

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

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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 these reply comments on the issues described in the preliminary scoping memo for consideration in this proceeding.

**I. SUMMARY**

The ISO recommends that the CPUC determine that the following matters are high priority topics that should be included in Phase 1 of this proceeding:

1. Adopt the local capacity requirements developed in the annual study performed by the ISO and allocate the local capacity procurement obligations to Commission-jurisdictional electric load-serving entities for Resource Adequacy (“RA”) compliance year 2011;
2. Integrate the Standard Capacity Product (“SCP”) approved by the Federal

- Energy Regulatory Commission (“FERC”)<sup>1</sup> into the RA program; and
3. Address the issues underlying the temporary exemption from SCP of demand response, and 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).

The ISO also recommends that the existing Path 26 counting constraint process not be revisited in this proceeding because it remains appropriate and effective. The limited initial comments that support review of this process fail to identify any changed circumstances or state a reason why it should be modified or eliminated.

## **II. DISCUSSION**

The CPUC issued the OIR to initiate this rulemaking as a successor proceeding to R.08-01-025, for the purpose of overseeing the RA program and establishing local procurement obligations for 2011 and future years. As stated in the ISO’s initial comments in this matter, 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.

In order to achieve these objectives, the ISO encourages the CPUC to focus Phase 1 of the proceeding on high priority issues, and not endeavor to address all of the issues and topics identified by the Energy Division in OIR Appendix A and proposed in the initial comments of other parties. The ISO is concerned that undertaking evaluation of a multitude of issues within a compact timeframe could over-encumber the workshop

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

process, hinder analysis of complex technical issues, and jeopardize timely and sufficient consideration of higher priority issues. This could lead to modifications that aren't fully developed or which could have a detrimental impact on the effectiveness of the RA program.

The ISO recommends that the high priority topics in this proceeding include adopting the local capacity requirements developed in the annual study performed by the ISO and allocating the local capacity procurement obligations to Commission-jurisdictional electric load-serving entities for RA compliance year 2011. CPUC decision D.06-06-064 determined that a study of local capacity requirements performed by the ISO would form the basis for the CPUC's local RA program.

The ISO also recommends that high priority be given to integrating the SCP program approved by FERC into the RA program. In CPUC decision D.09-06-028, the CPUC deferred addressing SCP implementation issues, including whether and to what extent the final SCP should be required for RA compliance. The decision indicated that, if not resolved earlier, the SCP implementation issues would be addressed in a future RA proceeding and SCP would be fully implemented with the 2011 compliance year. In order to meet that objective, it is essential that the CPUC consider the matter in Phase 1 of this proceeding.

Consistent with our initial comments, the ISO additionally encourages the Commission to include discussion of the SCP issues within the scope of Phase 1 of the proceeding for the purpose of resolving the issues that are inhibiting development and application of availability standards to exempt resources. 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. It directed the ISO to work with stakeholders, the CPUC, and local regulatory authorities to end the exemptions in a timely manner.<sup>2</sup> FERC also directed the ISO to file bi-annual reports showing the progress that has been made toward applying the SCP framework to such resources. The ISO intends to meet these requirements by initiating a stakeholder process (referred to as SCP II) in parallel with the CPUC workshop schedule for Phase 1 in this proceeding. These coordinated efforts will facilitate resolution of the double-counting of outages issue in order to terminate the temporary exemption for wind, solar, and other non-dispatchable intermittent resources, and facilitate discussion of how to integrate demand response into the ISO markets and systems in order to terminate the temporary exemption for demand response resources.

The ISO's goal is to have availability standards for the currently exempt resources in place effective with the 2011 RA compliance year. Issuance of a Final Decision on this particular issue in Phase 1 by March 2010 will align 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

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<sup>2</sup> *Id.* at P 56-57.

during the summer of 2010 for compliance year 2011.

The ISO disagrees with comments by the Cogeneration Association of California and the Energy Producers and Users Coalition that favor deferring consideration of changes to the qualifying capacity counting methodology for combined heat and power facilities to Phase 2 of this proceeding.<sup>3</sup> The schedule in the OIR contemplates that Phase 2 will not even be initiated until the third quarter of 2010. Such delay means that the availability standards could not apply to the currently exempt resources until RA compliance year 2012. This schedule (applicability in 2012) would prevent the ISO from meeting the directive in FERC's June 26 Order (issued in 2009) to timely end the exemptions from the SCP. It is, therefore, critical that the issues be resolved in Phase 1. In addition, it is important that consideration of the qualifying capacity counting methodology in Phase 1 include combined heat and power facilities as well as wind and solar resources. There is no reason for the Commission to follow a different schedule for applying SCP to combined heat and power facilities than it adopts for wind and solar resources.

Conversely, the ISO recommends that the Path 26 counting constraint not be revisited in this proceeding. As adopted in Decision D.07-06-029 in Phase 2, Track 1, of R.05-12-013 (June 21, 2007), the Path 26 counting constraint process annually 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 relatively new process became effective with the 2008 compliance year filing cycle.

Very limited initial comments on the OIR suggest that the Path 26 counting

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<sup>3</sup> Cogeneration Association of California Comments, pp. 1-2; Energy Producers and Users Coalition Comments, pp.2-3.

constraint should be reviewed in this proceeding. The Department of Ratepayer Advocates (“DRA”) commented that it proposed a “different and simpler” approach than the CPUC adopted and “welcomes the opportunity to review this matter in this proceeding.”<sup>4</sup> Southern California Edison Company (“SCE”) expressed support for the inclusion of the issues and topics identified in OIR Appendix A “including the review of the Path 26 counting constraint”.<sup>5</sup>

The ISO submits that these two comments fail to justify reviewing the Path 26 counting constraint in this proceeding. SCE offered no basis for its comment, while DRA made clear that it wants to revisit the matter for the purpose of proposing an alternative approach that was previously presented to and rejected by the CPUC. Neither party identified any deficiency in the methodology or results of the existing Path 26 counting constraint process, nor offered further explanation why the process should be taken under review. DRA has not shown any changed circumstances that would justify revisiting this issue or their proposal that was previously rejected. 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. The comments of San Diego Gas & Electric Company agree with the ISO that the Path 26 counting constraint is working-well and should not be revisited.<sup>6</sup>

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<sup>4</sup> DRA Comments, p. 3.

<sup>5</sup> SCE Comments, p. 2.

<sup>6</sup> San Diego Gas & Electric Co. Comments, pp. 1-2.

### III. CONCLUSION

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

Respectfully submitted,

*/s/ Anthony Ivancovich*

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Date: November 20, 2009

## CERTIFICATE OF SERVICE

I hereby certify that on November 20, 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 20, 2009  
at Folsom, California

*Is/ Anna Pascuzzo*  
Anna Pascuzzo  
An Employee of the California  
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