects.

Imperial Irrigation District ("IID") appreciates the opportunity to comment on the California Independent System Operator Corporation's ("CAISO") Regional Resource Adequacy ("RA") Draft Regional Framework Proposal ("RA Framework Proposal").

IID is an irrigation district organized and existing under the laws of the State of California and engaged in, among other things, generating, transmitting and distributing electric power to and for the benefit of its customers. IID is a California Balancing Authority Area ("BAA") and IID's transmission system has two direct points of interconnection with the CAISO Controlled Grid.

The CAISO undertook this initiative to inform entities potentially interested in joining an expanded ISO BAA of the intended RA provisions that the CAISO believes are needed to ensure sufficient capacity is offered into a multi-state ISO. RA Framework Proposal at 3. IID also recognizes that the CAISO intends to use stakeholder feedback on its RA Framework Proposal to inform the ongoing discussions regarding ISO governance modifications and other components related to the expansion of the CAISO BAA. *Id.* at 7.

IID's Board opposes regionalization as flawed policy and as suffering from critical legal infirmities. As cited in an October 23, 2016 article of *California Climate and Energy Report*,[1] then-Commissioner Florio of the California Public Utilities Commission ("CPUC") raised the

[1] "CPUC Official Fears 'Federalization' Of Resource Plans Under Grid Expansion," *California Climate and Energy Report* (Oct. 23, 2016).

warning flag that regional RA would result in "substantial federalization of the whole resource adequacy program." He noted concerns as to the minimal role that California would have in continuing to implement the state's resource adequacy program. Federalization of these types of issues raises the likelihood of controversies over federal preemption and present weaknesses in holding up to the standards established under the dormant Commerce Clause. Multi-state resource adequacy requirements can set the groundwork and expectations that would facilitate establishment of a regional capacity market, which raises its own set of concerns. IID's opposition to regionalization is premised on several factors, including the concern that regionalization harms California rather than brings benefits, and actually hinders rather than helps California's achievement of its ambitious renewable and policy objectives. In that context, IID makes the following concerns, observations and critiques as to specific aspects of the RA Framework Proposal.

Specifically, IID focuses on the fact that the Maximum Import Capability ("MIC") provisions of the CAISO's RA policies and the RA Framework Proposal fail to facilitate maximum use of available California transmission and renewable resources including in IID's BAA, even though the use of such resources in IID's BAA can provide economic and reliability benefits to the California grid. The MIC policies, including as proposed in the RA Framework Proposal, thereby miss or detract from the SB 350 goals of advancing California's environmental and economic interests, and to address impacts on disadvantaged communities that are within IID's service territory. IID explains how the CAISO's MIC methodology and RA Framework Proposal pertaining to MIC impact IID's interests and the goals of SB 350 below.

MIC Calculation:

The CAISO assesses the deliverability of imports from other BAAs by way of a MIC calculation methodology. The CAISO's Business Practice Manual for Reliability Requirements describes the CAISO's method for calculating the MIC for each intertie.[2] In pertinent part, for most interties, the CAISO calculates MIC megawatt amounts based on historical usage, looking at the maximum amount of simultaneous energy schedules into the CAISO BAA, at the CAISO coincident peak system load hours over the prior two years.[3] The CAISO will expand this MIC MW value for only those interties for which it determines during the Transmission Planning Process ("TPP") that the historical MIC MW values will be insufficient to support RA deliverability for the MW amount of resources included in the base case resource portfolio that is used to identify policy-driven transmission based on state and federal policy goals.[4] For example, if the adopted policy mandate for identifying policy-driven transmission in the TPP is the State's 33% renewable portfolio standard, the CAISO establishes the resource portfolio in

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2 BPM for Reliability Requirements at p. 83-93, accessible at: https://bpmcm.caiso.com/BPM%20Document%20Library/Reliability%20Requirements/Reliability%20Requirements%20BPM%20Version%2030_clean.docx

3 CAISO Second Revised Straw Proposal on Regional Resource Adequacy at 15, accessible at: http://www.caiso.com/Documents/SecondRevisedStrawProposal-RegionalResourceAdequacy.pdf

