

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**California Independent System) Docket No. ER08-760-000
Operator Corporation)**

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.212 and 385.213 (2007), the California Independent System Operator (“CAISO”) respectfully requests leave to file an answer (“Answer”) to the comments on, and protests of, the CAISO’s compliance filing submitted on June 30, 2008 in the captioned proceeding (“June 30 Compliance Filing”).¹ For the reasons set forth below, the Commission should accept the CAISO’s June 30 Compliance Filing and direct the CAISO to make a subsequent compliance filing containing the additional tariff modifications that the CAISO herein has agreed to make.

I. BACKGROUND

This proceeding concerns the CAISO’s tariff amendment to implement a Transitional Capacity Procurement Mechanism (“TCPM”). On May 30, 2008, the Commission issued an Order Accepting Tariff Filing Subject to Modification (“May 30 Order”). The May 30 Order conditionally accepted the CAISO’s TCPM proposal, subject to modification. The Commission modified two aspects of the CAISO’s TCPM proposal: (1) the Commission rejected the proposed target

¹ Capitalized terms not otherwise defined herein have the meaning set forth in the Master Definition Supplement, Appendix A to the ISO Tariff.

capacity price of \$86/kW-year and instead approved a target capacity price of \$77.89/kW-year; and (2) ruled that the CAISO must provide FERC Must Offer Generators with a 30-day TCPM designation upon the first denial of a waiver of their must offer obligation.

On June 30, 2008, the CAISO submitted a Request for Clarification, or In the Alternative, Rehearing (“Clarification Request”) of the May 30 Order. Of relevance for this filing, the CAISO sought clarification of two points. First, the CAISO requested that the Commission clarify that that real-time merit order dispatches of energy from the non-Resource Adequacy (“RA”) capacity of partial RA units would not result in a TCPM designation. Second, the CAISO requested that the Commission clarify that the capacity costs of TCPM designations that result from the issuance of a single Must Offer Waiver Denial (“MOWD”) should be allocated in accordance with the Commission-approved Amendment No. 60 methodology so that the costs would be allocated based on the reason(s) for the MOWDs issued to the unit during the course of the 30-day TCPM designation period, *i.e.*, local, system or zonal.

Also on June 30, 2008, the CAISO submitted its June 30 Compliance Filing to comply with the directives in the May 30 Order. Only four parties commented on or protested the June 30 Compliance Filing. Comments were filed by (1) the City of Santa Clara and the M-S-R Public Power Agency (“SVP *et al.*”); (2) Dynegy Morro Bay, Dynegy Moss Landing, LLC, El Segundo Power LLC, and Reliant Energy, Inc. (“California Generators”); and (3) the California Department

of Water Resources State Water Project (“CDWR”).² Southern California Edison (“SCE”) filed a protest.

II. MOTION FOR LEAVE TO FILE ANSWER

The CAISO recognizes that, unless authorized by the Commission, the Commission’s Rules of Practice and Procedures preclude an answer to protests. The CAISO hereby respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to make an answer to the protest and comments. Good cause for this waiver exists here because the Answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case.³

III. ANSWER

A. Response to California Generators

On July 16, 2008, the CAISO filed an answer to the California Generators June 30, 2008 Request for Clarification and Rehearing (“July 16 Answer”). The CAISO emphasized in its answer that the CAISO appeared to be in agreement with the positions stated by the California Generators in their July 30 Request for Clarification and Rehearing regarding the appropriate treatment of partial RA units under the TCPM, namely: (1) the non-RA capacity of partial RA units that is needed for reliability purposes should be eligible for designation as TCPM

² Because the comments of CDWR were consistent with the position taken by the CAISO in the June 30 Compliance Filing and do not require any tariff modifications, the CAISO is not responding to CDWR’s comments.

³ See, e.g., *Entergy Services, Inc.*, 116 FERC ¶ 61,286 at P 6 (2006); *Midwest Independent Transmission System Operator, Inc.*, 116 FERC ¶ 61,124 at P 11 (2006); *High Island Offshore System, L.L.C.*, 113 FERC ¶ 61,202 at P 8 (2005).

capacity; and (2) the merit order dispatch of energy from the non-RA capacity from a partial RA unit should not result in a 30-day TCPM designation. These positions taken by the California Generators were consistent with the positions taken by the CAISO in its June 30 Clarification Request. In its July 16 Answer, the CAISO (at pages 12-14) laid out five principles that it believed could serve as the basis for a feasible and acceptable approach to resolving the partial RA issue without unduly impinging on the CAISO's real-time grid operations. The CAISO noted that it believed that it was in agreement with the California Generators on these five principles.

