

**Comments of
Mirant California, LLC,
Mirant Delta, LLC, and
Mirant Potrero, LLC
On Standard Capacity Product Straw Proposal**

Submitted by	Company	Date Submitted
<i>Sean Beatty</i> 925.427.3483	<i>Mirant California, LLC</i> <i>Mirant Delta, LLC</i> <i>Mirant Potrero, LLC</i>	<i>November 21, 2008</i>

On behalf of Mirant California, LLC, Mirant Delta, LLC, and Mirant Potrero, LLC (collectively, Mirant), we offer the following comments on the Standard Capacity Product (SCP) straw proposal prepared by CAISO staff.

Mirant currently operates under toll agreements that serve a resource adequacy (RA) function with terms extending to the end of 2011. Accordingly, while Mirant supports the creation of a SCP, Mirant also believes that the implementation of the SCP should not interfere with existing contractual obligations of parties to RA agreements. With this overarching concern in mind, Mirant offers the following comments on the straw proposal.

Product Definition

Net Qualifying Capacity: Established counting criteria should not be subject to reconsideration in the development of SCP definition. Instead, the SCP should clearly specify that published NQC – as specified in existing RA counting rules – should be the maximum amount of capacity that can be included in an SCP tag.

Ancillary Services Must Offer Obligation (A/S MOO): Adding an A/S MOO to the SCP is beyond the scope of the SCP and should be considered in a separate stakeholder process. Therefore, the SCP should apply existing MOO requirements in place at the time the RA capacity is committed.

Availability Standards

General: The SCP should not be used as an opportunity to change current availability requirements. The standards offered in the straw proposal go beyond implementation criteria to establishing new definitions and requirements. Mirant is concerned that addressing the complex issues involved in establishing comprehensive availability criteria will over-complicate the SCP process while failing to give sufficient attention to evaluating the implications of the proposed availability criteria.

Target Availability: The SCP proposal suggests criteria for establishing target availability that far exceed what is needed to implement SCP at this time. Establishing unit-specific, base-line availability standards may warrant future consideration. However, there is simply inadequate time to thoroughly consider the ramifications of such standards in the amount of time available. Mirant recommends a simple availability metric that is perfectly adequate for the SCP: any RA resource is required to be scheduled or bid into the CAISO markets consistent with its RA obligation unless it is on a forced or maintenance outage.

Grandfathering

California resource policy encourages long-term contracts between generators and LSEs. Continually changing rules can provide a disincentive to enter into long term agreements. In addition, negotiation of RA agreements is based on assumptions that influence the economic decision of whether to enter into the agreement. Changing the terms of the agreement is likely to undermine the benefit of the bargain negotiated by the parties. It is important, therefore, that CAISO's policies not interfere with existing RA contracts. The simplest way to do this may be to include a contract term component in the SCP. Any penalties/incentives that are implemented would only apply to resources committed after the implementation date of the penalty/incentive. Any resource that is submitted as committed beyond the existing RA annual term would not be subject to penalties/incentives implemented after the resource is initially committed.

To eliminate any ambiguity in this respect, the CAISO should grandfather existing RA contracts during the remaining life of such contracts, including any optional extensions contemplated under the provisions of those contracts. To implement this principle, grandfathered capacity should be excluded from resource and load calculations for resource adequacy purposes, e.g., 100 MW of grandfathered capacity reduces 100 MW of the LSE's obligation, through the life of the contract. Performance standards and damage provisions specified in grandfathered contracts would continue to apply in lieu of new standards adopted in the SCP. Mirant recognizes that this approach may impose additional compliance duties on the CAISO, but this is a necessary outcome to preserve the integrity of existing contractual obligations.