4 *Id.*

collaboration with the CPUC, and this portfolio includes renewable resources that will be sufficient to meet the 33% RPS mandate.[5] The average of net import schedules plus the average of unused Existing Transmission Contract ("ETC") rights and Transmission Ownership Rights ("TOR") represent the MIC for each intertie.[6] The CAISO calculates MIC values for each intertie annually for a one-year term, and the CAISO's 13-step Available Import Capability Assignment Process is used to allocate import capability to Load-Serving Entities ("LSEs").[7]

IID has previously expressed to the CAISO its concerns with the CAISO's historically-based MIC methodology. Specifically, IID has explained that the reliance on historical import flows and CAISO-determined target import limits, as opposed to assessing import capability strictly based on the physics and locational aspects of the interconnected system, results in underuse of existing transmission capacity (including IID's existing transmission capacity), provides incentive to locate projects that have the highest adverse impact on the grid, results in over-use and congestion on the CAISO's system, and increases costs to both IID and CAISO ratepayers.[8]

The CAISO's RA Framework Proposal does not propose to change the historical calculation of the MIC. However, it proposes to use a forward-looking methodology for new projects that will be cost-shared by two or more sub-regions. The CAISO states that this is the same forward-looking methodology that is already established for evaluating MIC for public policy needs. *Id.* at 39-40. The CAISO supports limited application of this proposal to only situations where the costs are shared by two or more sub-regions on the grounds that using a forward-looking study-based methodology would require speculation between generation development internal and external to the ISO BAA and influence the ultimate development of generation internal and external to the ISO BAA. *Id.* at 40. In response to stakeholder comments, the CAISO states it may reconsider major changes to all of the MIC processes in the future, as necessary, but it maintains that the current proposal is appropriate at this time. *Id.*

As noted above, the historically-based MIC calculation methodology fails to maximize use of available transmission capability and renewable resources in California. IID thus urges the CAISO to undertake a new stakeholder process to assess the entire MIC methodology to ensure that the MIC calculation and allocation will be consistent with the broader goals of SB 350 by ensuring benefits to California by taking advantage of existing available California transmission and available California renewable resources. Given that the CAISO now proposes to use a forward-looking methodology for new projects that will be cost shared by two or more sub-regions, IID believes it is feasible and equitable to use a forward-looking methodology for all

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5 BPM for Reliability Requirements at p. 84.

6 CAISO Second Revised Straw Proposal on Regional Resource Adequacy at 16.

7 *Id.* at 15.

8 *See, e.g.*, IID's March 3, 2016 Comments on the 2015-2016 Draft Transmission Plan, accessible at: https://www.caiso.com/Documents/IIDCommentsDraft20152016TransmissionPlan.pdf and IID's Comments following the CAISO's November 16, 2015 Stakeholder Meeting in the 2015-2016 TPP, accessible at: https://www.caiso.com/Documents/IIDComments2015-2016TransmissionPlanningProcessStakeholderMeetingNov16_2015.pdf

MIC determinations. As regards the CAISO's concerns that broader application of the forward-looking methodology would require speculation between generation development internal and external to the ISO, IID has previously explained that the locational effects of generator output should be considered to maximize deliverability and reduce congestion costs.[9] The CAISO's concerns about speculation on generation development are unclear and are misplaced given that transmission planning should require consideration of the most cost-effective and efficient solutions. Policies such as the historical MIC allocation that hinder SB 350's objectives to facilitate the use of the most efficient and cost-effective path to access renewables should be reconsidered and revised in the best interests of the ratepayers of the State.

Curtailment of Internal Generation and Imports to Resolve Simultaneous Constraints:

