

**BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Oversee)	
the Resource Adequacy Program, Consider)	
Program Refinements, and Establish Annual)	R.09-10-032
Local Procurement Obligations.)	
_____)	

**COMMENTS OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ON ORDER INSTITUTING RULEMAKING**

In accordance with the Order Instituting Rulemaking (“OIR”) issued by the California Public Utilities Commission (“CPUC”) on October 29, 2009, the California Independent System Operator Corporation (“ISO”) respectfully submits its comments on the issues described in the preliminary scoping memo for consideration in this proceeding.

I. INTRODUCTION

On October 29, 2009, the CPUC issued its OIR in the above-captioned matter. The CPUC initiated this rulemaking as a successor rulemaking proceeding to R.08-01-025, for the purpose of overseeing the resource adequacy (“RA”) program and establishing local procurement obligations for 2011 and future years.

The OIR provides parties the opportunity to submit comments on preliminary matters pertaining to the scope, schedule, and administration of the proceeding. These preliminary matters include potential refinements to the RA program described in

Section 3.3 of the OIR and candidate issues and topics identified by the Energy Division, listed in Appendix A to the order.

The ISO strongly supports the initiation of this rulemaking proceeding and the CPUC's continued efforts to refine the RA program and enhance its ability to ensure sufficient resources are available where and when needed. The ISO also appreciates the opportunity to provide comments on the issues and topics that may be included in the scoping memo for consideration in this matter.

In these comments, the ISO will focus on two subjects the Energy Division identified in OIR Appendix A as potential topics to be considered in this proceeding – extending the Standard Capacity Product (“SCP”) to resources that are currently exempt and retaining the Path 26 counting constraint. The ISO encourages the Commission to include discussion of the SCP issues within the scope of the proceeding in order to resolve existing issues that inhibit development and application of availability standards to the exempt resources. The ISO also urges the Commission to retain the existing Path 26 counting constraint, and to do so without modification, because its current construct is appropriate and effective. The ISO reserves the right to address the other issues listed in the OIR, and any new matters, in response to the comments submitted by other parties.

II. STANDARD CAPACITY PRODUCT

Effective January 1, 2010, the ISO will implement the RA SCP and Ancillary Services Must Offer Obligation, as approved by the Federal Energy Regulatory Commission (“FERC”) by order dated June 26, 2009.¹ FERC approved the SCP on the grounds that it will: (1) enable market participants to efficiently and flexibly buy, sell,

¹ *Cal. Indep. Sys. Operator Corp.*, 127 FERC ¶ 61,268 (2009)(“June 26 Order”).

and trade RA capacity without the burden of negotiating the availability requirements of each transaction; and (2) establish uniform metrics and provide market participants with a readily-available means to satisfy their RA requirements, which will enhance reliability.²

Under SCP, the ISO will, in broad terms, develop an availability standard for each month of the year that it will compare to the actual monthly availability of the RA capacity of each RA resource, which will be based on the resource's total hourly available RA capacity over all availability assessment hours of the month divided by its total hourly RA capacity for those hours. An RA resource whose actual monthly availability exceeds the target availability standard (plus a 2.5 percent tolerance band) will be eligible to receive an availability incentive payment. Conversely, an RA resource whose actual monthly availability falls below the target availability standard (plus a 2.5 percent tolerance band) will be subject to a non-availability charge for the month. The availability incentive payments will be funded by, and only to the extent of, the non-availability charges that are assessed for the same month.

As proposed by the ISO and approved by FERC, certain RA resources are temporarily exempt from the SCP availability charges and payments. Those exempt resources are: (1) demand response; and (2) resources whose qualifying capacity value is determined by the CPUC or a local regulatory authority using historical output that has not been adjusted to correct for the possible double-counting of outages (this includes wind, solar, non-dispatchable cogeneration, non-dispatchable biomass and non-dispatchable geothermal facilities). In granting these exemptions, FERC's June 26 Order was clear that the exemptions are temporary and directed the ISO to work with

² *Id.* at P 8.

stakeholders, the CPUC, and local regulatory authorities to end the exemptions in a timely manner.³

The ISO submits that this proceeding presents a well-suited forum for those coordinated efforts. It will enable the ISO and CPUC to address the “double counting issue” with respect to RA resources whose qualifying capacity value is based on historical output that includes outages. The issue exists because CPUC RA counting rules recognize the poor historical performance of a resource through a reduction to its future qualifying capacity value, whereas SCP will take forced outages and temperature-related ambient de-rates of capacity into consideration in determining the actual availability of a resource in a given month. If both approaches are applied, a resource could be subject to a reduced qualifying capacity value and non-availability charges for the same outage or de-rate. The CPUC and ISO must resolve this “double counting” of outages issue so that the temporary exemption can be terminated and the ISO can proceed to apply SCP availability standards to wind, solar, and other non-dispatchable intermittent resources that are listed as RA resources in a load serving entity’s RA plan as required by FERC’s June 26 Order.

