

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

Order Instituting Rulemaking to Oversee)
the Resource Adequacy Program, Consider)
Program Refinements, and Establish Annual) R.09-10-032
Local Procurement Obligations.)
_____)

**CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
REPLY COMMENTS ON PROPOSED DECISION**

In accordance with Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“CPUC”), the California Independent System Operator Corporation (“ISO”) respectfully submits its reply to comments submitted on the Proposed Decision Adopting Local Requirement Obligations For 2011 and Further Refining the Resource Adequacy Program (“Proposed Decision”).

I. SUMMARY

The ISO agrees with the determination in the Proposed Decision that the ISO’s 2011 Local Capacity Technical Analysis, Final Report and Study Results should be approved as the basis for establishing local procurement obligations for the Resource Adequacy (“RA”) program for compliance year 2011. The ISO also agrees with most of the recommendations made in the Proposed Decision that address policy issues related to the ISO’s RA requirements and Standard Capacity Product (“SCP”).

These reply comments are limited to addressing statements made in comments on the Proposed Decision submitted by the California Wind Energy Association (“CalWEA”) and the California Cogeneration Council (“CCC”) on June 14, 2010 that the

ISO is concerned could be misleading in two areas. As discussed below, these comments fail to inform the CPUC that 1) the Federal Energy Regulatory Commission (“FERC”) order that exempted wind, solar, and qualifying facility (“QF”) RA resources from the SCP provisions did so only on a temporary basis; and 2) the alleged exposure of these resources to a double performance penalty does not exist if those contracts are eligible for grandfathering under the ISO Tariff SCP provisions.

II. THE FERC ORDER GRANTED ONLY A TEMPORARY EXEMPTION FROM SCP TO WIND, SOLAR, AND QUALIFYING FACILITIES

On June 26, 2009, FERC issued an Order in Docket No. ER09-1064-000 that approved the ISO’s proposed tariff amendment to adopt SCP.¹ The June 26 Order also accepted the ISO’s proposal that SCP not initially apply to RA resources whose QC for RA purposes is based on historical actual hourly output data from the CPUC or a local regulatory authority without removing or otherwise adjusting for forced outage hours that occur during the period when actual output is measured (the resource types affected are wind, solar, and QF resources). The June 26 Order deferred application of SCP to the wind, solar, and QF resources based on the ISO’s concern that the temporary exemption was necessary in order to avoid “double counting” the impact of the resources’ forced outages and de-rates in both the SCP availability metric and the current CPUC rules for determining a resource’s QC for RA purposes.²

The comments of CalWEA/CCC oppose lifting the FERC-ordered exemption. However, the comments fail to acknowledge that the exemption is temporary. In the June 26 Order, FERC made it quite clear that the exemption is temporary.³ FERC

¹ *Cal. Indep. Sys. Operator Corp.*, 127 FERC ¶ 61,268 (2009)(“June 26 Order”).

² *Id.* at P. 56.

³ Specifically, FERC held that: “We accept the CAISO’s proposal to exempt from the proposed

directed the ISO to work diligently with stakeholders, the CPUC, and local regulatory authorities to end the exemption in a timely manner and also required the ISO to post biannual status reports so that FERC could monitor the progress of efforts to sunset these exemptions and determine whether the efforts to sunset the exemptions are being unreasonably delayed.⁴

The ISO urges the CPUC to adopt the Proposed Decision as written, without the changes advanced by CalWEA/CCC that are based on misleading statements about the basis for the exemption and its elimination. The Proposed Decision appropriately finds that historical outage and de-rate data should be excluded from the data set used to calculate qualifying capacity and replaced with proxy data. This will eliminate the potential double counting concern raised by the ISO, which will facilitate the extension of SCP to wind, solar, and QF RA resources, consistent with the expectation in the Proposed Decision that SCP will be extended to these resources and with FERC's June 26 Order.

availability standards resources whose qualifying capacity is determined by historical output. As the CAISO explains, existing resource adequacy rules treat certain resources differently in determining their amount of qualifying capacity. Under the existing CPUC market rules, resources whose qualifying capacity is determined by historical output are penalized for poor performance through a reduction of their qualifying capacity. Therefore, it would be a harsh result to apply the same availability standards, which are designed to penalize poor performance, to resources already subject to qualifying capacity adjustments. We find that doing so could potentially result in penalizing such resources twice for the same outage or de-rate. As long as this counting feature of the market continues, we find the proposed exemption to be permissible and not unduly discriminatory." June 26 Order, P. 56.

