

122 FERC ¶ 61,017
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

California Independent System Operator Corporation Docket Nos. ER06-615-011
ER07-1257-000
ER08-64-000

ORDER CONDITIONALLY ACCEPTING, SUBJECT TO MODIFICATIONS,
RESOURCE ADEQUACY PROVISIONS OF MRTU COMPLIANCE FILING

(Issued January 9, 2008)

1. On August 3, 2007, as supplemented August 10, 2007, the California Independent System Operator Corporation (CAISO) submitted a compliance filing containing proposed Market Redesign and Technology Upgrade (MRTU) tariff revisions.¹ In this order, we conditionally accept for filing, subject to modifications, the proposed MRTU tariff revisions related to resource adequacy (RA). We defer, however, resolution of other MRTU compliance issues raised by the August compliance filings, including those involving Business Practice Manuals (BPMs). These issues will be addressed in a subsequent order. In this order, we also direct the CAISO to submit compliance filings as discussed herein.

2. We act here on RA issues and defer action on others because the CAISO, in a subsequent October 16, 2007 filing made pursuant to section 205 of the Federal Power Act (FPA),² proposed to incorporate RA provisions related to MRTU into its currently effective CAISO tariff. In that October 2007 filing, the CAISO relied upon the RA-related proposal criteria and allocation methodology contained in its August 2007 MRTU compliance filing, which the Commission had not yet approved.³ According to the

¹ CAISO August 3, 2007 Modifications to MRTU Tariff and August 10, 2007, Supplemental Information, Docket Nos. ER06-615-011 and ER07-1257-000.

² 16 U.S.C. § 824e (2000).

³ Specifically, the CAISO will use the results from its completed 2008 Local Capacity Study to identify the total amount of capacity needed for reliability and will allocate responsibility to each load serving entity (LSE) to procure a proportionate

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CAISO, the proposal criteria and allocation methodology need to be approved as soon as possible, as part of its current CAISO tariff, in order to give LSEs a reasonable amount of time to procure their required capacity prior to the MRTU start-up expected on March 31, 2008. On December 14, 2007, the Commission issued an order conditionally accepting the CAISO's revised tariff filing, subject to the outcome of this compliance proceeding.⁴ Thus, the Commission is addressing the RA issues subsumed in the MRTU compliance filing as soon as practicable in order for LSEs to know with certainty the necessary resources to procure prior to MRTU implementation. In addition, we expect the CAISO to make the necessary modifications, if any, to the tariff provisions we conditionally accepted in the *December 2007 Order*, consistent with our determinations in this order.

I. Background⁵

A. Resource Adequacy

3. Resource adequacy is the availability of an adequate supply of generation or demand responsive resources to support safe and reliable operation of the grid. The RA provisions of the MRTU tariff, together with the California Public Utilities Commission's (CPUC) RA requirements⁶ and the provisions of California law applicable to LSEs not

amount of the total capacity. Both the study and the allocation methodology are based upon tariff provisions at issue in this MRTU compliance proceeding.

⁴ *Cal. Indep. Sys. Operator Corp.*, 121 FERC ¶ 61,258, at P 18 (2007) (*December 2007 Order*).

⁵ The extensive history of MRTU development has been detailed in several orders mentioned in the discussion below. *See, e.g., Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 (2006) (*September 2006 Order*), *order on reh'g*, 119 FERC ¶ 61,076 (*April 2007 Order*), *order on reh'g*, 120 FERC ¶ 61,271 (2007) (*September 2007 Order*). Since this order focuses on resource adequacy issues, we find there is no need to repeat this history in its entirety.

⁶ The CPUC requires that LSEs that are investor-owned utilities, electric service providers or community choice aggregators demonstrate that they have acquired the capacity needed to serve their forecast retail customer load and a 15-17 percent reserve margin beginning in June 2006. The CPUC also imposes certain obligations on generators indirectly through their contracts with LSEs. *Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning*, Docket No. R. 04-04-003, D. 05-10-042 (Oct. 27, 2005) (CPUC Final Decision). In a June 29, 2006 decision, the CPUC addressed local resource adequacy requirements; it implemented a backstop and penalty for any LSE that is deficient in local

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under CPUC jurisdiction,⁷ establish a process intended to ensure that sufficient capacity will be available when and where it is needed to operate the power system reliably. Resource adequacy requirements mandate that LSEs secure sufficient resources of their own or through contracts to meet their customers' demands.

