

**BEFORE THE  
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider	)	
Refinements to and Further Development of the	)	R.05-12-013
Commission's Resource Adequacy	)	
Requirements Program	)	
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**COMMENTS OF THE  
CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR CORPORATION  
ON DRAFT OPINION ON REMAINING PHASE 1 ISSUES**

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Dated: July 10, 2006

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In accordance with Rules 77.2, 77.3 and 77.4 of the Commission’s Rules of Practice and Procedure, the California Independent System Operator Corporation (“CAISO”) respectfully submits its comments on Administrative Law Judge (“ALJ”) Wetzell’s draft decision entitled “Opinion on Remaining Phase 1 Issues,” mailed June 20, 2006, in the above-referenced proceeding (“Draft Decision”).

**I. INTRODUCTION AND OVERVIEW**

An indispensable corollary to the Commission’s adoption of a capacity-based resource adequacy paradigm is the need to develop a readily tradable standardized capacity product. A readily tradable capacity product will facilitate the ability of both load-serving entities and suppliers to comply efficiently and cost-effectively with the Commission’s resource adequacy obligations. The Draft Decision advances this effort and therefore represents yet another important step towards establishing a viable resource adequacy program. In this regard, the CAISO generally supports the basic elements of the resource adequacy capacity product defined by the Draft Decision. The CAISO does offer, however, several suggested refinements that will better promote, and are more

consistent with, the underlying goals of the Commission’s resource adequacy program.

Those refinements are limited to the following topics:

- Consideration of adjustments to Net Qualifying Capacity more frequently than on an annual basis.
- The timeframe for remedial actions by non-complaint LSEs.
- Proposed modification to the definition of import.
- Clarification of the substitution rules.
- Proposed modifications to the availability requirements contained in Category 3 of the standard elements.

In addition, while the CAISO appreciates the importance of regulatory stability in fostering commercial transactions, the Commission should remain receptive to modifications to the capacity product warranted by the actual experience of market participants.

## **II. COMMENTS TO THE DRAFT DECISION**

### **A. The Draft Decision Should Not Foreclose Adjustments to Qualifying Capacity on a Schedule More Frequent Than Annually**

In response to the workshop report, the CAISO took issue with, and proposed modification to, the Commission’s “forced is forced” policy. The CAISO’s concern with the forced is forced policy arises from the reliability risk the CAISO must manage in between the Qualifying Capacity adjustment and replacement cycle due to inoperative and thus useless capacity. This concern is heightened by the Commission’s apparent adoption of a policy-preference for an annual adjustment to Qualifying Capacity and the implication that there is no replacement requirement until the resource’s Qualifying Capacity is adjusted the following year. The CAISO agrees with the Draft Decision that adjustments to Qualifying Capacity to derive Net Qualifying Capacity should be made on a regular cycle. Yet, the CAISO urges the Commission to not prejudge “regular cycle” to

mean annually. Rather, the Commission should remain open to revised Net Qualifying Capacity and replacement cycles that occur on a more frequent, yet commercially reasonable basis, once performance standards and a suitable mechanism to procure incremental capacity are developed.

An acute example that illustrates the risk of maintaining an annual Qualifying Capacity adjustment cycle is the situation where a large generator has a catastrophic failure on day one of a compliance year. Under an annual adjustment cycle, the resource would remain unavailable and without a replacement obligation for an entire year. Revising Net Qualifying Capacity with the accompanying replacement obligation every 3 to 6 months, for example, would greatly reduce the risk of having insufficient capacity and supports the Commission's resource adequacy objective of having capacity available when and where needed. New York, for example, makes what it calls Unforced Capacity adjustments semi-annually based on a summer and winter capability period.

The CAISO emphasizes that it understands that for the interim period, fixing Net Qualifying Capacity for an entire compliance year may be inevitable given the lack of performance standards and a mechanism to timely and efficiently procure incremental capacity. However, the Draft Decision should not foreclose or prescribe, at this time, the effect of performance standards on adjusting Qualifying Capacity and enforcing a replacement obligation on a more timely and appropriate cycle.