In their comments on the June 30 Compliance Filing, the California Generators note that they generally support the compliance filing and support the CAISO's proposal reflected in the July 16 Answer to clarify when the non-RA capacity of a partial RA unit would be eligible for a TCPM designation. In particular, the California Generators seek the following modifications to the CAISO tariff which they believe are necessary to implement the five principles set forth in the CAISO's July 16 Answer: (1) that the CAISO expand the reporting obligations in Section 43.6.2 to include an explanation of why the CAISO does not make a TCPM designation to a partial RA unit that receives a MOWD; (2) that the CAISO add a new weekly report containing the CAISO's analysis of out-of-sequence ("OOS") dispatches of the non-RA capacity of partial-RA units and whether a TCPM designation is appropriate; and (3) that the CAISO modify section 34.3 to clarify that the Real-Time Dispatch ("RTD") will include the

Monthly TCPM charge only for those units whose Eligible Capacity is equal to the unit's full capacity.

As discussed below, the CAISO agrees with the California Generators on the treatment of partial-RA resources under the TCPM and is prepared to modify its tariff in a subsequent compliance filing to address the matters raised in (1) and (2) above. However, the requested modification in (3) is unnecessary and moot because a FERC Must Offer Generator that is committed by the CAISO automatically receives a 30-day TCPM designation; therefore, there is no need to reflect the capacity payment in the RTD dispatch optimization because the capacity charge is no longer an incremental cost. In other words, the issuance of the MOWD to the unit already will have triggered incurrence of the capacity cost; the dispatch will not trigger the cost incurrence. Thus, including the capacity cost in the RTD optimization is a moot issue.

1. The CAISO Is In Agreement With California Generators On Key Principles Regarding The Treatment of Partial RA Units Under The TCPM

In its June 30 Compliance Filing, its June 30 Clarification Request, and its July 16 Answer, the CAISO proposed to undertake specific measures in order to assure that partial RA units are designated under the TCPM when they provide reliability services.⁴ In particular, in its June 16 Answer, the CAISO proposed the following: (1) the CAISO would not count the non-RA capacity of a partial RA unit as available supply in considering whether a collective deficiency exists pursuant to Section 42.3.1.4 of the Tariff; (2) the CAISO would make a

⁴ CAISO Answer at 12-14.

determination whether any non-RA capacity from a partial-RA unit is needed for reliability services at the time the CAISO issues a MOWD to the partial RA unit by indicating whether it needs only the RA capacity for reliability purposes or whether it also needs the non-RA capacity of the unit; (3) if the CAISO determines at the time the MOWD is issued to the partial RA unit that the CAISO also needs the non-RA capacity of the partial-RA unit for reliability, the CAISO would proceed to designate the remaining capacity of the unit under the TCPM; (4) Real-time merit order dispatches of partial RA units would not result in a TCPM designation; and (5) the CAISO would undertake an after-the-fact review of manual out-of-sequence (“OOS”) dispatch instructions issued for the non-RA capacity of partial RA units as a check to assure that non-RA capacity is not required for reliability.⁵ A Commission decision on these issues is pending.

The California Generators agree with the CAISO’s proposal regarding TCPM designations of non-RA capacity of a partial RA resource.⁶ In their comments, the California Generators request that the Commission adopt the measures proposed by CAISO in its July 16 Answer.⁷ Accordingly, the Commission should (1) accept CAISO’s proposal set forth in its July 16 Answer to assure that partial RA units are designated under TCPM when they provide reliability services, and (2) direct the CAISO to make a compliance filing incorporating those principles consistent with the discussion herein.

⁵ *Id.*

⁶ California Generators’ Comments at 5.

⁷ See California Generators Comments at 5. “The California Generators appreciate the CAISO’s commitment to these specific criteria for making TCPM designations of non-RA capacity of a partial RA resource and to publishing the analysis required to apply to such criteria. These steps will assure that TCPM designations are made where reliability services are provided and will also provide key information to market participants to better understand how the CAISO is administering the RA program through its unit commitment decisions.”

2. The CAISO Is Agreeable To Instituting Additional Reporting Obligations

In their Comments on the June 30 Compliance Filing, the California Generators seek additional reporting requirements related to the CAISO's evaluation of the reasons for MOWDs issued to partial-RA resources. First, the California Generators note that in the June 30 Compliance Filing, the CAISO revised section 43.6.2 to provide in its TCPM designation reports a reason for the denial of a must-offer waiver request for a FERC Must-Offer Generator that results in a TCPM designation.⁸ The California Generators request that the CAISO expand the reporting requirement in Section 43.6.2 to also include an explanation for denying a waiver to a partial RA resource and why such unit does not qualify for a TCPM designation for the non-RA portion of the unit's capacity.

The CAISO agrees that it is important to provide transparent information on MOWDs for partial-RA resources. The CAISO also is agreeable with a weekly reporting obligation, provided that each report pertains only to reportable events that occurred during the week prior to the seek of the report. The CAISO is concerned that if it has a weekly reporting obligation set for a specified day each week -- for example on every Saturday -- and the CAISO is required to report on every relevant event that has occurred prior to the filing of the report, the CAISO could issue a MOWD on Friday night and have less than 24 hours to review the logs, talk with Grid Operators if necessary and, and then prepare the report on the MOWD. A weekly reporting obligation, as clarified above,

⁸ California Generators' Comments at 2

satisfactorily addresses this type of situation, while still ensuring timely dissemination of the information.