This proceeding would also facilitate discussion of how to integrate into the ISO markets and systems the vast majority of demand response that participates in retail demand response programs, such as Emergency Triggered Demand Response and Price Responsive Demand Response. These retail demand response programs, although considered RA resources by the CPUC’s counting rules, exist outside of the ISO market. The ISO therefore has no ability to directly monitor the performance or availability of these resources. In addition, the CPUC’s RA program applies different

³ *Id.* at P 56-57.

treatment to demand resources than other RA resources. For example, the performance and RA counting of demand response resources enrolled in retail demand response programs are not determined on a resource basis, but on a program basis through the application of a CPUC-approved Load Impact Protocol.⁴ The Load Impact Protocol determines the qualifying capacity of a retail demand response program, which is then “taken off the top” of the system RA obligation. In addition, the qualifying capacity taken “off the top” is multiplied by 115 percent to reflect the demand response program’s reduction in load, which further reduces the RA requirement of CPUC jurisdictional load-serving entities. There is also an issue in determining the availability of wholesale demand response resources based on outage reporting information. At this time, outage reporting is not required for demand response resources, nor has the ISO established the rules or considered potential modifications to its outage reporting system to accommodate such a requirement.

These are non-trivial technical and policy challenges that must be overcome in determining how SCP availability standards, and related payments and charges, will apply to wholesale and retail demand response programs. Again, these matters must be resolved so that the temporary exemption can be replaced with SCP availability standards for demand response resources that have RA capacity obligations consistent with the June 26 Order.

The ISO’s goal is to have availability standards for the currently exempt resources in place effective with the 2011 RA compliance year. In order to meet that goal, it is critical that the issues be included for discussion in this proceeding and timely resolved. Issuance of a Final Decision by the CPUC in March 2010 on this particular

⁴ CPUC *D.08-04-050* (April 24, 2008).

issue would coordinate with the ISO's intended schedule for the stakeholder process and filing of a tariff amendment for SCP in April 2010, to obtain a FERC decision in June 2010. This timing will allow stakeholders to incorporate the SCP modifications into their procurement decisions during the summer for compliance year 2011.

III. PATH 26 COUNTING CONSTRAINT

In Decision D.07-06-029 in Phase 2, Track 1, of R.05-12-013, issued on June 21, 2007, the CPUC adopted a joint proposal of the ISO, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and The Utility Reform Network to implement a counting constraint for Path 26. In accordance with this decision, Path 26 is counted analogously to an RA import path for RA counting purposes. The counting constraint is annually determined by the ISO through a five-step process that sets a limit on the amount of capacity that load serving entities may count as crossing Path 26 in connection with their system RA compliance filings. This annual process ensures that the appropriate counting constraint is used for each RA compliance year based on current operating parameters. The process became effective with the 2008 compliance year filing cycle.

It is the ISO's position that the Path 26 counting constraint should be retained. At the time the constraint was adopted, the CPUC recognized that a significant zonal reliability problem existed due to the physical constraint across Path 26.⁵ That operational circumstance has not changed. Path 26 today continues to experience significant real-time congestion and has the potential to cause high levels of ISO back-stop procurement. In addition, the Path 26 counting constraint works. Since it was implemented, the counting constraint has been an effective preventative measure. By

⁵ CPUC *D.07-06-029* at p. 16.

defining the zonal procurement obligations of load serving entities, it has avoided the occurrence of zonal reliability events. This successful experience with the counting constraint to date does not support modifying the existing measure or considering alternative approaches. Further, if the Path 26 counting constraint were eliminated, load serving entities could procure a portfolio of RA resources in a zone that rely on transfer capacity across Path 26 but that exceed the line's capability, which could lead to reliability issues and trigger use of the ISO's backstop mechanism. Accordingly, the ISO submits that there is no valid basis to consider modifying or eliminating the Path 26 counting constraint and that the issue should not be included within the scope of this proceeding.

IV. CONCLUSION

The ISO respectfully requests that the assigned Commissioner prepare a scoping memo consistent with the discussion in these comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2009, I served, by electronic and United States mail, a copy of the foregoing Comments of the California Independent System Operator Corporation on Order Instituting Rulemaking to each party in Docket No. R.09-10-032.

Executed on November 13, 2009
at Folsom, California

Anna M. Pascuzzo
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