Other aspects of the CAISO's RA Framework Proposal on MIC are also of concern as they may disincentivize use of California renewable resources. Specifically, the CAISO proposes to resolve simultaneous deliverability constraints among imports and/or internal generation by curtailing the internal generation and/or import that has the highest impact. *Id*. at 35. The CAISO's proposal appears to be intended to facilitate the deliverability of imports to the existing and new sub-regions, and particularly sub-regions that have peak loads that occur non-simultaneously with the peak load of the rest of the system. *Id.* at 34-35. However, IID is concerned that this proposal could adversely impact use of in-State imports of renewable generation (such as from IID's BAA). The manner in which the curtailment decisions would be made is unclear and the CAISO's general reference to the process in the Generator Interconnection Business Practice Manual does not provide clarity on how curtailment decisions would be made. *Id.* at 35. Therefore, the CAISO should undertake an affected system analysis to understand the potential operational impacts, if any, to interconnected California BAAs such as IID of the proposed change to the MIC calculation. The CAISO should also study the probability of curtailment of California renewable generation as a result of its proposed MIC adjustments. The CAISO should also make clear if such curtailment to resolve simultaneous constraints would occur only in the case where a peak load of a PTO that joins the ISO occurs seasonally non-coincidental with the peak load of the rest of the system or if this will be standard procedure for resolving simultaneous import constraints in the expanded ISO BAA.

MIC Allocation by TAC Sub-Region:

Another MIC-related aspect of the RA Framework Proposal that is of concern is the proposal to limit the initial allocations of MIC capability only to those ISO sub-regions that are defined by the Regional TAC sub-regions based on a load ratio share of the LSEs serving load within those sub-regional TAC areas. *Id.* at 36. The CAISO states modifying the MIC allocation process to reflect the ISO's proposed Regional TAC policy better aligns MIC allocation based upon TAC sub-regions that are paying for the underlying transmission of the overall system, and is "appropriate given the underlying cost causation and payment structure that is being envisioned under the Regional TAC policy." *Id.* at 36-37.

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[9] *See, e.g.*, IID's March 3, 2016 Comments on the 2015-2016 Draft Transmission Plan (including Discussion Paper Prepared by ZGlobal on behalf of IID attached thereto).

Reliance on a cost structure proposed by the CAISO in the Regional TAC Options initiative is of concern when it may not be the ultimate cost structure approved for a regional ISO. Moreover, the CAISO should have studied whether its proposal to split MIC allocations to TAC sub-regions would create the need for new transmission when there is existing transmission capacity available in California BAAs. The CAISO should also be required to assess the impact its proposal would have on the State's policy goals of increasing use of renewable generation and advancing the economic interests of the State. Regionalization should enhance, not detract from use of existing transmission and renewable resources.

Resource Substitution Issue:

One aspect of the RA Framework Proposal that IID supports in concept, but believes requires further thought and development is the proposal to permit external resources to substitute for internal resources that are experiencing outages. *Id.* at 46-47. For instance, greater clarity is needed for the requirement that the external resource/supplier have sufficient MIC allocation to be used as the substitute resource, and whether MIC allocations would increase if an external resource is routinely required to substitute for internal resources that are experiencing outages.

CONCLUSION

Irrespective of the decision to further pursue the Regional RA Framework Proposal, the CAISO should undertake a new stakeholder process to revise the historically-based MIC calculation methodology to ensure that the MIC calculation will be consistent with the broader goals of SB 350 by ensuring benefits to California by taking advantage of existing available California transmission and available California renewable resources. Consistent with IID's prior requests, the CAISO should consider in such a stakeholder process how consideration of the locational effects of generator output will maximize deliverability and reduce congestion costs.

With respect to the CAISO's proposal in the Regional RA Framework to adjust the MIC calculation and to address simultaneous import constraints by curtailing the import or internal generation that has the highest impact, the CAISO should undertake an affected system analysis to understand the potential operational impacts, if any, to interconnected California BAAs such as IID. The CAISO should also study the probability of curtailment of California renewable generation as a result of its proposed MIC adjustments. The CAISO should also clarify if such curtailment to resolve simultaneous constraints would occur only in the case where a peak load of a PTO that joins the ISO occurs seasonally non-coincidental with the peak load of the rest of the system or if this will be standard procedure for resolving simultaneous import constraints in the expanded ISO BAA.

The CAISO should also consider the impact of its MIC allocation proposal on the State's policy goals of increasing use of renewable generation and on enhancing California ratepayer benefits by maximizing use of existing transmission capacity in adjacent BAAs (such as the IID BAA) to facilitate imports of needed generation, including renewable generation, into the grid.

Finally, IID supports in concept the use of external resources to substitute for internal resources that are experiencing outages, though such proposal needs further development as to the parameters of the proposal.