January 14, 2009

Comments on Draft Final Proposal for Standard Resource Adequacy Capacity Product

The Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, CA (collectively, the "Six Cities") submit the following comments on the Draft Final Proposal for the Standard Resource Adequacy Capacity Product posted on January 9, 2009 ("SCP Final Proposal"):

Requirements for Grandfathering of Existing Capacity Contracts are Unduly Restrictive: The SCP Final Proposal provides at pages 26-27 that the availability requirements and penalties may be waived for existing capacity contracts only to the extent that the parties to such contracts certify that the contracts contain availability requirements at least as stringent as those embodied in the SCP provisions. The suggested certification requirement to attain grandfathered status for an existing capacity contract effectively will result in little, if any, grandfathering at all. Many long-term capacity contracts were negotiated well before the discussion of standard availability requirements even began, and prices and other terms and conditions reflect expectations that prevailed at the time. Imposing a regime of availability requirements and potential penalties on existing contracts is likely to trigger termination or renegotiation clauses in many such contracts, and the renegotiation process would not necessarily be limited simply to availability requirements. The supposed purpose for the development of a Standard Capacity Product was to facilitate the negotiation of Resource Adequacy capacity contracts, especially for smaller LSEs. That purpose will be served by applying the SCP attributes and requirements to new contracts on a going-forward basis. In contrast, attempting to impose SCP requirements on existing contracts will simply upset the balance of rights and obligation negotiated in good faith at potentially significant cost to LSEs. FERC policy does not support abrogation of existing contract rights, and the restrictions on grandfathering incorporated in the SCP Final Proposal are inconsistent with established FERC policy.

A Scheduling Coordinator Whose Self-Schedule for Energy is Overridden for Ancillary Services Should Not Suffer Uncompensated Costs Either to Replace the Scheduled Energy or Otherwise: The SCP Final Proposal indicates at pages 9-10 that the ISO will not adjust Energy Self-Schedules if sufficient bids are available to supply Ancillary Services requirements. However, if there are not enough bids for Ancillary Services (including bids for Self-Supply), the ISO proposes to override Energy Self-Schedules to the extent necessary to obtain Ancillary Services. *Id.* The Six Cities do not oppose this method for addressing a shortfall of Ancillary Services, provided that the Scheduling Coordinators whose Energy Self-Schedules are overridden in favor of Ancillary Services are kept whole in terms of the costs of procuring replacement energy and waiver of any penalty provisions.

In situations where a Load Serving Entity ("LSE") has submitted an Energy Self-Schedule for the purpose of serving load, the LSE most likely will have to replace the energy if the Energy Self-Schedule is overridden in favor of Ancillary Services. Although the LSE would receive payment for the Ancillary Services, including Opportunity Cost, it is not certain that the payment

for Ancillary Services will be equal to or greater than the cost for replacement energy. In addition, the LSE may be exposed to additional charges from the ISO, such as deviation penalties. It would be unjust, unreasonable, and unduly discriminatory to allow the ISO to override an Energy Self-Schedule in order to procure additional Ancillary Services for the market as a whole without compensating the Scheduling Coordinator whose Energy Self-Schedule is overridden for all costs incurred as a result.

A 100% Availability Standard for Non-Resource-Specific Imports is Unreasonable: The SCP Final Proposal at page 25 provides that non-resource-specific imports must meet an availability standard of 100%, presumably based upon the assumption that such imports are supported by a portfolio of resources. However, such imports nevertheless may be curtailed due to transmission limitations on the exporting system. While it may be reasonable to apply an availability standard to non-resource-specific imports that is somewhat higher than the availability standard applicable to individual generating facilities, demanding perfect performance from non-resource-specific imports is not reasonable. A 95% availability requirement for non-resource-specific imports would be more appropriate. Furthermore, resource substitution should be allowed for non-resource-specific imports under the same terms and conditions applicable to other resources.

The Impact of Path or Branch Group Derating on Resource-Specific Imports is Unclear: Although the SCP Final Proposal makes clear at page 25 that path or branch group deratings that reduce the deliverability of non-resource-specific imports will not count as a forced outage in evaluating the performance of that resource, the impact of path or branch group deratings on the performance evaluation for resource-specific imports is not clear. The SCP Final Proposal states at page 25, n. 14 that "[p]ath or branch group derates in a month will not affect the availability calculation for resource-specific RA imports during that month." That language could be interpreted as indicating that path or branch group deratings that affect the deliverability of a resource-specific import will be counted as a forced outage. A path or branch derating that prevents delivery of any import, either resource-specific or non-resource-specific, should not be treated as a forced outage that counts against compliance with availability standards.

Outage Reporting for Resources Less Than 10 MW: Under the current formulation of the MRTU Tariff, resources with less than 10 MW of capacity are not required to report outages. *See* MRTU Tariff § 9.3.10.3.1. The SCP Final Proposal, however, suggests at page 13 that resources with less than 10 MW of capacity be required to report outages after-the-fact for the purpose of measuring compliance with availability standards. Manual entry of the types of detailed hourly data required by SLIC would involve a substantial burden. Since resources with less than 10 MW of capacity are exempt from general outage reporting requirements due to the fact that they have minimal impact on grid reliability, there is no justification for imposing the additional burdens of reporting outages merely to track conformance with availability standards. However, such reporting is appropriate for resources with less than 10 MW of capacity that wish to be eligible for performance incentives. Therefore, outage reporting for resources with less than 10 MW of capacity should be required only for such resources that wish to be eligible for performance incentives. Such resources that do not wish to be eligible for performance incentives should be exempt from the outage reporting requirement and from availability requirements. At a minimum, the SCP Final Proposal should make clear that generators with

less than 10 MW of capacity of the types not subject to the availability standards (*i.e.*, wind, solar, and QF resources) will not be required to report outages.

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