**B. The Commission Should Be Clear that Any LSE Remedial Actions Must Be Taken Prior to the Beginning of the Relevant Compliance Reporting Period**

The Draft Decision notes its general concurrence with the workshop report that "RAR violations will be handled first through action by the Energy Division such as a

notification letter providing the LSE with a limited time to resolve the violation, and then, if the LSE fails to do so, the Energy Division would recommend that the Commission initiate an enforcement proceeding.” (Draft Decision at 14.) The workshop report suggested that the notification letter would provide 20 days to remedy the violation. (Workshop Report at 7.) This general mechanism and timeframes may work for the Year-Ahead and Local showings because those showings occur well before the effective period, however, the proposed timing may be problematic for the Month-Ahead showings because of the limited time available between the submittal of the “final” report and the beginning of the operational month.

The CAISO’s proposed Interim Reliability Requirements Tariff (“IRRP”) provides that if a Scheduling Coordinator for an LSE submits a Resource Adequacy Plan that demonstrates noncompliance with Commission rules, the CAISO is to notify the relevant Scheduling Coordinator, or in the case of a mismatch between a Resource Adequacy Plan and Supply Plan, the relevant Scheduling Coordinators within 10 business days in an attempt to resolve the issue. If this process does not resolve the concern, the CAISO notifies the Commission. In order to allow the CAISO to efficiently engage in any necessary and authorized backstop procurement or to avoid such procurement, the IRRP provides that, the Scheduling Coordinator for the LSE shall inform the CAISO at least 10 days before the effective month of any necessary changes to its Resource Adequacy Plan to address the deficiency.

The remedial period in the IRRP is admittedly, but necessarily, condensed. The workshop report’s proposed cure period, i.e., 20 days after notification letter, does not conform to the IRRP. This simply means that the CAISO will engage in procurement to

resolve system capacity deficiencies, as appropriate, with the costs properly being assigned to the deficient LSE as recommended by both the Commission and the RCST settlement. After the CAISO engages in such procurement, it would be inefficient and potentially unnecessary for additional LSE procurement for that compliance month. Equally important, the Draft Decision's proposal also appears to largely eviscerate the efficacy of any penalties for noncompliance with a monthly requirement. This follows because the next realistic opportunity for the LSE to demonstrate compliance is the following Month-Ahead showing, which could be deemed a separate obligation. Accordingly, there will never be a failure to cure that triggers an enforcement proceeding.

The Commission has granted LSEs a waiver mechanism for local procurement. Neither an explicit or implicit waiver should exist for system capacity. The failure to meet system capacity obligations 10 days prior to the effective month should trigger an enforcement proceeding. The mere initiation of such proceeding will not necessarily lead to the imposition of a penalty, but the threat of the penalty should create a realistic incentive to promote compliance with Commission resource adequacy obligations.

**C. The Definition of an Import Should Be Modified To Refer to a Scheduling Point, Rather than Delivery Point**

As an initial matter, the CAISO appreciates the Draft Decision's judgment to limit its discussion of the fundamental elements of a standardized product to capacity from generating units located in the CAISO control area, not imports. However, the CAISO urges the Commission to promptly resolve SCE's pending petition to modify D.05-10-042, which raises the question whether imports will be subject to an offer obligation. The CAISO continues to believe the Commission should make its determination of an offer obligation on all imports that are to support an effective resource adequacy program.

Resolution of this issue is important to guide both commercial arrangements and the CAISO's development of systems and procedures to ensure compliance with any resulting import offer obligation.

In addition, the Draft Decision proposes to adopt PowerEx's proposal to clarify the specific elements of the transmission requirement applicable to imports qualifying as a resource adequacy product, rather than simply referring to the term "firm." The CAISO agrees. Yet, the CAISO continues to believe there is an ambiguity in the description of qualifying imports. The Draft Decision describes the import elements as:

- (1) The contract is an Import Energy Product with operating reserves;
- (2) The contract cannot be curtailed for economic reasons;
- (3) The contract is delivered on transmission that cannot be curtailed in operating hours for economic reasons or bumped by higher priority transmission or the contract specifies firm delivery point (not seller's choice). (Draft Decision at 18-19.)