Although the CAISO agrees that there should be a reporting obligation associated with the issuance of MOWDs to partial RA units, the CAISO does not believe that such reporting obligation should be incorporated into Section 43.6.2 because that section pertains to a different type of report and a different type of scenario. Specifically, the Section 43.6.2 report pertains to resources that have received a TCPM designation and the circumstances surrounding, and information about, the TCPM designation and the unit receiving the designation. On the other hand, the new report proposed by the California Generators would pertain to resources that have *not* received a TCPM designation and the reasons for the *non-designation*. The two reporting obligations are different and should be addressed in separate sections of the tariff.⁹ The CAISO believes that this new report can be incorporated into a revised Section 40.15.3 (which the CAISO has proposed to eliminate as moot). Accordingly, the CAISO proposes that Section 40.15.3 be partially reinstated to read as follows:

If the ISO issues a must-offer waiver denial to a Resource Adequacy Resource that has less than the full Net Qualifying Capacity of the facility identified as a Resource Adequacy Resource in the Resource Adequacy Plans and Supply Plans provided to the ISO under Section 40, the ISO will publish information on the ISO website identifying the facility, explaining the reason for the must-offer waiver denial, and indicating why the capacity of the Resource Adequacy Resource not identified on the Resource Adequacy Plan does not qualify for a TCPM designation. The CAISO shall publish this information on a weekly basis for all such waiver denials that occurred during the week prior to the week of the report.

⁹ To the extent the CAISO designates the non-RA capacity of a partial RA unit, that would be reported pursuant to Section 43.6.2,

Second, California Generators request that the CAISO publish, on a weekly basis, the analysis of OOS dispatches of the non-RA capacity of partial RA units. They, suggest that this report can be incorporated into Section 40.15.4. The CAISO agrees to report on OOS dispatches for partial RA units. The CAISO proposes to incorporate this reporting obligation into a revised Section 40.15.4 (which the CAISO is proposing to eliminate as moot). The report would identify the results of the CAISO's analysis of the OOS dispatch, indicate whether RA capacity was available (as described in the CAISO's July 16 Answer), and state whether the OOS dispatch of the non-RA capacity of the partial RA unit was for reliability reasons. As with the reporting of MOWDs granted to partial RA units, the CAISO would propose to issue this report on a weekly basis and report on OOS dispatches that occurred during the week prior to the week in which the OOS report is issued. This would prevent the CAISO from getting "crunched" in the event of an OOS dispatch at 11:50 p.m. the day before the weekly report is due. Depending on the circumstances of the particular OOS dispatch, a more extensive analysis may be required, and that could make it difficult for the CAISO to meet a set deadline each week for reporting on all OOS dispatches that have occurred prior to issuance of the report. Under the CAISO's approach, the information would still be published in a timely manner.

The CAISO believes that these tariff modifications will provide transparency regarding the issuance of MOWDs to partial-RA resources.

3. The Requested Clarification Regarding Section 34.3 Is Incorrect and Unnecessary

The CAISO's June 30 Compliance Filing proposed that section 34.3 be modified to delete from the Real Time Commitment ("RTC") optimization the cost of the daily Must Offer capacity payment that was eliminated in the May 30 Order. Instead, the RTC optimization would now reflect the Monthly TCPM Capacity Charge because a single MOWD results in a 30-day TCPM designation. As the CAISO stated, this will ensure that the cost of the TCPM designation is appropriately factored into the RTC's unit commitment optimization process.¹⁰

In response to the July 16 Answer, the California Generators state that because the RTD software cannot "split" a unit between its RA and non-RA capacity, they "presume this same limitation would apply to an RTD unit commitment" and request that "the CAISO further revise section 34.3 to make clear that the RTD will include the Monthly TCPM charge only for those units whose Eligible Capacity is equal to the unit's full capacity (*i.e.*, the unit is not an RA or partial RA unit)."¹¹

As an initial matter, the California Generators mistakenly state that the CAISO incorporated the aforementioned revision into its Real Time Dispatch ("RTD") software. That is not correct. Consistent with the CAISO's original proposal in this proceeding, the change was made to the CAISO's RTC software not the RTD software. RTC pertains to the real-time *commitment* of units. RTD

¹⁰ June 30 Compliance Filing at 5.

¹¹ California Generators' Comments at 4.

applies to the real-time *dispatch* of units that have already been committed. Thus, the cost impact of the TCPM monthly capacity payment is taken into account when RTC *commits* a unit. It is not taken into account when RTD dispatches a unit, because that cost has already been incurred as a result of the commitment of the unit. The RTD dispatch of the unit does not cause that incremental cost to be incurred. Thus, the California Generators reference to “RTD unit commitment” is incorrect; there is no unit commitment under RTD. Unit commitment is effectuated under RTC.