B. August 3, 2007 MRTU Compliance Filing

4. On February 9, 2006, the CAISO filed its MRTU tariff. On September 21, 2006, the Commission issued an order conditionally accepting the MRTU tariff, subject to modifications, and directed the CAISO to make compliance filings with the Commission.⁸ The conditionally accepted MRTU tariff will implement a market design that includes RA requirements intended to ensure the reliable operation of the CAISO grid.⁹

5. On April 20, 2007, we issued an order responding to requests for clarification and rehearing of the *September 2006 Order*.¹⁰ In the *April 2007 Order*, we upheld most of our findings from the *September 2006 Order* and emphasized that we continued to find the MRTU tariff to be just and reasonable. However, we also found that several modifications would improve the MRTU tariff, and directed that those changes be made under several timeframes.

capacity requirements, as established annually in accordance with the CPUC-devised allocation principles. *See Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning*, Docket No. R. 05-12-013, D. 06-06-064 (June 29, 2006).

⁷ California Legislation Assembly Bill (AB) 380 directs each non-CPUC jurisdictional LSE to plan for reliable service to their customers, provide RA-related information to the California Energy Commission (CEC) and comply with Western Electric Coordinating Council (WECC) reliability standards.

⁸ *See September 2006 Order*, 116 FERC ¶ 61,274, *order on reh'g, April 2007 Order*, 119 FERC ¶ 61,076, *order on reh'g, September 2007 Order*, 120 FERC ¶ 61,271 (2007). *See also Cal. Indep. Sys. Operator Corp.*, 120 FERC ¶ 61,313 (2007) (*June 2007 Order*).

⁹ The CAISO expects to implement MRTU on March 31, 2008.

¹⁰ *April 2007 Order*, 119 FERC ¶ 61,076.

6. On August 3, 2007, the CAISO submitted for filing proposed revisions to the MRTU tariff in compliance with previous Commission orders.¹¹ Also, in conjunction with its compliance filing, the CAISO proposed changes to several RA provisions, in order to clarify the respective obligations of LSEs and suppliers of RA capacity. The CAISO states that many of these changes were in response to the CPUC's ongoing RA proceeding in which stakeholders requested further refinement of certain obligations of LSEs and suppliers in order to facilitate development of a standard capacity product and a more liquid bilateral market for RA capacity. The CAISO explains that it has included in its filing provisions that reflect stakeholder input and recognize the CAISO's role in defining supplier obligations. According to the CAISO, the affected provisions of the MRTU tariff include but are not limited to sections 40.4.2, 40.4.3, 40.4.4, 40.4.6.1, 40.4.7, and 40.7.2.

7. The CAISO also modified section 40.3.4.2 (Local Capacity Area Procurement Report) based on stakeholder input, in order to obligate the CAISO to provide a report on its website that describes, among other things, the local capacity area resources procured, the quantity, duration, reasons for procurement, and all payments made for such procurement. The CAISO states that these changes have been included to clarify the timing of this report and the need for updates to the report in the event that any additional procurement were to occur after the initial procurement resulting from information received in the annual RA plans.¹²

8. On August 10, 2007, the CAISO submitted a supplemental filing that summarized its responses to stakeholders regarding certain BPM issues.

C. CAISO RA Revisions – Current CAISO Tariff

9. On October 16, 2007, pursuant to section 205 of the FPA, the CAISO submitted a filing to implement RA provisions prior to MRTU start-up.¹³ The CAISO stated that these RA tariff revisions will be superseded by the MRTU tariff provisions upon the effective date of the new market design. The CAISO claimed that the RA provisions of the MRTU tariff are designed to complement state-imposed RA requirements on LSEs.

¹¹ CAISO August 3, 2007 Modifications to MRTU Tariff and August 10, 2007, Supplemental Information, Docket Nos. ER06-615-011 and ER07-1257-000.

¹² CAISO August 3, 2007 Transmittal Letter, Docket Nos. ER06-615-011 and ER07-1257, at 17.

¹³ CAISO October 16, 2007 Proposed Amendment to the Currently Effective ISO Tariff, Docket No. ER08-64-000.

According to the CAISO, the RA requirements are intended to replace the Commission's must-offer obligation, or MOO, after MRTU is implemented.

10. The CAISO's justification for filing RA revisions to its current CAISO tariff was that, prior to the start of MRTU market operations, it must perform certain RA-related information gathering activities in order to accommodate and enforce RA resource availability requirements in 2008. In addition, the CAISO explained that it is necessary to implement the MRTU tariff provisions related to local capacity area resources prior to MRTU implementation to provide LSEs with a reasonable time prior to start-up to procure necessary resources.

11. The CAISO averred that the RA tariff revisions constituted in large part language conditionally accepted by the Commission in prior MRTU orders.¹⁴ However, the CAISO further noted that these tariff revisions also reflect language submitted in the CAISO's August 3, 2007 compliance filing in Docket Nos. ER06-615-011 and ER07-1257-000, which the Commission had not acted upon yet.