As the CAISO has indicated in prior comments, the Commission must clarify that, in order to qualify as an import, the energy must be supplied by generating units outside the CAISO Control Area that are scheduled across a "Scheduling Point." A Scheduling Point is a location at which the ISO Controlled Grid is connected, by a group of transmission paths ... to transmission facilities that are outside the ISO's Operational Control, e.g. a point of interconnection between the CAISO and another control area. This should qualify the nature of an "Import Energy Product." If the foregoing clarification is made, the "delivery point" is irrelevant. Delivery is a contractual concept to identify where title to the energy is deemed to vest and serves the important purpose of allocating the risk associated with transmission and congestion related costs. Parties should be free to determine their preferred points of delivery. However, for an energy contract to be deemed an import, its requirements should ensure that the energy is not

being produced from internal capacity and therefore double-counted. This issue is resolved by the correction from “Delivery Point” to “Scheduling Point”.

**D. The Draft Decision Should Clarify its Substitution Rules.**

The Draft Decision indicates that “[w]hile substitution of System RAR resources should be permitted up to the month-ahead showing, we will not allow pooling or substitution of resources for fulfillment of Local RAR.” (Draft Decision at 23.)

Category 5 of the general elements of the proposed standardized capacity product at paragraph 4 summarizes the foregoing as follows:

In the month-ahead compliance filings, RA Capacity products may be substituted for equivalent amounts of resources that were accepted as part of an LSE’s Year-Ahead compliance filing, subject to the following requirement: In satisfying system RAR, any RA Capacity Product is eligible. (Draft Decision at 33.)

The Draft Decision should expressly acknowledge the CAISO and PG&E’s concerns that substitution of system capacity may negatively affect the ability of the CAISO to evaluate the efficacy of LSEs’ aggregate local procurement. As such, the purported benefits associated with unfettered substitution at the system level may be offset by the need for additional backstop procurement should effective units be substituted for less effective units in meeting the LCR in a local area. In other words, the benefits that are expected to accrue from system substitution may come with a cost if the CAISO needs to engage in backstop procurement where substitutions affect the RA based local capacity.

**E. The Availability Requirements Set Forth in Category 3 of the Standardized Elements Need Modification**

Category 3 of the general elements of the proposed standardized capacity product articulates the requirements for complying with CAISO unit commitment, dispatch

requirements and other CAISO Tariff provisions. Paragraph 2.a provides, in pertinent part, “[i]n the event of a discrepancy between the RAR filings and the Supply Plans submitted to the CAISO, generating unit Scheduling Coordinators must endeavor to assist the CAISO to resolve any discrepancies between the CAISO Supply Plans and the RAR filings, including amendment of their Supply Plans.” Paragraph 2.a incorrectly assigns to the CAISO an apparent duty or role in resolving the discrepancy. Such role is contrary to the CAISO’s IRRP approved by FERC. Under the IRRP, the CAISO merely informs Scheduling Coordinators of discrepancies. The obligation to resolve that discrepancy transfers to the Scheduling Coordinators. While the CAISO may provide information needed to facilitate elimination of any disagreement, the CAISO must utilize the Supply Plan in accordance with the IRRP, unless a mutual resolution is communicated to the CAISO by the pertinent Scheduling Coordinators. Accordingly, Paragraph 2.a of Category 3 must be modified to specify that the obligation of Scheduling Coordinator for the generating unit to assist in resolving the discrepancy is owed to the Scheduling Coordinator for the LSE, not the CAISO.

