

**JOINT COMMENTS OF THE CALIFORNIA WIND ENERGY ASSOCIATION
AND THE LARGE-SCALE SOLAR ASSOCIATION
ON THE STANDARD CAPACITY PRODUCT II DRAFT FINAL PROPOSAL**

The California Wind Energy Association (CalWEA) and the Large-scale Solar Association (LSA) offer these joint comments on the CAISO Standard Capacity Product II Draft Final Proposal (“Proposal”), and the February 26th stakeholder conference-call discussion about the Proposal.

This initiative is intended to revoke the current exemption of generation resources whose Resource Adequacy (RA) Qualifying Capacity (QC) is based on historical output. We will not repeat our earlier arguments about the lack of need for this initiative generally, since the CAISO has had the opportunity to consider those arguments and has apparently decided to proceed despite them.

However, we offer these additional comments in the areas listed below – some where we have commented before, and on two entirely new elements of the Proposal.

- ***New supplier unit-substitution requirements*** for planned outages;
- ***Availability determination***, including: (1) the hours the CAISO would use for availability calculations; (2) the proposed new calculation methodology; and (3) use of outage reporting through the CAISO SLIC system as the basis for availability calculations;
- ***Conditions under which the current intermittent-resource exemption from Resource Adequacy Standard Capacity Product (RA SCP) availability payments and charges can be revoked***; and
- ***Grandfathering provisions*** for contracts executed before FERC approval of any exemption revocations.

Each of these topics is discussed further below.

New unit-substitution requirements: The current RA SCP provisions include an option for RA suppliers to substitute an “electrically equivalent” non-RA unit for an RA unit on forced outage, to: (1) keep RA capacity available to the CAISO during forced outages, to aid reliability; and (2) prevent the supplier from incurring availability charges. Load-Serving Entities (LSEs) are required to specify substitute capacity in months when RA Resources will be on planned outages for more than a minimum time period.

- **New CAISO proposal:** The Proposal significantly expands this “option” to require such substitution, during planned outages longer than that minimum duration. This proposal is intended to keep RA capacity available to the CAISO during such planned outages, assuming that: (1) the CPUC will eliminate the “replacement rule” that now LSEs to provide this replacement capacity; and, thus (2) the CAISO must provide that capacity through amendment of its tariff.

If RA suppliers do not provide this replacement capacity:

- The suppliers would be in violation of this tariff obligation;
- The CAISO would procure replacement capacity through the Interim Capacity Procurement Mechanism (ICPM), if the planned outage was expected to be longer than the current allowed duration; and
- The CAISO would charge the delinquent supplier the \$41/kW-year replacement capacity cost.

- **SCE alternative**

- Estimate in advance the additional RA capacity needed to cover planned outages each month, based on historical information;
- Translate this capacity into a percentage of expected peak demand each month; and
- Add this adder to the required RA procurement target for LSEs each month.

SCE offered this alternative out of concern that suppliers will perceive the additional obligation proposed by the CAISO as a significant risk and monetize it in their bid/offer prices to LSEs. SCE believes it will be more cost-effective, and reduce the need for additional CAISO ICPM procurement, to simply meet this additional need through the RA forward procurement process.

This mechanism is very similar to the manner in which forced outages are included in the current Planning Reserve Margin (PRM) (RA Target) today. However, unlike forced outages, which could occur at any time, the planned-outage adder could differ by month, because:

- Planned outages are typically taken in non-peak months; and
- Much RA capacity is procured to meet peak-month demands and is not needed to meet loads in non-peak months, i.e., there is some additional RA margin in non-peak months that could be used to cover planned outages in those months.

SCE proposes to implement this new RA procurement requirement through either: (1) Phase II of the current CPUC procurement proceeding, for the 2011 RA contracting year; or (2) next year's procurement proceeding, for the 2012 RA contracting year.

- **CalWEA and LSA position:** We adamantly oppose the CAISO's proposal to transfer the capacity-replacement requirements from LSEs to suppliers. LSEs typically have many sources of replacement capacity, including annual RFOs, unsolicited offers, and their own owned capacity. They can generally pass any costs of replacement capacity on to their customers.

Suppliers, on the other hand, are in the business of building and operating generation plants, not buying and selling RA capacity, and there is no organized market where they might easily acquire such capacity. Moreover, the magnitude of this risk is unknown, because:

- There is no public information available on the price of RA capacity attributes in the market, since LSE procurement prices (and their components) are confidential; and
- Though the current ICPM capacity cost of \$41/kW-year (an enormous cost to suppliers) is arguably the maximum replacement cost at this time, that mechanism will expire soon, and there is no information available on the cost of whatever might replace it.