Thus, California Generators request that RTD include the Monthly TCPM charge only for those units whose eligible capacity is equal to the unit’s full capacity (i.e., the unit is not RA or partial RA) is not applicable. RTD does not include the monthly TCPM charge for any unit. It is not necessary for RTD to include the monthly TCPM capacity payment for FERC Must Offer Generators because the mere commitment of a FERC Must Offer Generator results in a TCPM designation. In other words, the day-ahead or RTC commitment of the unit will already have resulted in a TCPM designation (and the resulting 30-day TCPM payment). Thus, no incremental capacity payment is incurred as a result of dispatch of the unit; the charge was already incurred as a result of the prerequisite commitment of the unit. Accordingly, California Generators proposed change to the RTD optimization is unnecessary and moot.

In the event the California Generators intended to say that the RTC optimization tariff language (as opposed to the RTD optimization tariff language to which they refer) should be clarified to indicate that the Monthly TCPM

Capacity Charge is included only for units whose entire capacity is not RA, the CAISO believes that the tariff language already captures that concept. The CAISO notes that under the ISO Tariff, the definition of Resource Adequacy Resource applies both to units whose entire capacity is RA capacity and to units that only have part of their capacity as RA capacity. The RTC optimization tariff language does not include the cost of the TCPM Monthly Capacity Charge for Resource Adequacy Resources (be they partial or whole RA units).

B. SVP'S CLAIMS ARE WHOLLY WITHOUT MERIT

1. There Is No Reason to Retain The Existing Provisions Of Sections 40.14.3 and 40.14.4

SVP *et al.* is the only party to this proceeding that objects to the CAISO's deletion of Sections 40.15.3 and 40.15.4 of the ISO Tariff or disagrees that such provisions were mooted by the Commission's finding that a single MOWD issued to a FERC Must Offer Generator results in a 30-day TCPM designation. SVP *et al.* claim that these sections "remain important despite the 30-day designation." However, SVP *et al.* do not identify a single specific reason why retention of these sections is important; they simply make a conclusory statement that retention of such reporting requirements is appropriate. The CAISO has attached the deleted sections in Appendix A hereto. A quick review of the sections clearly reveals that they are no longer relevant in light of the May 30 Order. The CAISO discusses below why the deletion of these sections was appropriate and the logical result of the May 30 order.

Section 40.15.3- Multiple Denial of FERC Must Offer Waivers addressed situations where the CAISO issues consecutive MOWDs to a single FERC Must

Offer Generator. Specifically, under Section 40.15.3, if the CAISO issues a MOWD to a FERC Must Offer Generator on four separate days in any calendar year, the CAISO is required evaluate whether a TCPM Significant Event has occurred that warrants a TCPM designation (“MOWD Evaluation”). *SVP et al.* argue that the need for transparency provided by the information reported under Section 40.15.3 was not eliminated by the Commission’s requirement that a single MOWD must result in a 30-day TCPM designation. However, it is unclear what information *SVP et al.* are talking about because the CAISO does not report any information under Section 40.15.3; the CAISO only conducts an evaluation to determine whether, after the issuance of four consecutive MOWDs to a FERC Must Offer Generator, a TCPM Significant Event Designation is necessary.

In any event, the need for Section 40.15.3 has been mooted by the new requirement in the May 30 order that a single MOWD results in a 30-day TCPM designation. Thus, there will never be a situation where the CAISO would have to evaluate the issuance of four consecutive MOWDs to a FERC Must Offer Generator to determine whether a TCPM Significant Event designation is warranted. The first such MOWD will automatically trigger a TCPM designation. The sole purpose of Section 40.15.3 was to require an evaluation of repeat MOWDs to determine whether a Significant Event has occurred that necessitates a TCPM designation. However, as a result of the May 30 Order, a FERC Must Offer Generator automatically becomes a TCPM resource after the first MOWD. Therefore, there is no need to conduct an evaluation after issuance of four consecutive MOWDs to a unit. Under the Commission-approved tariff language,

TCPM resources are treated like Resource Adequacy Resources -- not FERC Must Offer Generators -- for purposes of reporting and other obligations.¹²

In any event, the CAISO notes that it has revised its tariff to provide that the CAISO will issue both a market notice and a robust TCPM designation report following the issuance of the first MOWD to a FERC Must Offer Generator (which results in a 30-day TCPM designation). The market notice and designation report provide extensive information to market participants regarding the MOWD and ensuing TCPM designation, including the reason for issuance of the MOWD.¹³ Thus, there are no MOWDs issued to FERC Must Offer Generators that will not be reported on. SVP *et al.* have not argued that the information provided in these market notices and reports is inadequate. Indeed, SVP *et al.* fail to state in their filing what information is needed but will not be reported by the CAISO.