12. With respect to the explicit reference to the CAISO's 2008 Local Capacity Technical Study, the CAISO claimed that the Commission directed the CAISO to specify in the MRTU tariff the set of reliability criteria the CAISO will employ in establishing local capacity needs.¹⁵ The CAISO explained that, as part of the August 3, 2007 compliance filing, the CAISO submitted its reliability criteria, which were used to conduct the 2008 Local Capacity Technical Study. The CAISO argued that, assuming that the Commission accepts the CAISO's reliability criteria in its August 3, 2007 compliance filing, the Commission should accept the use of the 2008 Local Capacity Technical Study because the Commission has explicitly accepted the primary inputs that drive the local capacity area requirements and has given the CAISO flexibility in this area.¹⁶

13. In an order issued on December 14, 2007, the Commission conditionally accepted subject to modifications, the CAISO's proposed tariff revisions to incorporate RA provisions related to MRTU into the currently-effective CAISO tariff, effective December 17, 2007.¹⁷ The Commission found that the need for information and the

¹⁴ *Id.* at 5 (citing *September 2006 Order*, 116 FERC ¶ 61,274; *April 2007 Order*, 119 FERC ¶ 61,076; and *June 2007 Order*, 119 FERC ¶ 61,313).

¹⁵ *Id.* at 6 (citing *September 2006 Order*, 116 FERC ¶ 61,274 at P 1167).

¹⁶ *Id.* at 6.

¹⁷ *December 2007 Order*, 121 FERC ¶ 61,258.

desire to give LSEs a reasonable amount of time to procure local capacity prior to MRTU start-up were reasonable bases for considering the tariff revisions in advance of this order.¹⁸ However, because the Commission found that the proposed local capacity provisions contained in the October 2007 filing depended upon the provisions proposed in the August 3, 2007 compliance filing, the Commission could not unconditionally accept the CAISO's tariff filing. Similarly, the Commission also found that some of the RA-related information gathering provisions in the current filing depended on tariff language proposed in the August 3, 2007 compliance filing. Accordingly, the Commission held that to the extent that we accepted the CAISO's proposed RA tariff revisions, those revisions were accepted conditionally, subject to the outcome of the August 3, 2007 compliance filing proceeding.¹⁹

II. Notice, Intervention and Responsive Pleadings

14. Notice of the August 3, 2007 compliance filing and the August 10, 2007 supplemental filing was published in the *Federal Register*, 72 Fed. Reg. 46,618 (2007), with comments, protests, or interventions due on August 24, 2007. On August 20, 2007, the Indicated Parties²⁰ filed a motion for extension of time to submit comments. On August 22, 2007, the Commission granted the requested extension, establishing a filing deadline of September 7, 2007 for the initial comments and September 26, 2007 for reply comments.

15. Notices of intervention and timely motions to intervene were filed by a number of entities, as listed in Appendix A to this order. On September 18, 2007, Coral Power, L.L.C. (Coral) filed a motion to intervene out-of-time, and on September 19, 2007, EPIC Merchant Energy, LP (EPIC) also filed a motion to intervene out-of-time. Numerous

¹⁸ *Id.* P 16.

¹⁹ *Id.* P 18.

²⁰ Indicated Parties are the California Municipal Utilities Association (CMUA); the CPUC; the Transmission Agency of Northern California (TANC); the City of Santa Clara, California, doing business as Silicon Valley Power (SVP); the M-S-R Public Power Agency (M-S-R); the City of Redding, California (Redding); the Modesto Irrigation District (MID); the Metropolitan Water District of Southern California (Metropolitan); the Bay Area Municipal Transmission Group (Bay Area Municipals); the Northern California Power Agency (NCPA); Western Power Trading Forum (WPTF); Sacramento Municipal Utility District (SMUD); the Imperial Irrigation District (Imperial); Alliance for Retail Energy Markets (AREM) and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California (Six Cities).

parties submitted comments and/or protests along with their motions to intervene. Four parties submitted reply comments.²¹ The NCPA and the WPTF filed answers to the reply comments.

III. Discussion

A. Procedural Matters

16. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2007), we grant Coral and EPIC's late-filed motions to intervene, given the parties' interest in this proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay.

17. Rule 213 (a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a reply unless otherwise ordered by the decisional authority. We will accept NCPA's and WPTF's answers because they have provided information that assisted us in our decision-making process.

