

**Comments of Southern California Edison Company on CAISO
Standard Capacity Product Updated Straw Proposal**

Submitted by	Company	Date Submitted
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Southern California Edison Company (“SCE”) provides these comments on the California Independent System Operator’s (“CAISO’s”) Updated Straw Proposal for a Standard Resource Adequacy Capacity Product, dated December 4, 2008 (“Straw Proposal”). SCE appreciates the opportunity to submit these comments on the development of the Straw Proposal. SCE is also a member of the California Forward Capacity Market Advocates (“CFCMA”), which is concurrently submitting comments on the Straw Proposal that reflect the consensus views of the CFCMA members. SCE fully supports those comments and has authorized those comments to be submitted on its behalf. SCE is providing these additional comments to express SCE-specific views on certain aspects of the Straw Proposal, including:

- The need to extend the stakeholder process to provide sufficient time to develop an appropriate Standard Capacity Product (“SCP”);
- Grandfathering existing contracts with respect to availability requirements and performance incentives;
- Ensuring that resources are not subject to both financial unavailability charges and physical derates where their qualifying capacity (“QC”) is determined based on historical output;
- Refunding any excess unavailability charges through an offset to the Generation Management Charge (“GMC”);
- Availability standards for liquidated damages (“LD”) contracts;
- Scheduling Logging for the ISO of California (“SLIC”) outage reporting for resources less than 10 MW; and

- Consideration of future amendments to the SCP to impose unavailability charges directly on the responsible generator rather than through the Scheduling Coordinator (“SC”) for the resource.

SCE strongly urges the CAISO to incorporate these recommendations, as described below, into the revised version of the Straw Proposal to be issued on December 23.

Expedited Schedule of Stakeholder Process

SCE is concerned that the schedule set forth by the CAISO is too aggressive. Important details, such as the integration of demand response resources and the development of a transition plan for existing contracts - executed well before an SCP was even contemplated - still remain to be considered. Other issues such as enhanced performance metrics; penalties designed to ensure generator performance during peak hours; and the resolution of double-penalization of resources whose availability standard is based on a historical three-year average have yet to be properly vetted.

Parties only received their first glimpse as to what the CAISO envisioned for the SCP in a series of straw-proposals provided in late November and early December for review during the holiday period, which has not allowed for sufficient review and consideration, not only of the issues currently identified in the straw proposal, but of others that have the potential to surface once parties are able to take a hard look at the ‘final’ product.

Although SCE remains supportive of the CAISO’s effort to develop an SCP, SCE also observes that the current RA process currently functions in meeting the state’s short-term reliability needs without an SCP provision in the CAISO tariff. To that end, SCE urges that the CAISO take the requisite amount of time needed to develop a complete and effective SCP. To do otherwise could hurt, rather than enhance, the RA program and grid reliability. As a CPUC jurisdictional LSE, SCE notes that it is extremely important that there be close coordination between the CAISO’s SCP effort and the CPUC’s RA refinements OIR. Issues such as consistency of counting rules, A/S must-offer obligation, and the role of the SCP product are being considered at the CAISO and in the CPUC’s RA refinements OIR. To date, it is not clear how this coordination will take place given the timing differences between the CAISO’s and CPUC’s respective schedules.

SCE is hopeful that the CAISO on its own initiative will recognize the shortcomings of the current schedule and set aside additional time for workshops and a more thorough review of the issues. On the other hand, if the CAISO chooses to proceed with its current schedule and files its proposal with FERC in February, SCE will have to raise its specific concerns with FERC on issues that we do not believe have been thoroughly vetted in the stakeholder process.

Grandfathering of Existing Contracts

The Straw Proposal recognizes that numerous stakeholders have expressed the need for the SCP to include provisions for a transition period, or grandfathering of existing contracts. Accordingly, the Straw Proposal indicates that the CAISO is gathering information on this issue and will provide a further discussion of grandfathering in the next revision of the Straw Proposal. SCE has received the corresponding data request from the CAISO and will be providing a response on December 19, as requested.