Section 40.15.4 -- TCPM Significant Event/Repeat Must Offer Waiver Denial Report -- provided that the CAISO will publish the results of its MOWD Evaluation, including an explanation of its decision whether to designate a FERC Must Offer Generator as a TCPM unit, in a TCPM Significant Event/Repeat Must Offer Waiver Denial Report (“Repeat MOWD Report”). Under Section 40.15.4, the CAISO was required to explain why it denied the must offer waiver (“MOW”) request that triggered the assessment of whether a TCPM Significant Event occurred and whether any RA, RMR or TCPM units were available and called upon prior to the issuance of a MOWD to a FERC Must Offer Generator. Also,

¹² See ISO Tariff, Section 43.5.1.

¹³ See ISO Tariff, Sections 43.6.1 and 43.6.2.

the CAISO must explain why Non-Generation Solutions were insufficient to prevent the MOWDs issued for local reasons. *SVP et al.* claim that minimum 30-day designations as a result of a single MOWD do not eliminate the usefulness of these reports. *SVP et al.* state that “some reports may indicate the minimum 30-days as the reason why the generator was designated, but the reports will continue to provide useful information regarding the need for additional resources.”

The Repeat MOWD Report has been mooted for the reasons discussed above. A FERC Must Offer Generator now receives a TCPM designation after a single MOWD. Therefore, there will not be -- and cannot be -- four consecutive MOWDs for a FERC Must Offer Generator that need to be evaluated to determine if a TCPM designation is necessary. As a result of the May 30 Order, a FERC Must Offer Generator gets a TCPM designation following every initial instance that it receives a MOWD. Because there will not be any “repeat” MOWDs issued to FERC Must Offer Generators, there is no need for a Repeat MOWD Report.

SVP et al. also ignore the fact that the same information that was reported in the Repeat MOWD Report under Section 40.15.4 will now be reported in the TCPM Designation Report under Section 43.6.2(d). Indeed, in the June 30 Compliance Filing, the CAISO expressly stated that it was moving the obligation to report information regarding the reason for issuance of the MOWD to the FERC Must Offer Generator into a new sub-paragraph (4) of Section 43.6.2. *SVP*

*et al.*¹⁴ glossed over this plain statement in the Compliance Filing, as well as the language that was transferred from Section 40.15.4 into the new Section 43.6.2(4). In that regard, the new Section 43.6.2(4) provides that the CAISO will provide the following:

For waiver denials, an explanation as to why the ISO denied the must-offer waiver request that triggered the TCPM designation and an assessment of whether any Resource Adequacy Resources, RMR units, or resources designated to provide service under the TCPM were available and called upon by the ISO prior to its denial of the FERC Must-Offer Generator's must-offer waiver request. The ISO shall also explain why Non-Generation Solutions were insufficient to prevent the use of denials of must-offer waivers for local reasons.

This is the same information that the CAISO provided under Section 40.15.4. In particular, the CAISO will indicate why it denied the MOW request that triggered the TCPM designation. Under these circumstances, there is no merit to SVP *et al.*'s claim that the Repeat MOWD Report in Section No. 40.15.4 needs to be retained.

2. The CAISO Complied With the Commission's Directive by Incorporating an Objective Criterion for Designating a Significant Event

SVP *et al.* contend that the CAISO failed to provide an objective criterion for Designating a Significant Event as ordered by the Commission's May 30 Order. Indeed, SVP goes so far as to state that the "CAISO did not make any mention of the Commission's directive that it implement an objective criterion." SVP *et al.* request that the Commission direct the CAISO to make a compliance filing that includes an objective criterion for designating a Significant Event.

¹⁴ CAISO June 30 Compliance Filing at page 7.

SVP *et al.* have mischaracterized the May 30 Order. In the May 30 Order the Commission ruled as follows:

[a]ccordingly, we direct the CAISO to modify its proposal by incorporating an *objective criterion and providing units with a minimum 30-day capacity designation upon the first commitment under the must-offer obligation.*¹⁵

The Commission also stated in the May 30 Order that:

[w]e find that the proposed Significant Event definition, in conjunction with the objective threshold detailed above, will enable the CAISO to further reduce its reliance on daily commitments under the must-offer obligation. Consequently, we accept it.¹⁶

Moreover, the Commission noted that:

accepting the broader definition of Significant Event is consistent with our directive above requiring the CAISO to designate non-resource adequacy resources for a minimum 30-day period upon their first commitment under the must-offer obligation.¹⁷

The Commission added in conclusion:

[a]ccordingly, for these reasons, we accept the Significant Event definition, as filed and find that it provides the CAISO with appropriate authority to designate non-resource adequacy capacity when necessary.¹⁸

Thus, contrary to the misplaced claims of SVP *et al.* the Commission accepted the CAISO's proposed definition of Significant Event in the May 30 Order. The Commission rejected all protests regarding the proposed definition of Significant Event, including the protest of SVP *et al.*¹⁹ As indicated above, the objective criterion that the Commission directed the CAISO to incorporate was to provide units with a 30-day TCPM designation following the first commitment of

¹⁵ May 30 Order at P 32 (emphasis added).

