

**Comments of Southern California Edison Company on CAISO
Draft Final Proposal - Standard Resource Adequacy Capacity Product**

Submitted by	Company	Date Submitted
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Southern California Edison Company (“SCE”) provides these comments on the California Independent System Operator’s (“CAISO’s”) Draft Final Proposal for a Standard Resource Adequacy Capacity Product, issued January 9, 2009 (“Draft Final Proposal”). SCE appreciates the opportunity to submit these comments on the Draft Final Proposal. SCE is also a member of the California Forward Capacity Market Advocates (“CFCMA”), which is concurrently submitting comments on the Draft Final Proposal that reflect the consensus views of the CFCMA members. SCE fully supports those comments and has authorized those comments to be submitted on its behalf. SCE is providing these additional comments to express SCE-specific views on certain aspects of the Draft Final Proposal, including:

- Support for the CAISO’s inclination to extend the stakeholder process to ensure that the Standard Capacity Product (“SCP”) tariff provisions filed with FERC are complete, appropriate and well-reasoned;
- Significant concerns with the proposed grandfathering provisions for existing contracts;
- Support for the CAISO’s proposed exemption from the SCP availability standard and incentives for wind, solar, and QF resources whose qualifying capacity (“QC”) is based on historical three-year averages;
- Recommendation to modify the structure and proposed use of unavailability charges;
- Recommendation that all outage reporting for SCP resources (including resources with a nameplate capacity between 1MW and 10 MW) be performed through Scheduling Logging for the ISO of California (“SLIC”); and

- Consideration of future amendments to the SCP to impose unavailability charges directly on the responsible generator rather than through the Scheduling Coordinator (“SC”) for the resource.

SCE strongly urges the CAISO to extend the stakeholder process to provide more time for the consideration of these recommendations, more fully described below, and potentially others, prior to submitting final SCP tariff provisions to FERC for approval.

Extension of the Stakeholder Process

SCE is concerned that the schedule for developing the SCP thus far has been too aggressive, and has not provided sufficient opportunity to thoroughly consider the issues. SCE appreciates the CAISO’s explicit support for the position taken by SCE, CFCMA, and many other parties that the SCP submitted in final form to FERC should be done right the first time rather than just being done quickly, only to have to revisit and correct the product later.¹ SCE is encouraged that the CAISO is considering extending the stakeholder process to provide a full and appropriate opportunity to consider important issues, such as grandfathering of existing resources. For example, the CAISO’s grandfathering provisions for the SCP were provided to stakeholders for the first time on January 9, giving parties only three full business days to consider and respond to the provisions in one round of comments on the Draft Final Proposal.

Accordingly, SCE renews its recommendation (stated in our comments on the prior SCP Straw Proposal) that the CAISO align its process with the schedule set forth in the CPUC’s RA refinements OIR (R.08-01-025). Several issues overlapping with the SCP are being considered in that proceeding, such as consistency of counting rules, A/S must-offer obligation, and the role of the SCP product. Closer coordination with the CPUC schedule will not only allow for a more thorough consideration of critical issues for the SCP, but also enable the CAISO and CPUC to ensure that CPUC-jurisdictional LSEs are not subject to inconsistent resource adequacy (“RA”) requirements.

SCE remains supportive of the CAISO’s effort to develop an SCP, however SCE believes that additional time and consideration would greatly benefit the final SCP proposal.

Grandfathering of Existing Contracts

SCE’s most significant concern with the Draft Final Proposal involves the CAISO’s proposed grandfathering provisions for availability standards and incentives. These provisions do not provide appropriate treatment for contracts executed in good faith long before the SCP was even conceptualized. Under the Draft Final Proposal, these contracts would have to meet or exceed the availability standards and incentives of the SCP, but would not be tradable. Further, contracts executed after January 1, 2009 and

¹ Draft Final Proposal, at 28.

before final FERC approval occurs would be grandfathered for only five years (again, if they meet or exceed the SCP availability standards and incentives), and likewise would not be tradable during that period. This simply is unworkable.

The Draft Final Proposal's requirement that pre-existing contracts must meet or exceed a newly-developed availability standard and incentive regime in order to qualify for RA compliance does not take into account the RA requirements or other circumstances existing at the time those contracts were executed. Instead, such an approach simply applies the new SCP standards (or something even greater) to existing contracts that presently count for RA compliance just to allow those contracts to continue to count. Moreover, it makes no sense to allow SCP "tags" to be tradable while prohibiting trading of "tags" associated with grandfathered contracts that meet or exceed the availability standards or incentives applicable to SCP "tags." In addition, the Draft Final Proposal does not explain what it means for a contract to "meet or exceed" the availability standards and incentives of the SCP. For example, what if an existing contract has a greater availability standard than the SCP but a slightly lower unavailability charge?

The Draft Final Proposal states that "the ISO requested that stakeholders offer proposals describing more precisely how appropriate transitional arrangements might be structured to address these [grandfathering] concerns, and in response received only one specific proposal (a set of joint comments by NRG Energy, Reliant and SDG&E in the last round of comments)."² This is incorrect. SCE also submitted a specific grandfathering proposal in its December 18, 2008 comments:

All existing contracts executed prior to final approval of the SCP tariff provisions by FERC are exempt from the SCP tariff provisions for availability and performance metrics. This exemption extends until the contract expires (or in the case of contracts with ever-green clauses until the initial term of the contract expires). This exemption does not extend to the Ancillary Services Must-Offer provision or any other SCP tariff provisions.³

SCE's proposal appropriately applies the grandfathering provision and takes into account the presence of new financial risks or other obligations on the generation owner as a result of the new SCP, which were not contemplated at the time the contract was signed. Such new risks or obligations can lead to significant disputes, open the contracts for renegotiations, or otherwise place the contracting LSE in the position of having to

² *Id.*, at 26.