SCE strongly urges the CAISO to incorporate a transition/grandfathering process into the upcoming revised Straw Proposal with respect to the new availability requirements and performance incentives that will be part of the SCP. Specifically, SCE requests that the CAISO incorporate the following grandfathering provision into the SCP tariff language:

All existing contracts executed prior to final approval of the SCP tariff provisions by FERC are exempt from the SCP tariff provisions for availability and performance metrics. This exemption extends until the contract expires (or in the case of contracts with ever-green clauses until the initial term of the contract expires). This exemption does not extend to the Ancillary Services Must-Offer provision or any other SCP tariff provisions.

This grandfathering provision is necessary because, at least for SCE and likely for other LSEs, contractual language negotiated prior to FERC approval of the SCP tariff does not address the new availability requirements and financial consequences of non-compliance for the SCP. Nor could counterparties appropriately negotiate for the contractual provisions prior to FERC approval because the counterparties will not know what requirements will be approved by FERC. For example, an existing contract may not contain a mechanism that allows the flow-through of unavailability charges to the generation owner. The presence of new financial risks or other obligations on the generation owner that were not contemplated at the time the contract was signed could lead to significant disputes, open the contracts for renegotiations, or otherwise place the contracting LSE in the position of having to incur greater costs for its customers by procuring SCP RA tags to replace existing RA capacity.

Non-Discriminatory Application of Unavailability Charges

The Straw Proposal would apply unavailability charges (characterized as “financial penalties” in the Straw Proposal) to all RA generation resources, regardless of how a resource’s QC is determined. Under the CPUC’s QC rules for the RA program, some resources have their QC based on historical output (*e.g.*, QFs have a monthly QC

based upon the three-year average of their output between 12 pm and 6 pm). Consequently, forced outages during peak conditions are incorporated into the reduced QC of such resources. For example, if a QF resource was forced out for one week during August, its August QC calculation for the following year would include the period in which the QF was on a forced outage. If resources whose QC calculation incorporates forced outages are also subject to unavailability charges, those resources will be penalized twice for forced outages. As a result, such resources would not be treated consistently with other resources whose QC is not based on historical performance.

There are two ways to address this fundamental inequity. One approach is for the CAISO to exempt from unavailability charges those resources whose QC is based upon historical performance. Another approach is for the CPUC (or other Local Regulatory Authority as applicable) to revise its QC rules to remove forced outages from the historical performance calculation. At this stage of the CAISO's stakeholder process, SCE strongly prefers the former approach (CAISO exemption). The latter approach (revisions to QC rules) would need to be addressed in the upcoming Phase 2 RA refinements OIR. The CPUC has stated that it expects to issue its Phase 2 decision in June 2009.

SCE strongly opposes an approach where the CAISO would file its SCP proposal with FERC without exemptions and hope that the CPUC process aligns with the CAISO's filing. If the CAISO chooses not to provide the exemption for resources with historical-performance-based QCs, then the CAISO should ensure that its approach is coupled with a final CPUC decision modifying the QC rules for such resources. Because such a decision would not be adopted until June, this is another reason it would be premature for the CAISO to file proposed SCP tariff language with FERC in February.

Refund of Excess Unavailability Charges Collected By the CAISO

The Straw Proposal does not specify what the CAISO will do with any unavailability charges collected in a given month that exceed the amount necessary to fund any CAISO backstop procurement (*see* CFCMA Comments on this point) and any "bonus payments" to high performing resources. As a revenue-neutral entity, the CAISO cannot profit from the value of those funds by keeping them. Accordingly, consistent with the CAISO's approach for underscheduling charges in the MRTU tariff (*see* Section 11.24.4 of the CAISO's MRTU Tariff). SCE recommends that the CAISO modify the Straw Proposal to provide that any unavailability charges collected for a given month but not applied to backstop procurement costs or "bonus payments" will be refunded as an offset against the GMC. Indeed, FERC expressly found this approach to be just and reasonable in its ruling on the CAISO's proposed MRTU tariff provisions regarding the refund of underscheduling charges (FERC July 18, 2008 Order accepting

MRTU underscheduling proposal, paragraph 35
<http://www.caiso.com/2007/2007b39cd020.pdf>).

