California Municipal Utilities Association ("CMUA")
Comments on the CAISO Draft Final Proposal
for a
Standard Resource Adequacy Capacity Product

CMUA submits these comments to the January 8, 2009, CAISO Draft Final Proposal ("Final Proposal") for a Standard Resource Adequacy Capacity Product.

CMUA support certain aspects of the Final Proposal, but has significant concerns with others. Specifically, the proposed Transition Period and the treatment of imports are not consistent with CMUA's position, will harm its members, and therefore CMUA cannot support the Final Proposal as a package. We urge the CAISO to reconsider these portions of the proposal during this first attempt at creation of a Standard Capacity Product ("SCP").

General Comments

An Optional SCP Program as a First Cut is Still Preferable.

The CAISO states that the SCP concept is designed to meet the RA requirements. CMUA does not agree that this was the primary goal on this initiative. Based on CMUA's participation in the initial discussions surrounding the Calpine proposal to create a SCP, the primary drivers appeared to be the desire to create a fungible product for trading, and to clarify obligations of the supplier with respect to resource performance given that the RA requirements run to the LSE, not to the supplier.

Neither of these policy goals requires the use of SCP as the mandatory mechanism to judge generator performance or RA compliance. The discussion of several issues below reveals that there are so many unanswered questions with respect to Imports and the Transition Period, to name a few. It is time for the CAISO to step back and recognize that policy goals will be advanced by starting out the SCP as a voluntary program, while taking the opportunity to work through issues that do not have satisfactory solutions at this time.

Clarification of Impact of Unit-by-Unit Versus LSE Portfolio Impact

LRAs have adopted somewhat varying Planning Reserve Margins. Some LSEs have Planning Reserve Margins in excess of the 115 to 117% range. CMUA seeks clarification on how the Final Proposal would apply to them. Portfolios may have been created by LSEs that took into account lesser availability of certain units and therefore have capacity levels in excess of industry norms. Does the CAISO Final Proposal intend to penalize the LSE (and SC for the unit) for that unit performance even though the portfolio as a whole has been adjusted for the anticipated availability levels of particular units?

Specific Issue Comments

Penalties and Credit Requirements

CMUA generally supports the CAISO's proposal to create a self funding mechanism within the availability standard penalty and incentive provisions, and to not modify the CAISO credit requirements as a result of the SCP proposal.

Peak Hour and RA Fleet Metric

In the Final Proposal, the CAISO uses a peak hours availability assessment. The CAISO also proposes to use an Annual Target Availability Value that would compare units to the historic availability of the RA resource fleet during the peak hours defined over a 2-year period for the initial year of the program, and a 3-year period thereafter. CMUA supports adoption of the peak hour proposal and the Annual Target Availability Value as described in the Final Proposal.

The Potential Harm to Energy Self Scheduling LSEs is Unaddressed

At earlier meetings that included the Market Surveillance Committee, and in CMUA comments, CMUA and its members raised the issue of potential harm to Scheduling Coordinators representing load if an Energy bid that is self-scheduled is taken for Ancillary Services, thus exposing the SC to Real Time Energy charges that may exceed the payment received from the supply bid in Ancillary Services markets.

The CAISO admits that this may happen by acknowledging that use of energy self schedules to meet Ancillary Service requirements is possible when economic bids for AS are exhausted. CMUA does not support a result which harms these SCs for doing their job, namely making price-taker bids to serve load. At a minimum, the CAISO proposal should include a mechanism to make whole the SC that is financially harmed when their Energy Self Schedules are used to clear the Ancillary Services market.

Substitution of Resources

CMUA supports the CAISO's proposal to allow substitution of resources. CMUA also recognizes that for certain resources unfettered substitution may not be possible. However, the Final Proposal does not contain sufficient detail on what the substitution policies will be, and also provides the CAISO seemingly unbounded discretion to accept or reject substitutions proposed by SCs. CMUA is concerned with respect to these portions of the proposal.

The Treatment of Imports is Flawed and Not Consistent with Nature of the Certain Import Resources

CMUA opposes the treatment of Imports contained in the Final Proposal. First, it is not appropriate to use a 100% availability benchmark for imports. That result leads to imports exposed to penalties without any symmetrical ability to receive incentives for exceeding availability targets and leads to discriminatory treatment of imports.

Second, and related to the call for starting the SCP as a voluntary program, there are many imports that have operational and legal constraints that do not match the CAISO's expectations regarding availability. The CAISO relies on imports from federal resources throughout the West for both capacity and energy and these resources are in the portfolios of many SCs. These resources come with certain restrictions on availability that cannot be foreseen well in advance. Moreover, the output of certain of these resources can be resold and the issue of imposing this availability requirement on these resources must be examined from a legal perspective.

This is just one of the complex issues that remains outstanding and supports using the SCP as a voluntary mechanism to meet the policy goals of facilitating trading, while continuing to work through implementation issues in the initial stages of the SCP roll-out.

Liquidated Damages

CMUA supports the proposed treatment of Liquidated Damages Contracts in the Final Proposal.

Grandfathering is Grandfathering. The Transition Period Proposal Must be Modified.

As CMUA and several other stakeholders have commented, existing contracts for power reflect a packaged set of benefits and obligations for each party. It is not reasonable to assume that these agreements can be repackaged and renegotiated, especially overnight, to comply with a new regulatory development imposed by a third-party. Nor is it reasonable to require an attestation that availability standards in the agreement are consistent with operational requirements that did not exist at the time the agreement is executed. That is not grandfathering but an indirect way to impose new requirements on agreements whose vintage is prior to the effective date of any SCP requirement.

Reliability is the primary policy goal of any Resource Adequacy program. To CMUA's knowledge, there has never been any demonstration that existing power agreements create a reliability problem due to poor availability. Given the lack of empirical support for an allegation of a problem, the widespread concern regarding the lack of grandfathering in the CAISO proposal, CMUA recommends that all power agreements entered into prior to the effective date of the SCP simply be grandfathered.