³ Comments of Southern California Edison Company on CAISO Standard Capacity Product Updated Straw Proposal, December 18, 2008, at 3.

incur greater costs for its customers. The current proposal in the Draft Final Proposal would also signal to market participants that the CAISO may “change the rules” at any time in order to meet other objectives, notwithstanding the impact on existing contractual arrangements. The CAISO would thus be setting a poor precedent that will chill the formation of new long-term contracts, as parties cannot reasonably expect the “rules” to remain stable throughout the contract term. To the extent parties respond by reducing formation of long-term contracts, investment in generation (existing and new) will be impacted, ultimately affecting system reliability.

Therefore, SCE urges the CAISO to extend its stakeholder process to give appropriate consideration to SCE’s grandfathering proposal (and other issues discussed below) and develop a final SCP proposal that more accurately reflects the needs of market participants.

Treatment of Resources With QC Based on Historical Three-Year Averages

SCE supports the CAISO’s exemption of resources whose QC is based on a historical average calculation (*e.g.*, wind, solar, QF) from the SCP availability standards and performance incentives. This is the correct approach to avoid the potential for double-penalization of these resources. The Draft Final Proposal indicates that this is a preliminary rule that will be revisited in the future.⁴ The CAISO should strengthen this position and make this rule a permanent feature for resources that have their QC determined based on historical performance.

Unavailability Charge Structure and Proposed Use of Funds

First, SCE encourages the CAISO to refer to its financial structure as “unavailability charges,” rather than penalties. This technical definition helps clarify that non-performance is not a tariff violation *per se*, but rather is an action that subjects the RA provider to a predefined tariff charge.

The Draft Final Proposal indicates that the unavailability charge structure for non-available resources will be a flat rate based on the CAISO backstop replacement cost of capacity. SCE remains concerned that this flat rate does not provide the proper incentives to resources to encourage availability during the peak summer months when the capacity is needed most.

Further, SCE believes that any money collected from these charges should first go toward funding the cost of backstop procurement needed as a result of non-performance of other RA units. The money should be used for bonus payments only if there are still funds remaining after the backstop procurement has taken place. Bright line rules can be used to allocate the money. For example, the CAISO could adopt a rule that, if backstop

⁴ Draft Final Proposal, at 24.

procurement in a Local Area was needed because of RA non-performance in the area, all unavailability charges collected within that Local Area in the corresponding month would first go to pay for the backstop costs, and only residual money would be paid as bonuses.

SLIC Outage Reporting for Resources Less Than 10 MW

The Draft Final Proposal states that the CAISO intends to use SLIC system data to calculate target availability for resources in the first year of the SCP.⁵ Recognizing that resources with nameplate capacity of 10 MW or less currently do not report outages in the SLIC system, the Draft Final Proposal further provides that resources of 1 MW to 10 MW in size will be required to submit outage information to the CAISO outside of SLIC for the calculation of target availability.⁶ SCE does not support this approach. If SLIC system data is to be used for calculating target availability, then monthly outage data for any resources included in the availability calculation should be submitted using the SLIC system. If the SLIC system cannot accommodate these resources, then the resources should not be required to provide the information. As the CAISO stated during the December 11 SCP stakeholder meeting, after an extensive effort in 2007 and 2008, the CAISO filed and FERC approved revised outage reporting requirements. From an outage management perspective, SCE cannot support a bifurcated reporting system because of the implementation issues, many of which were discussed in the outage management stakeholder process.

Consideration of Future Tariff Amendments to Allow Direct Assessment of Unavailability Charges

Although SCE supports the CAISO taking a more deliberate approach to development of the SCP by expanding the current stakeholder process to allow for appropriate consideration of critical issues, we recognize that there are some matters that can be addressed through a future process to refine the SCP. One such issue is the manner in which unavailability charges are levied upon generators.

Currently, unavailability charges will have to be assessed to the SC for a given resource. SCE believes that in the future a change to the CAISO tariff to allow for transactions directly between the CAISO and resource owners, rather than only through SCs, would be beneficial. In the same way that the SCP is designed to more easily facilitate capacity trading by removing the availability and performance provisions currently imbedded in bilateral contracts and standardizing those metrics within the CAISO tariff, enabling the CAISO to directly transact with resource owners to administer performance incentives/charges will mitigate the need for SCs to maintain separate

⁵ *Id.*, at 13.

⁶ *Id.*, at 13-14.

contracts with resource owners that outline credit requirements and other provisions to ensure generator performance and compliance with the CAISO tariff. SCE recognizes that this may be nontrivial and may require a broader stakeholder process. Thus, SCE recommends that the CAISO pursue the change in a future stakeholder process after some experience has been gained with the use of the SCP in the RA program and with the assessment of unavailability charges, *e.g.*, after the SCP has been in place for one full RA compliance year.

Summary – More Time is Needed

SCE appreciates the time and effort on the part of the CAISO and all involved stakeholders that has led to the development of the SCP thus far, which has come a long way in a short time. Still, additional time is needed to develop appropriate SCP grandfathering and for stakeholders to further discuss with the CAISO meaningful details of key implementation issues, including unit substitution and hydro A/S must-offer exceptions. Without additional details, and in some cases numeric examples, SCE is not sure what these provisions of the Draft Final Proposal actually mean or how they would apply in actual daily operations. SCE strongly encourages the CAISO to allocate the appropriate time to fully consider the issues presented here and others that are likely to come up as stakeholders are able to more fully reflect on the SCP and its interface with RA requirements as a whole.