

**Comments of J.P. Morgan Ventures Energy Corporation**  
**Subject: CAISO's Standard Capacity Product Draft Final Proposal**

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<b>Submitted by</b>	<b>Company</b>	<b>Date Submitted</b>
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J.P. Morgan Ventures Energy Corporation (J.P. Morgan) appreciates this opportunity to comment on the California ISO's (CAISO's) January 9, 2009, Standard Resource Adequacy Capacity Product (SCP) Draft Final Proposal. J.P. Morgan continues to support the development of a SCP and the objective of finalizing development of the SCP and submitting it for approval by FERC in the first quarter of 2009. J.P. Morgan supports development and implementation of a SCP to facilitate the development of a viable and transparently-priced market for needed capacity. J.P. Morgan believes that development of a SCP, if done correctly, can be an important building block towards establishing a robust long-term resource adequacy program in California.

In general, and as outlined in its previously submitted comments, J.P. Morgan supports the design and structure of the fundamental elements of the CAISO's proposed SCP: an annual target availability standard with performance incentives, an expanded must-offer obligation on resource adequacy resources. Similar to the experience with California's resource adequacy program, J.P. Morgan understands that certain elements of the SCP may evolve over time. As noted below, while J.P. Morgan may be able to support obtaining conceptual approval of the CAISO's February Governing Board meeting, J.P. Morgan cautions the CAISO that important details still need to be developed prior to filing the proposal at FERC. Finally, based on the short turn around time between posting of the Draft Final Proposal and the due date for comments, J.P. Morgan reserves the right to provide further comments on the specific elements of the CAISO's proposal.

#### Transition Plan

In principle, and as stated in its previous comments, J.P. Morgan supports appropriate grandfathering of existing resource adequacy agreements. However, while J.P. Morgan generally supports the CAISO's proposed dates for defining treatment of grandfathered contracts (i.e., full grandfathering for contracts entered into prior to January 1, 2009, 5-year grandfathering for contracts entered into after January 1, 2009, but prior to FERC approval of the SCP, and application of the SCP to all contracts entered into after FERC approval of the SCP), J.P. Morgan does not support other elements of the CAISO

transition proposal. Specifically, J.P. Morgan does not support, and does not see the need for, the certification required by the CAISO (The CAISO propose to require that existing grandfathered agreements “certify” that the availability standards and incentives are at least equal to the SCP requirements). The availability requirements in the grandfathered agreements are what they are and since these agreements have already been deemed to satisfy the applicable Local Regulatory Authority’s resource adequacy requirements, including any requirements to be available, no further certification is needed. At the time these arrangements were negotiated, the parties were not aware of the specific requirements to be proposed by the CAISO and the agreements were negotiated in the context of the then-existing resource adequacy requirements. It is therefore difficult – as well as unnecessary and inappropriate – to require parties to certify to the terms of the agreement and how they compare/contrast to the SCP requirements. The fact that these contracts may or may not contain availability and performance incentive provisions comparable to the CAISO’s proposed SCP provisions is irrelevant – the contract provisions apply regardless and these arrangements have already been deemed to satisfy the applicable resource adequacy requirements. While J.P. Morgan acknowledges that such contracts may not be deemed to be SCP-qualified products for purposes of resale, they would/should continue to qualify as counting towards the applicable load-serving entity’s resource adequacy obligation and should be exempt from the SCP-related provisions of the CAISO tariff.

J.P. Morgan also recommends that the CAISO clarify the “no trade” provisions of the proposal. J.P. Morgan presumes that the CAISO is not proposing to restrict resale or assignment of the contract or the services provided under the contracts – the parties’ rights to sell or assign the contract are as stated in the contract and are subject to their rights under the Federal Power Act. That said, J.P. Morgan understands and agrees that in order to sell the contracted capacity/services as SCP-qualified resource adequacy capacity, revisions to the contract (product) may be necessary and that, going-forward, buyers will likely only be interested in procuring SCP-qualified capacity.

### Availability Standards

J.P. Morgan generally supports the CAISO’s proposal to establish a standard target availability requirement that is based on an assessment of the historic availability of the resource adequacy resource fleet (rather than the historic availability of individual resources). J.P. Morgan also generally supports the CAISO’s “peak hours” based assessment. While the CAISO’s proposal is essentially an all peak hours proposal – rather than a critical peak (summer) hours proposal, J.P. Morgan agrees that resource adequacy capacity is needed and should be valued year round. In addition, J.P. Morgan agrees with the CAISO’s proposal to measure availability based on the number of hours a resource is not on a forced outage. J.P. Morgan also supports the CAISO’s proposal to use a rolling 3-year historical average to determine the resource adequacy fleet-wide target availability metric.

As noted previously, J.P. Morgan recommends that the CAISO use and rely on NERC GADS data to support the SCP program. That fact notwithstanding, J.P. Morgan can

support the CAISO's proposal to initially rely on CAISO SLiC data so long as the CAISO commits to transition to NERC GADS by a future date certain. J.P. Morgan continues to believe that reliance on a generally-accepted and used data base such as GADS will facilitate collection and analysis of resource performance not only within California but across organized markets. As noted previously, J.P. Morgan notes that section 40.4.5 of the CAISO MRTU Tariff already contemplates use of NERC GADS data to implement a performance criteria program.