⁴ FERC stated that: "To be clear, we find the CAISO's proposal to exempt these resources to be just and reasonable and not unduly discriminatory because these issues are being addressed in ongoing CAISO and CPUC proceedings and the exemptions are, therefore, temporary. To that end, we direct the CAISO to work with stakeholders, the CPUC, and local regulatory authorities to determine when the proposed exemptions should ultimately sunset, and the CAISO and stakeholders should diligently work toward a sunset in a timely manner. In this regard, we direct the CAISO to post a biannual status report relating to the application of availability standards to all resource adequacy resources on its internet web site. The CAISO should post the first such report within 45 days of the date of this order. The reports will serve as a means for the Commission and market participants to monitor the progress of these efforts to sunset the exemptions and as the basis for the market participants and the Commission to determine if the efforts to sunset the exemptions are unreasonably delayed. June 26 Order, P. 58.

III. WIND, SOLAR AND QUALIFYING FACILITIES ELIGIBLE FOR GRANDFATHERING ARE NOT EXPOSED TO DOUBLE PERFORMANCE PENALTIES UNDER SCP

As just discussed, the Proposed Decision will appropriately eliminate the double counting concern raised by the ISO where a wind, solar, or QF RA resource could be subject to penalty for the same forced outage or de-rate under the CPUC's existing counting rules and the ISO's SCP availability standards. In their comments on the Proposed Decision, CalWEA/CCC claim there is another double counting issue, this time between the ISO's SCP availability standards and performance metrics that CalWEA/CCC indicate are contained in the existing Renewable Portfolio Standard and QF contracts of the resources they represent. CalWEA/CCC argue that this double counting issue should prevent SCP from being extended to these resources.

In making this argument, however, CalWEA/CCC fail to inform the CPUC that these existing contracts could be eligible for grandfathering under the ISO Tariff. The currently effective SCP provisions in the ISO's Tariff contain a grandfathering provision, as do the provisions proposed in the SCP II stakeholder initiative the ISO just completed to extend the application of SCP to resources whose qualifying capacity is based on unadjusted historical data. For SCP II, the ISO has posted proposed tariff language that, among other things, will modify ISO Tariff Section 40.9.2, Exemptions, to allow RA resources whose qualifying capacity value is determined by historical output to request exemption from application of SCP non-availability charges and availability incentive payments for their capacity under a resource specific power supply contract or RA capacity procured under a contract that was either executed or submitted to the applicable Local Regulatory Authority for approval prior to the date of the FERC order

that approves SCP II, where the contract is associated with specific generating units or system resources and meets the other requirements of that subsection. To the extent that the pertinent contracts for wind, solar, and QF RA resources meet these requirements and are exempted from the non-availability charges and availability incentive payments, there is no double counting issue. CalWEA/CCC's claim that SCP should not be extended to wind, solar, and QF RA resources because of a double counting issue between existing contracts of these resources and SCP availability standards ignores the grandfathering provisions and does not provide a valid basis to modify the Proposed Decision.

IV. CONCLUSION

The ISO respectfully requests that the CPUC issue an order consistent with the ISO's proposals and comments herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2010, I served, by electronic and United States mail, a copy of the foregoing California Independent System Operator Corporation Reply Comments on Proposed Decision to each party in Docket No. R.09-10-032.

Executed on June 21, 2010
at Folsom, California

Anna M. Pascuzzo

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