This provision would impose a significant new risk on existing suppliers, who would have no way to recover any resulting costs. At a minimum, it raises another grandfathering issue (more on that below).

The open-ended and non-quantifiable nature of the risk will also greatly complicate financing of new plants. This comes at a particularly sensitive time. The CAISO will soon be completing Phase II interconnection studies for Transition Cluster generation projects; this group includes "fast-track" projects that must arrange their construction financing right after LGIA execution, in order to begin construction before year-end and qualify for federal stimulus funding.

We encourage the CAISO to adopt the SCE proposal instead, which offers a much more sensible way to address the CAISO's need to maintain RA capacity levels during planned outages. As noted above, LSEs have many more tools to meet these needs than suppliers; moreover, SCE's proposal is most consistent with the premise of the entire RA program – that advance planning and procurement is the most effective and cost-effective way to ensure that RA capacity is provided to the CAISO when and where it is needed.

Availability determination methodology: We offer comments on these three elements related to the CAISO's proposed methodology for applying the RA SCP availability charges and payments provisions to intermittent resources: (1) the hours the CAISO would use for availability calculations; (2) the proposed new calculation methodology; and (3) use of outage reporting through the CAISO SLIC system as the basis for availability calculations.

- **Hours the CAISO would use for availability calculations:** As noted by CDWR on the February 26th conference call, the hours used by the CAISO to determine RA SCP availability payments and charges are different from those used by the CPUC to determine RA Qualifying Capacity (QC).

Determination of RA QC and availability payment/charges, for resources where both are determined by performance, are both supposed to be based on the hours when the CAISO needs the capacity the most. However, these hours are not the same. It simply makes no sense for:

- The CAISO to penalize a resource for lack of availability, or pay it for superior availability, during hours that the CPUC doesn't deem significant for RA QC determination purposes; or
- The CPUC to determine QC based on resource performance in hours that the CAISO deems RA Resource availability to be relatively less important.

The discrepancy is particularly troubling, and puzzling, because the current CPUC intermittent-resource QC methodology was based, in large part, on CAISO recommendations, including the set of peak hours used for counting RA QC. If RA SCP availability payments/charges are imposed on intermittent resources, the CAISO must work with the CPUC to make the applicable hours for that application consistent with those used for CPUC QC determination or, failing that, at least explain the rationale behind the difference.

- **Proposed new availability-calculation methodology:** The prior version of the Proposal (at p.11) proposed to apply “the same availability standard, availability incentives, unit substitution and grandfathering rules” to intermittent resources as are now applicable to other resources. Indeed, the Proposal's “grandfathering” element is based on the contention that the SCP rules were fully known as of last summer's FERC approval (see below).

The current RA SCP rules effectively require RA Resources to have available (not on forced outage), on average, capacity equal to their RA Net QC (NQC), during the specified hours. Since NQC values are generally well below nameplate capacity for intermittent resources, it might not be difficult for intermittent resources to qualify for RA SCP availability payments under these provisions.

This feature, discussed at length in the CPUC RA proceeding, is a direct result of the low QC values assigned to intermittent resources under the QC formulae adopted by the CPUC, which have been proposed and supported by the CAISO; any modification of the latest formula in the CPUC RA proceeding will probably not materially change this.

Apparently to ensure that intermittent resources do not qualify too often for availability incentives because of their relatively low NQCs, and despite its rhetoric about the importance of uniform application of the RA SCP provisions to ensure a truly standard capacity product, the CAISO now proposes to apply an entirely different availability determination methodology to such resources.

To determine non-intermittent resource availability, the CAISO simply compares the available capacity (not reported on forced outage) to the resource NQC. However, for intermittent resources, the CAISO now proposes to apply a proportional reduction to the available capacity before applying the RA SCP availability payments or charges.

For example, a 100 MW non-intermittent RA Resource with a 90 MW NQC that has a 10 MW de-rate would have a 100% availability rate, because 100% of the 90 MW NQC is available. However, that same resource, if intermittent (e.g., a solar plant), would be treated as only having 81 MW (90%) available, because the CAISO would apply the 90 MW/100 MW ratio to the 90 MW of available capacity.

The CAISO proposal is inconsistent with the “exceedance” methodology for determining intermittent-resource QC adopted by the CPUC at the urging of the CAISO. That methodology sets QC at the level exceeded in 70% of the applicable hours. Thus, outages in most hours do not impact the QC; the CAISO derate proposal, by contrast, seems to assume that outages in all the applicable hours impact the QC.

