

Hinman, Cynthia

From: Doug Davie [ddavie@wellhead.com]
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Comments on the 12/4/08 Straw Proposal for a Standard Resource Adequacy Capacity Product

The availability of standard capacity products, as is being proposed here, is an important addition to California's competitive power market place. However, the creation of such products must take into consideration pre-existing contracts that provide the same basic product and implementation of the Standard Resource Adequacy Capacity Product must not impose new requirements, costs or risks that were not contemplated when the existing contracts were negotiated. This product must also be structured to work with other capacity supply options that allow load serving entities to have an appropriate mix of short, medium, and long term resource commitments to meet the needs and risk tolerance of its customers. The requirements need to be flexible enough to allow utilities to find the right mix of base load, intermediate and peaking resources to best serve its load requirements (i.e. reasonable utility portfolio planning does not require all capacity resources to be available every hour of the year). Additionally, performance target penalties/incentives must be carefully designed to ensure there are not unintended results.

Transition/Grandfathering

The CAISO correctly recognizes that it has no role in existing bilateral contracts, many of which provide Resource Adequacy benefits to the purchaser. Absent a renegotiation of the existing bilateral contracts, the CAISO will continue to have no role in such contracts and must therefore NOT try unilaterally to impose new requirements or penalties.

Many existing bilateral contracts have appropriate provisions that penalize resources for not meeting industry standard performance measures as well as incentives if the resource performs better than required. This is the structure the CAISO is considering for the Standard Resource Adequacy Capacity Product and duplicative or double jeopardy provisions MUST be avoided. It is arguable that these resources should not even be part of the new Standard Resource Adequacy Capacity Product program; they are already providing the product/service the buyer needs as part of their supply portfolio to reliably meet their customers needs.

The CAISO also needs to recognize that there may be pre-existing bilateral contracts that do not require a supplier to provide Resource Adequacy but is willing to do so under the current rules. The addition of new/duplicative penalties may result in those suppliers NOT providing RA through the CAISO program (they would simply meet their contract requirements and thereby avoid any new penalties/risks).

Resources under existing contracts may have reasonable well-understood limitations on when or how much they can be operated. Failure to grandfather existing contracts could thus require a resource to provide services and incur costs beyond that contemplated/required in the contract without appropriate consideration. This could even result in a resource violating its permits and authorities granted by other governmental authorities. The CAISO must avoid such interference in existing contracts.

For all of these reasons, the CAISO must allow a transition period. The required transition period will be unique for each resource and be equal to the term of the bilateral contract that was negotiated prior to FERC approval of the Standard Resource Adequacy Capacity Product. Of course, the parties to the contract could agree to mutually acceptable amendments but, since the CAISO is not a party to those contracts, that cannot be a requirement.

Performance Targets

There is no disagreement that Resource Adequacy capacity needs to be reliable. These resources are being paid to perform when needed and under-performance problems need to be corrected. Providing incentives for better than expected performance is also a good way to improve the overall reliability of the electric system. However, creating a structure that is intended to create the highest possible target could actually be a disincentive. For example, if a resource "beats" the target in a year which then results in the target being higher in future years, they will be faced with the business proposition of future penalties that may well exceed any bonus.

Additionally, the proposed structure has a theoretical possibility of requiring better than 100% availability to earn a bonus (I'm not sure this should even be impossible) but anything less than 95% would be penalized. Though this is a low probability outcome, it sends a message that outstanding performance is going to be subject to decreasing rewards and may result in resources not going "above and beyond" at some point because of the potential that it would increase future penalties.

Some of these problems with performance targets can be mitigated by increasing the period of time looked at for compliance. Outages are a reality, they will happen. It is most important to ensure resources are taking appropriate actions to avoid such problems on an ongoing basis. A rolling multi-year performance metric that recognizes unexpected events will occur should be seriously considered; it will smooth out anomalous events and not create undue penalties for resources that are taking reasonable and prudent actions on an on-going basis.

The consideration of performance targets also needs to recognize that there can be many reasons why a resource can be "available to operate" but unavailable for dispatch. The most common example is a hydro resource – it has no equipment problems/limitations but there may not be water available for more than a few hours of operation. Thermal resources can have similar limitations on their availability for dispatch – there are no equipment problems/limitations but there are other constraints that limit actual operation (e.g. limits on annual hours of operation or number of starts in a day due to air emission limits). These are limitations that are known and taken into consideration by utilities in developing their supply portfolios. It is inappropriate to impose penalties on any resource that is unavailable for operation due to limitations that were known at the time it was contracted to provide the RA product. Any penalties in this situation belong with the utility that assembled a portfolio incapable of meeting their energy requirements for every hour of the year.