Paragraph 2.a also provides resource adequacy capacity must be self-scheduled for energy delivery within the CAISO Control Area, and “any amount of RA Capacity not so scheduled is subject to provisions of (b) – (e) listed below.” Paragraphs (b) – (e) do not fully reflect the reality of FERC’s approval of the IRRP. For instance, paragraph (d) provides that in the period prior to implementation of the CAISO’s Market Redesign and Technology Upgrade project (“MRTU”), resource adequacy capacity must be made available to the CAISO subject to FERC’s “original Must Offer Obligation (FERC MOO) process or its successors.” By FERC’s adoption of IRRP, a specific distinction was made

between the offer obligations associated with RA capacity and those resources that are not. In short, resource adequacy capacity will not be subject to FERC MOO process or its successor, i.e., the modified FERC MOO proposed under the Reliability Capacity Services Tariff (“RCST”) settlement. Rather, RA resources will be subject to the offer obligations consistent with the CAISO tariff. Similarly, Paragraph (e) is no longer necessary given the application of IRRP procedures to resource adequacy capacity regardless of the continued operation of FERC MOO prior to MRTU. Proposed changes to the Draft Decision to address these concerns are set forth in Appendix A.

Respectfully submitted,

By: \_\_\_\_\_  
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Dated: July 10, 2006

## APPENDIX A

### 3.3 Penalties for Non-Performance

(Page 14, middle of the first paragraph)

~~...In the meantime, we generally concur with the workshop report that RAR violations will be handled first through action by the Energy Division such as a notification letter providing the LSE with a limited time to resolve the violation, and then, if the LSE fails to do so, the Energy Division would recommend that the Commission initiate an enforcement proceeding.~~ if a Scheduling Coordinator for an LSE submits a Resource Adequacy Plan that demonstrates noncompliance with Commission rules, the CAISO is to notify the relevant Scheduling Coordinator, or in the case of a mismatch between a Resource Adequacy Plan and Supply Plan, the relevant Scheduling Coordinators within 10 business days in an attempt to resolve the issue. If this process does not resolve the concern, the CAISO notifies the Commission.

### 3.6 Import Requirements

(Page 18, middle of the third paragraph)

...These elements are: (1) the contract is an Import Energy Product with operating reserves, (2) the contract cannot be curtailed for economic reasons, and (3a.) the contract is delivered on transmission that cannot be curtailed in operating hours for economic reasons or bumped by higher priority transmission or, (3b.) the contract specifies firm delivery point (not seller's choice). is for energy supplied by generating units outside the CAISO Control Area that are scheduled across a Scheduling Point as defined in the CAISO Tariff.

### 3.9 Pooling of Assets and Substitution

(Page 23, final sentence in paragraph carried over from page 22)

...While substitution of System RAR resources should be permitted up to the month-ahead showing, we will not allow pooling or substitution of resources for fulfillment of the Local RAR. Notwithstanding our decision to allow the substitution of System RAR up to the month-ahead showing, the Commission acknowledges that substitution of system capacity may negatively affect the ability of the CAISO to evaluate the efficacy of LSEs' aggregate local procurement and may result in increased backstop procurement requirements.

### 3.11. Required Elements of Standardized, Tradable Capacity Products

(Page 30-31, Category 3)

...2a...In the event of a discrepancy between the RAR filings and the Supply Plans submitted to the CAISO, generating unit Scheduling Coordinators must endeavor to assist the Scheduling Coordinator for the LSE CAISO to resolve any discrepancies between the CAISO Supply Plans and the RAR filings, including amendment of their Supply Plans.

...2d...~~In the pre-MRTU period, Capacity must be made available to the CAISO subject to the FERC's original Must Offer Obligation (FERC MOO) process or its successors.~~ In the event of a Must Offer Waiver Denial ("MOWD") by the CAISO, the unit's Scheduling Coordinator shall submit supplemental energy or Ancillary Service bids to the CAISO.

...2e...~~If the FERC MOO is no longer operative, Capacity shall be made available to the CAISO as follows: (1) the CAISO shall have the right to commit any type of Units on a Day Ahead basis; and (2) the CAISO shall have the right, on an intra-hour or Hour Ahead basis, to call on supplemental energy and/or Ancillary Services from only those Units whose start up time permits such a call.~~