The CAISO is not proposing to apply this new calculation methodology to any generators except intermittent and as-available Combined Heat and Power (CHP) resources. The CAISO should decide whether it does or doesn’t want a uniform RA SCP methodology – if not, there is no reason to apply the availability payments/charges structure to intermittent resources, given the difficulties involved, and if so, it should stick to the same rules for all generation technologies.

- **Use of SLIC outage reporting as the basis for availability calculations:** The CAISO recently implemented new outage-reporting rules that require submission of outages as small as 1 MW through SLIC, within 60 minutes of when the outages are detected by the generator. Non-intermittent resources need only report such outages if they are at least the greater of 10 MW or 5% of their maximum capacity (Pmax).

CAISO proposes to apply the RA SCP availability payments/charges provisions based on SLIC outage reports, as it does currently for non-intermittent resources. However, the new, more-granular intermittent-resource outage reporting requirements would subject those resources to availability penalties, or reduce their availability payments, compared to other resources.

More-stringent outage reporting for intermittent resources may be justified in the interest of increasing intermittent-resource output forecast accuracy. However, those resources should not be punished for complying with these requirements. Instead, any application of RA SCP availability payments and charges to intermittent resources should exclude reported outages below the reportable threshold for non-intermittent resources.

Conditions under which the current intermittent-resource exemption are revoked:

The Proposal notes that the CAISO has proposed, in Phase 1 of the CPUC R.09-010-032 (Resource Adequacy) proceeding, changes to the recently adopted CPUC RA counting rules for intermittent resources that could eliminate the “double-counting problem” that led to the current exemption. However, the Proposal provisions:

- Are not conditioned on CPUC adoption of these or any other proposals that would eliminate the double-counting problem; and
- Would apply also to contracts under the jurisdiction of non-CPUC Local Regulatory Authorities that do not take similar action.

Instead, the CAISO proposal should explicitly state that the Proposal will not apply until and unless the CPUC makes the changes that the CAISO expects, and that the exemption would continue for contracts under the jurisdictions of other entities that have not taken similar actions.

Grandfathering provisions: The current RA SCP availability payments and charges provisions exempt all contracts with RA Resources executed before June 28th, 2009. The CAISO’s justification for that exemption was prevention of double penalties for forced outages, since Power Purchase Agreements (PPAs) to that point generally already contained availability incentives and penalties, so imposing the RA SCP rules in this area would be duplicative.

The Proposal proposes to use the same grandfathering date for imposing SCP availability payments and charges on intermittent resources, assuming that the NQC double-counting problem is addressed (see above). CAISO’s rationale is that parties were aware of the terms and conditions of the RA SCP framework, as well as the temporary nature of the exemption as of this date.

However, it was not clear at that time how long the exemption would last, or what changes would be made to eliminate the double-counting problem. The CAISO has often put off lower-priority tariff changes – even those ordered by FERC – sometimes for years, and establishing the program for resources that make up a larger proportion of the current NQC was clearly a higher priority than addressing the exemptions. The CAISO could even have decided later to request that FERC make the exemption permanent, or to change other program elements to address intermittent resources.

Thus, the argument that contracting parties “should have known” and adjusted contracts accordingly is not really true. In fact, PPAs with intermittent resources since that date have continued to be written with exactly the same provisions as before – straight dollar-per-MWh payments for both energy and capacity, and guaranteed minimum production levels (with penalties for not meeting those production levels); other contracts include specific mechanical availability incentives that clearly duplicate the RA SCP availability charges and payments.

Therefore, intermittent-resource suppliers with existing contracts (or those now under negotiation) would be penalized twice for forced outages – once under their PPAs, and then again under the SCP rules. This is exactly the problem that the original grandfathering provisions were supposed to address, and it is no less acute now for intermittent resources than it was then for other resources.

If SCP availability payments and charges are applied to intermittent resources, contracts with straight dollar-per-MWh payments for both energy and capacity and/or guaranteed minimum production levels (with penalties for not meeting those production levels) should be exempt. Unless an exemption for such contracts is maintained, the SCP program will not comply with FERC’s direction that intermittent resources should not be double-penalized for forced outages.

In addition, the CAISO’s new proposal to make all RA Resources responsible for providing replacement capacity during planned outages adds another potential grandfathering element. There is no way the CAISO can claim that generators with already-executed PPAs had any idea that the CAISO would propose this burdensome and costly requirement; moreover, this proposal, if filed, will undoubtedly be hotly contested at FERC and may be rejected or modified. Thus, if the CAISO decides to propose this provision, instead of the more-reasonable approach suggested by SCE, it must, in all fairness, exempt contracts executed before FERC approval of that proposal.