¹⁶ *Id.* at P 48.

¹⁷ *Id.* at P 53.

¹⁸ *Id.* at P 54.

¹⁹ *Id.* at PP 38-54.

the unit under the Must Offer Obligation (*i.e.*, MOWD). The CAISO incorporated this objective criterion in a new Section 43.4.2 of the ISO Tariff. SVP *et al.* do not deny this fact; nor does any other party. Thus, the CAISO has fully complied with the Commission's directive to incorporate an objective criterion into the Significant Event designation process.

C. RESPONSE TO PROTEST OF SCE

In the May 30 Order, the Commission required that an initial MOWD result in a 30-day TCPM designation. The May 30 Order did not, however, specify how the TCPM capacity charges resulting from an MOWD designation were to be allocated for the 30-day designation period. In its June 30 Compliance Filing, the CAISO proposed that the capacity costs associated with a MOWD TCPM designation be allocated in a manner similar to how the CAISO allocates Minimum Load Costs pursuant to Amendment No. 60. Specifically, the costs would be allocated on a *pro rata* basis based on the number of hours that the resource was on a must offer waiver denial for local, system and zonal reasons during the TCPM designation period. In its June 30 Clarification request, the CAISO also requested that the Commission clarify that it intended MOWD TCPM designation costs be allocated in this manner.

SCE protests the CAISO's proposed allocation methodology and argues that capacity costs resulting from single MOWD designations should instead be allocated in the same manner as capacity costs incurred as the result of TCPM Significant Event designations. For the reasons set forth herein and in the CAISO's Clarification Request, the Commission should reject SCE's proposal

and approve the allocation methodology contained in the June 30 Compliance Filing.

1. SCE's Arguments Against The CAISO's Proposed Allocation Methodology Are Without Merit

The CAISO submits that the cost allocation methodology approved in the Amendment No. 60 proceeding is similarly appropriate for allocating the costs of an automatic 30-day TCPM designation resulting from issuance of an MOWD. This methodology meets the Commission's longstanding cost causation principles,²⁰ is straightforward and not burdensome to administer, and ensures that those customers who benefit from the use of the resource during the term of the designation bear the costs of the designation. As the Commission has stated, "CAISO's three bucket approach will result in a more appropriate

²⁰ The Commission has followed a longstanding principle of cost causation:

Despite the profusion of allocation methods we employ, there is a common thread that ties them together. That thread is the concept of cost responsibility or cost incurrence. Each of the methods attempts to allocate costs to the group of ratepayers in question on the basis of the causal link between the service the company provides them and the expenses the company reports.

Pennsylvania Power and Light Co., Opinion No. 176, 23 FERC ¶ 61,395 at 61,850 (1983). "As a general matter, the Commission believes that the entities that cause costs should pay for such costs." *California Indep. Sys. Operator Corp.*, 108 FERC ¶ 61,022 at P 62 (2004) (footnote omitted). An entity may be deemed to have caused costs either if it is directly responsible for imposing the cost burden at issue or if the entity benefits from the cost incurrence. For example, in *California Power Exchange Corp.*, 106 FERC ¶ 61,196 at P 17 (2004), the Commission stated: "The well-established principle of cost causation requires that costs should be allocated, where possible, to customers based on customer benefits and cost incurrence. See also *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004) (citing *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992), and holding that court evaluates compliance with cost causation principle "by comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party."). See also, *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 at P 587 (2004); *California Independent System Operator Corp.*, 103 FERC ¶ 61,114 at P 20-26 (2003); *Pacific Gas & Electric Co.*, 100 FERC ¶ 61,160 at P 15 (2002); *California Independent System Operator Corp.*, 99 FERC ¶ 63,020 at 65,109-11 (2002); *Midwest Independent Transmission System Operator Inc.*, 98 FERC ¶ 61,141 (2002).

matching of costs incurred to the customers who are responsible for imposing the costs or received benefits from the expenditure of those costs.”²¹

SCE argues that TCPM capacity costs should be allocated in the same manner whether they result from a MOWD or a Significant Event. SCE states that distinctions between the two are not important because both represent backstop capacity and, as such, should be allocated in a manner comparable to the capacity costs incurred via a Resource Adequacy Resource.²² In a similar vein, SCE states that the CAISO’s distinction between a Significant Event and a single MOWD is irrelevant because “[o]nce a 30-day TCPM capacity contract has been awarded, regardless of whether the trigger was a Significant Event or a MOWD, the value and usefulness of the contract is the same.”²³ These statements are misplaced. Applying this logic, the cost of TCPM designations resulting from an LSE’s failure to procure sufficient RA capacity to meet its RA obligations should be allocated in the same manner as the costs of Significant Event designations simply because both represent backstop capacity. For obvious reasons that would not be appropriate.

