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From: Doug Davie [ddavie@wellhead.com]
Sent: Friday, November 21, 2008 10:12 AM
To: Standard Capacity Product Mailbox
Subject: Comments on Standard RA Capacity product straw proposal

It's good to see the effort focused on creating a standard competitive market RA capacity product but I am concerned that the straw proposal creates some apparent conflict and double jeopardy penalties with existing bilateral contracts. Existing bilateral contracts that include RA as one of the products/services have performance and financial penalty provisions which apply to RA capacity. Without exemption/grandfathering of the existing contracts, the straw proposal would seemingly create a duplicative (and different) set of standards/penalties. For example, if after making an annual RA plan filing a generator were to have an outage that resulted in reduced availability for a given month, the bilateral contract already imposes a financial penalty on the generator. And, if implemented as currently envisioned, the CAISO Standard RA Capacity Product rules could also impose a financial penalty. The CAISO must NOT create a double jeopardy situation (for generators already under contract to provide RA capacity under the existing RA structure) in its efforts to create a standardized competitive market product going forward.

A second issue that seemingly needs more thought is the fact that thermal peaking resources may have limitations on the number of hours they may be dispatched (operating constraints due to environmental considerations). Under the existing bilateral contracts, it is clear that such restrictions can not be violated. The CAISO needs to be careful that it does not create a situation where it is imposing financial penalties because a facility is simply complying with its legal constraints. This is a significant problem that arises when a resource under an existing bilateral contract is expected to meet RA requirements that are being changed to promote a competitive market standard product offering. Some form of grandfathering or exemptions from penalties are needed for RA that is being provided by resources under existing bilateral contracts.

I believe both of these concerns have already been identified in the stakeholder process but they are very important and must be properly addressed so as to not create double jeopardy financial penalties or penalties for complying with legal requirements known at the time bilateral contracts were executed.

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