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February 13, 2012

Via email

California Independent System Operator (CAISO)

Email: rmt@caiso.com

250 Outcropping Way

Folsom, CA 95630

Re: Comments of the Independent Energy Producers Association on the Regulatory Must-Take Generation Draft Final Proposal

Dear CAISO Staff,

The Independent Energy Producers Association (IEP)¹ appreciates the opportunity to participate in the stakeholder process for the California Independent System Operator's (CAISO) Regulatory Must-Take Generation Draft Final Proposal, dated January 30, 2012.²

IEP thinks that CAISO's proposed adjustments to RMT definitions and protocols are heading in the proper direction. IEP looks forward to the February 13 workshop that it hopes will result in a final document that may quickly be approved. In advance of that, IEP provides the following limited observations and recommendations:

1. Definition of Regulatory Must-Take Generation. CAISO has this exactly right in abandoning the current definitional condition that restricts RMT eligible cogeneration to PURPA criteria for qualifying facilities. The PURPA criteria were developed and apply to address different policy considerations than are relevant to the CAISO and its RMT

¹ The Independent Energy Producers Association (IEP) is California's oldest and leading trade association representing the interests of developers and operators of independent energy facilities marketing power in the west. IEP's members include producers of renewable products derived from biomass, geothermal, small hydro, solar, and wind; producers of highly efficient cogeneration; and owners/operators of gasfired merchant facilities. IEP represents the interests of the industry before California's regulatory commissions and the legislature, as well as before Federal Energy Regulatory Commission (FERC).

² California Independent System Operator's Draft Final Regulatory Must-Take Generation Draft Final Proposal, dated January 30, 2012: http://www.caiso.com/Documents/DraftFinalProposal_RegulatoryMust-TakeGeneration.pdf

protocols. In fact, as CAISO correctly points out, insistence on the use of PURPA criteria conflicts with CAISO's charge to facilitate maximum market participation and efficiencies consistent with a proper recognition of practical and contractual obligations of the generator to provide useful support of commercial or industrial processes. IEP was encouraged on the prior (February 6) stakeholder phone conference that the CAISO proposal on this point drew no adverse comment.

2. “Default” determination of RMTmax. At least one participant (also on the February 6 stakeholder phone conference) suggested that the CAISO proposal requires enhancement to specify a mechanism for determining RMTmax in the case where the generator and the Scheduling Coordinator³ (or presumably the Independent Engineer) cannot agree. IEP admits that it does not fully understand this concern; it is IEP's understanding that the very point of the Independent Engineer is to resolve disagreements like that and, therefore, to be the default determiner of RMTmax. IEP is in complete accord that some definitive mechanism needs to be in place for this purpose or else a recalcitrant SC could tie up a project and place it in a potential contractual default to its customer. IEP supposes that it is also possible that a generator and its SC may not agree on the selection of an Independent Engineer. If it is not abundantly clear in the CAISO proposal, it should be that the determination of the Independent Engineer in a dispute situation is binding and that if one cannot be agreed to, CAISO will assign one from an established pool. As a corollary to that, standard CAISO dispute resolution procedures should be the available final avenue.

3. Annual by-hour RMT estimates. IEP has no basic objection to CAISO's interest in seeing estimates presented annually but has some concern over their potential inadvertent misuse. CAISO's stated interest in such estimates, perhaps among other interesting things, is to discover potential abuse in established RMTmax. Caution is counseled for here. For one thing, there is a virtual certainty that actual experience will depart from estimates made so far in advance, particularly for projects whose customer requirements themselves move around based on their own market conditions. Second, the potential for abuse should be self-correcting since an SC (or the generator) can always instigate a reassessment of RMTmax. IEP's suggested clarification of the role of the Independent Engineer in point 2, above, would be a helpful adjunct here.

³ The protocol should replace “Investor Owned Utility” or “IOU” with “Scheduling Coordinator” or “SC” throughout.

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IEP thanks the CAISO for its consideration. Please contact us with any questions or concerns.

Respectfully submitted,



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Association

/s/
Steven Kelly, Director of Policy
Independent Energy Producers Association