²¹ Opinion No. 492 at 19.

²² SCE Protest at 2. SCE’s argument is unclear. The CAISO does not allocate -- and does not have visibility into -- the capacity costs of RA contracts. On the other hand, the CAISO is responsible for allocating the Un-Recovered Minimum Load Costs associated with the issuance of MOWDs to Resource Adequacy Resources. Under Section 40.6B.5 of the ISO Tariff, the CAISO allocates these costs in a manner consistent with Amendment No. 60, *i.e.*, depending on whether the MOWD issued to the Resource Adequacy Resource was for local, zonal or system reasons. The CAISO is essentially extending this same methodology to the allocation of TCPM capacity costs resulting from MOWD designations. Each time a the CAISO issues a MOWD to the TCPM resource, its Minimum Load Costs will be allocated in the same manner as the Minimum Load Costs of a Resource Adequacy. For each MOWD, the CAISO would likewise track the number of hours that the TCPM resource is on a waiver denial. At the end of each month, the CAISO would allocate the TCPM capacity costs *pro rata* based on the reasons for the MOWD, which the CAISO will already be tracking for purposes of allocating Minimum Load Costs.

²³ SCE Protest at 5.

SCE ignores the significant and relevant (from a cost allocation perspective) differences between a Significant Event designation and a designation resulting from a MOWD. In particular, SCE's approach ignores highly relevant factors such as the basis for the designation and the use (or intended use) of the resource during the designation period. These relevant differences support application of a different methodology for allocating the costs of each type of designation.

A designation that results from a MOWD is distinguishable from the situation that would result in a TCPM Significant Event designation. With regard to a TCPM designation resulting from a MOWD, the initial reason for the MOWD may be different than the reason(s) for the unit's use during the ensuing 30-day designation period. For example, the CAISO may need to issue an MOWD to a resource for a local reliability reason. However, this local issue may be resolved quickly -- potentially in less than a day. During the remainder of the designation term the resource may be committed to resolve local, zonal or even CAISO system-wide needs, which may be totally unrelated to the reason for the initial MOWD. As the Commission recognized in the May 30 Order (P 36), a unit that receives a TCPM designation as the result of a MOWD will be providing a "monthly services" to customers. Accordingly, the costs of the designation should be allocated based on the nature of the actual service that the unit provided during the month, not based on the reason why it was committed on the first day of the 30-day period.

On the other hand, TCPM Significant Event designations are the result of a thorough analysis undertaken by the CAISO. As a result of this analysis, the CAISO determines that additional capacity is needed to address a Significant Event that is expected to last for an extended period of time and that justifies a 30-day designation of capacity. Thus, the CAISO expects that it will be using the resource to address the identified reliability need during the designation period. Under these circumstances, it is appropriate to assign the costs of the designated capacity to customers in the relevant TAC area(s) that are affected by the Significant Event. They are the customers that the TCPM Significant Event designation is intended to benefit, and who will in fact benefit because it is expected that the designated capacity will be used primarily (if not entirely) to address a reliability need that impacts them.

In contrast, the issuance of a single MOWD is not the result of a CAISO evaluation regarding the need to procure additional capacity for an extended period of time to resolve a new, longer-term reliability problem. The CAISO issues MOWDs on a given day because it needs additional capacity to meet a need on that day. These needs are typically very short-term in nature -- usually lasting only a day (or partial day) or two. Thus, unlike Significant Event designations, there is no expectation that the CAISO will need the capacity to meet that particular reliability need for an extended period of time. Under these circumstances -- unlike Significant Event designations -- it is more likely that the resource will be used for a number of different reasons during the 30-day designation period. During this 30-day period, the CAISO will have to track the

reasons why the unit is committed (*i.e.*, denied a waiver) each day in order to allocate the Un-recovered Minimum Load Costs resulting from such daily commitments. It logically follows that the CAISO should allocate the resulting TCPM capacity costs in a manner similar to how it will allocate these Un-recovered Minimum Load Costs, namely, a *pro rata* allocation of capacity cost based on the number of hours that the resource was on a must offer waiver denial for local, zonal and system reasons during the designation period. This approach will allow the costs of the designation to be allocated based on the actual use of the unit over the 30-day period. On the other hand, SCE's proposed allocation could result in costs being allocated to customers based on the first day's use of the resource even though the resource is never used for that purpose again.

Finally, SCE objects to the allocation of TCPM costs based on the methodology used to allocate minimum load costs because they are "conceptually completely different categor[ies] of costs."²⁴ However, the Commission already "crossed this bridge" when it found under the RCST that the daily Must Offer Capacity payment should be allocated in the same manner as Minimum Load Costs.²⁵ In the RCST proceeding, the Commission acknowledged that "must-offer capacity costs are incurred for the same reasons as minimum load costs."²⁶ The Commission therefore found it appropriate to apply the Amendment 60 allocation methodology to both categories of charges.