Finally, J.P. Morgan appreciates the CAISO's further clarification of what type of SLiC data will be used and how that information will be used to determine resource availability. J.P. Morgan agrees that SLiC "Normal Cards" submitted for the purpose managing a resource's specific operating constraints (e.g., Forbidden Regions) should not adversely impact a resource's deemed availability. However, at this juncture, it is not clear to J.P. Morgan why SLiC "Ambient Card" derates would be counted against a resource's availability for purposes of implementing the SCP. It would appear that such derates should be factored into a resource's Net Qualifying Capacity and thus the amount of capacity available to be sold as resource adequacy capacity. If factored into a resource's NQC, it would appear unnecessary to then count such ambient derates against a resource's availability, since the portion of its capacity associated with the ambient derate could not be sold as resource adequacy capacity in the first instance.

#### Performance Penalties

J.P. Morgan supports the CAISO's proposal to adopt and impose financial penalties on those resources that fail to satisfy adopted availability standards. J.P. Morgan supports implementation of a financial penalty based system and believes that a financial penalty based program is workable under today's resource adequacy construct and is preferable to a NQC-adjustment based system.

J.P. Morgan supports the CAISO's proposed financial penalty system, including the application of the penalty rate to a resource's entire resource adequacy capacity if it fails to maintain at least a 50% availability rate. In addition, J.P. Morgan supports the CAISO's proposed 5% dead band.

Finally, as stated in its previously submitted comments, J.P. Morgan supports the CAISO's proposal to initially use the FERC-approved, Interim Capacity Procurement Mechanism (ICPM) rate of \$41/kW-year as the initial financial penalty under the SCP program. In addition, J.P. Morgan supports the CAISO's proposal to use penalty revenues to reward capacity resources that exceed the established availability metrics during the compliance period. J.P. Morgan also agrees that the bonus payment program be structured so that the per MW value of bonus payments not exceed the \$/MW value of potential penalties (i.e., not be structured as a "lottery", as discussed at the December 11, 2008, meeting).

#### Must Offer Requirement

J.P. Morgan supports implementation of an expanded resource adequacy must-offer obligation. Specifically, J.P. Morgan supports an expanded resource adequacy must-offer obligation whereby a resource adequacy resource must offer all available energy *and* ancillary services into the CAISO day-ahead market and Residual Unit Commitment (RUC) process. However, J.P. Morgan is opposed to any exemptions to this requirement, be they for hydro or any other use-limited resource. As stated in its previous comments, J.P. Morgan supports application of the expanded must-offer obligation to all use-limited resources in a manner consistent with the resource's demonstrated and approved use limitations. Specifically, J.P. Morgan supports application of the expanded must-offer requirement to hydro and other use-limited resources such that these resources have to offer ancillary services at a level commensurate with the daily energy offers/bids (which presumably are consistent with their use limitations).

### Exemptions

The CAISO proposes to defer application of the SCP requirements to Wind, Solar, QF, and Demand Response resources. While J.P. Morgan supports application of the SCP requirements uniformly to all resources and resource types, J.P. Morgan understands that application of the CAISO's proposed SCP availability and performance incentive provisions to the above resources may result in a double counting of outages for these resources. J.P. Morgan recommends that the CAISO quickly engage the CPUC and interested parties in the ongoing CPUC Resource Adequacy proceeding to resolve this issue.

### Treatment of Non-Resource Specific Imports

J.P. Morgan supports the CAISO's proposal to apply an availability standard to resource adequacy imports. Specifically, J.P. Morgan supports the CAISO's proposal to base a non-resource specific import's availability on whether such a resource has offered into the CAISO's day-ahead market. J.P. Morgan agrees that such resources should be required to offer 100% of the time and that transmission derates or outages should not count against an import resource's availability.

### Unit Substitution

J.P. Morgan supports the CAISO's proposal to allow unit substitution. J.P. Morgan also supports the CAISO's proposal to require "pre-approval" of the resources that may be used for unit substitution. However, consistent with its previous comments on this matter, J.P. Morgan recommends that the CAISO limit the approval criteria to whether a resource can substitute for a Local Capacity Resource. Other than that consideration, it is unclear why the CAISO would consider other factors since the current resource adequacy requirements do not require load-serving entities to procure resources with specific operating characteristics or flexibility. J.P. Morgan recommends that, other than considering Local Capacity requirements, any capacity resource on the system should

be able to substitute for any other capacity resource. J.P. Morgan recommends that the CAISO develop specific qualification criteria as part of the pre-approval process.

### Credit Requirements

J.P. Morgan agrees with the CAISO that no specific credit requirements need be developed as part of the SCP proposal and that any potential SCP-related liabilities be factored into the CAISO's general credit assessment process.

### Conclusion

J.P. Morgan very much appreciates the opportunity to submit these comments on the CAISO's Standard Capacity Product Draft Final Proposal. J.P. Morgan recommends that the CAISO and stakeholders continue to work toward conceptual approval of the SCP proposal at the February 2009 CAISO Governing Board meeting, with the understanding that certain specific details still need to be developed prior to filing the proposal at FERC.