Availability Standards for LD Contracts

The Straw Proposal seeks parties' suggestions for an SCP availability standard that would apply to LD contracts. For CPUC jurisdictional LSEs, LD contracts for resources within the CAISO balancing authority area do not count for RA beginning in 2009¹. Therefore, for CPUC-jurisdictional LSEs, there is no need to develop an availability standard for LD contracts within the CAISO balancing authority (LD imports are addressed below). For LD contracts that do count as RA resources for Reserve-Sharing LSEs, Section 40.6.9 of the CAISO MRTU Tariff already establishes the following must-offer obligations:

40.6.9 Availability Requirements for Grandfathered Firm Liquidated Damages Contracts. Resource Adequacy Capacity represented by a Firm Liquidated Damages Contract and relied upon by a Scheduling Coordinator in a monthly or annual Resource Adequacy Plan shall be submitted as a Self-Schedule or Bid in the Day-Ahead IFM to the extent such scheduling right exists under the Firm Liquidated Damages Contract.

If the CAISO believes that the requirement in Section 40.6.9 is not sufficient, then the CAISO would need to develop a "forced outage" standard for an LD contract. Such a definition would likely be difficult to develop, especially on the schedule currently contemplated for finalizing the SCP proposal.

In addition, Section 40.8.1.5 of the CAISO's default QC criteria prohibits LD contracts within the CAISO balancing authority area from qualifying as RA capacity starting in 2009. SCE recommends that the CAISO identify all non-CPUC Local Regulatory Authorities that have a QC rule that permits LD contracts within the CAISO balancing authority to count for RA (*i.e.*, all non-CPUC LRAs that are not consistent with the CPUC and the CAISO's default LD counting rule). If the CAISO believes that the counting rules of the non-CPUC LRAs are causing a reliability issue, then the CAISO should consider measures to address the reliability concern, including LD availability provisions and other alternatives.

LD contracts for imports are permitted to count as RA capacity and are a subset of the more general category of RA system imports. Under MRTU, if the SC for the RA import doesn't submit a bid for the resources, the CAISO will automatically put a bid in for the resources (after software is ready, per the CAISO's comment at the most recent SCP stakeholder meeting). Therefore, SCE does not see a reason to establish a performance

¹ There is a limited exception allowing DWR-CERS contracts to continue to count for RA compliance.

standard for imports unless the CAISO establishes a “forced outage” standard for RA imports.

SLIC Outage Reporting for Resources Less Than 10 MW

The Straw Proposal states that the CAISO intends to use only SLIC system data to calculate target availability for resources in the first year of the SCP. Recognizing that resources with capacity of less than 10 MW currently do not report outages in the SLIC system, the Straw Proposal further provides that after the first year of the SCP, resources below 10 MW in size will be required to submit outage information to the CAISO in some unspecified process outside of SLIC for the calculation of target availability. SCE does not support this approach. If SLIC system data is to be used for calculating target availability, then monthly outage data for any resources included in the availability calculation (including those under 10 MW) should be submitted using the SLIC system. If the SLIC system cannot accommodate these resources, then the resources should not be required to provide the information. As the CAISO stated during the December 11 SCP stakeholder meeting, after an extensive effort in 2007 and 2008, the CAISO filed and FERC approved revised outage reporting requirements. From an outage management perspective, SCE cannot support a to-be-designed reporting system because of the implementation issues, many of which were discussed in the outage management stakeholder process.

Consideration of Future Tariff Amendments to Allow Direct Assessment of Unavailability Charges

Although SCE supports the CAISO taking a more deliberate approach to development of the SCP by expanding the current stakeholder process to allow for appropriate consideration of critical issues, we recognize that there are some matters that can be addressed through a future process to refine the SCP. One such issue is the manner in which unavailability charges are levied upon generators.

Currently, unavailability charges will have to be assessed to the SC for a given resource. SCE believes that at some point a change to the CAISO tariff to allow for transactions directly between the CAISO and resource owners, rather than only through scheduling coordinators would be beneficial. In the same way that the SCP is designed to more easily facilitate capacity trading by removing the availability and performance provisions currently imbedded in bilateral contracts and standardizing those metrics within the CAISO tariff, enabling the CAISO to directly transact with resource owners to administer performance incentives/penalties will mitigate the need for SCs to maintain separate contracts with resource owners, outlining credit requirements and other provisions to ensure generator performance and compliance with the CAISO tariff. SCE recognizes that this may be nontrivial and may require a broader stakeholder process.

Thus, SCE recommends that the CAISO pursue the change in a future stakeholder process after some experience has been gained with the use of the SCP in the RA program and with the assessment of unavailability charges, *e.g.*, after the SCP has been in place for one full RA compliance year.