²⁴ SCE Protest at 3.

²⁵ *Independent Energy Producers Association v. California Independent System Operator Corporation*, 118 FERC ¶ 61.096 at P 125 (2007).

²⁶ *Id.*

SCE disagrees with the CAISO's position that because the Commission found it was just and reasonable to allocate the Must Offer daily capacity payment in the same manner as Minimum Load Costs, it is appropriate to allocate TCPM costs in the same manner. SCE states that the RCST dealt with daily capacity costs for resources that did not have a capacity contract, but MOWD-based TCPM designations are essentially 30-day contracts. Therefore, SCE states, "the allocation specified in the RCST case does not and should not apply."²⁷

The CAISO submits that the fact that an MOWD now results in a 30-day capacity payment instead of a daily capacity payment does not support a complete overhaul of the approach to allocating MOWD capacity costs that was approved for the RCST. That approach -- which allocates capacity costs depending on whether the unit was committed for local, zonal or system reasons on a given day -- is still valid and can readily be adapted (as the CAISO has done) to a situation where an MOWD results in a 30-day designation. Indeed, allocating the MOWD TCPM capacity costs as proposed by the CAISO essentially tracks how the daily MOO capacity costs would be allocated over a 30-day period under an RCST regime where a MOWD results in a daily capacity payment. Thus, the CAISO's proposed allocation methodology is consistent with the RCST approach which the Commission previously found to be just and reasonable.

SCE's approach ignores the fact that the capacity can be committed for different reasons over the course of a 30-day designation period. The CAISO's

²⁷ SCE Protest at 4.

approach permits more granular cost allocation that more closely follows cost causation and need for the capacity over the 30-day period. This will ensure that MOWD designation costs are allocated based on how the capacity is actually used during the designation period.

2. It Is Not Necessary That All TCPM Costs Be Allocated To Scheduling Coordinators

SCE argues in its protest that all TCPM costs should be allocated to Scheduling Coordinators (SC or SCs) because the May 30 Order approved charges to SCs under 43.8 of the CAISO tariff. SCE offers no reason in support of this position except to say the other TCPM charges are allocated to SCs, and therefore the additional category of MOWD-based TCPM costs should also be charged to SCs. SCE's argument ignores the factual distinctions between MOWD designations and Significant Event designations discussed above. SCE also ignores the fact that under the RCST the daily capacity payment could be allocated to Participating Transmission Owners if the MOWD was for a local reason.

IV. CONCLUSION

For all of the foregoing reasons, the CAISO respectfully requests the Commission approve the June 30 Compliance Filing and direct the CAISO to make another compliance filing that incorporates the modifications that the CAISO has agreed to herein.

Respectfully submitted,

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Dated: August 5, 2008

ATTACHMENT A

40.15.3 Multiple Denial of FERC Must-Offer Waivers

If the ISO issues a denial of must-offer waivers to a FERC Must-Offer Generator on four separate days in any calendar year, the ISO shall evaluate whether a TCPM Significant Event has occurred that warrants designation of the FERC Must-Offer Generator to provide service under the TCPM ("MOWD Evaluation"). The ISO shall conduct a MOWD Evaluation after every four separate days on which the ISO denies a must-offer waiver request for such a FERC Must-Offer Generator.

40.15.4 TCPM Significant Event/Repeat Waiver Denial Report

The ISO shall publish the results of its assessment of the MOWD Evaluation ("TCPM Significant Event/Repeat MOWD Report"), including an explanation of its decision whether to designate FERC Must-Offer Generator capacity as TCPM, on the ISO Website on a weekly basis unless no TCPM Significant Events or MOWD Evaluations occurred during the week. The ISO will provide a market notice of the availability of each TCPM Significant Event/Repeat MOWD Report. The TCPM Significant Event/Repeat MOWD Report shall explain why the ISO denied the must-offer waiver request that triggered the assessment of whether a TCPM Significant Event occurred, and whether any Resource Adequacy Resources, RMR units, or resources designated to provide service under the TCPM were available and called upon by the ISO prior to its denial of the FERC Must-Offer Generator's must-offer waiver request. The ISO shall also explain why Non-Generation Solutions were insufficient to prevent the use of denials of must-offer waivers for local reasons. In the event that the ISO denies a must-offer waiver request for local or system reasons that do not constitute a TCPM Significant Event or is not due to a Resource Adequacy Resource non-performance, the report shall include an explanation for such issuance and shall be signed by the ISO's Vice President of Operations.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the California Public Utilities Commission, California Energy Commission, all Scheduling Coordinators, all of the parties listed on the official service list for the captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

(18 C.F.R. § 385.2010).

Dated at Folsom, this 5th day of August, 2008.

Anna Pascuzzo
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