B. Uncontested Proposed RA Provisions for the MRTU Tariff

18. Prior to discussing areas of disagreement between the CAISO and other stakeholders, we note that the CAISO, in its reply comments, agreed to several of the proposed revisions suggested by the other parties. More specifically, the CAISO states that it supports or does not object to the following revisions:

- a. modifying section 40.3.4.2 to require the CAISO to post a report within 10 days after the end of each month that: (1) identifies any backstop procurement of capacity that took place within that month and the associated costs; or (2) states that no backstop capacity was necessary for that month.²²

²¹ The CAISO, CMUA, the Six Cities, and Southern California Edison (SoCal Edison) all filed timely replies.

²² CMUA September 7, 2007 Motion to Intervene and Protest at 7; Six Cities September 7, 2007 Motion to Intervene and Protest at 14. *See also* WPTF September 7, 2007 Motion to Intervene and Protest at 20; SVP/M-S-R September 7, 2007 Protest at 3-4. Note, other issues regarding this section are discussed *infra*.

- b. revising section 40.4.2 to require the CAISO to notify affected Scheduling Coordinators of changes in a resource's net qualifying capacity and provide any supporting analyses within 10 days of the CAISO's determination that such changes are appropriate, but in any event not later than 15 days prior to the posting of the net qualifying capacity annual report.²³
 - c. modifying sections 40.3.1.1 and 40.3.1.2 to replace the reference to the NERC/WECC Planning Standards I.A with a reference to NERC reliability standards applicable to Transmission Planners and Planning Authorities, NERC Reliability Standards, Transmission Planning (TPL)-001-0, TPL-002-0, TPL-003-0 and TPL-004-0.²⁴
 - d. modifying the current tariff language identifying CAISO backstop procurement based only on annual RA plan procurements to include more frequent evaluations of the need for CAISO non-market purchase, based on both monthly RA plan updates and intra-monthly use-limited plans.²⁵
 - e. eliminating the operating procedure M-438 (local area reliability capacity commitment) upon implementation of MRTU.²⁶
19. Our review of the above-delineated proposed, uncontested, RA-related MRTU tariff modifications indicates that they are just and reasonable. We therefore direct the CAISO to make these tariff revisions within 30 days from the date of issuance of this order.

²³ CMUA September 7, 2007 Motion to Intervene and Protest at 8; Six Cities September 7, 2007 Motion to Intervene and Protest at 14-15.

²⁴ The City and County of San Francisco (San Francisco) September 7, 2007 Comments and Protest at 6-7; Bay Area Municipals, September 7, 2007 Protest at 2-3.

²⁵ California Department of Water Resources State Water Project (State Water Project) September 7, 2007 Comments at 22-23.

²⁶ CPUC September 7, 2007 Comments and Limited Protest at 18-19.

C. Contested RA-Related MRTU Compliance Filing Issues

1. Section 40.2.1– Planning Reserve Margin

20. The *September 2006 Order* directed the CAISO to modify its RA proposal to create a 15 percent default reserve margin rather than a 15 percent reserve requirement.²⁷ On compliance, the Commission subsequently found, in its *June 2007 Order*,²⁸ that the CAISO's proposed tariff language was consistent with the directive in the *September 2006 Order* that a 15 percent default reserve margin apply when the CPUC or other Local Regulatory Authority (LRA) fails to implement a reserve margin.

Comments

21. The CPUC raises a concern about disparate reliability requirements between LSEs under proposed sections 40.2.1 and 40.2.2 of the MRTU Tariff.²⁹ Specifically, the CPUC claims that the proposed tariff provisions could allow an LRA to set unrealistically low reliability standards and thus create the need for additional backstop, which would force the CPUC jurisdictional LSEs to subsidize the additional procurement.³⁰ The CPUC states that it understands that the CAISO's proposed tariff provisions were based on the premise that it is barred by the Commission from setting RA requirements for LRAs that have enacted their own RA program, even if that program does not provide for minimum operational needs.

²⁷ *September 2006 Order*, 116 FERC ¶ 61,274 at P 1155.

²⁸ *June 2007 Order*, 119 FERC ¶ 61,313 at P 359-363.

²⁹ Section 40.2.2.1(b) requires a 15 percent reserve margin for Scheduling Coordinators of non-CPUC jurisdictional LSEs for which the appropriate LRA or federal agency has not established a reserve margin or a CPUC jurisdictional LSE that has elected reserve sharing LSE status.

³⁰ For example, the CPUC states that the Western Area Power Authority's proposed resource adequacy plan for its transactions within the CAISO operations area included a 5-10 percent planning reserve margin with no local area requirements. The CPUC is concerned that low planning reserve margins set by LRAs would not adequately address the variety of concerns necessary to assure reliable grid operations. The CPUC has adopted a planning reserve margin of 15-17 percent and is currently considering raising that percentage. The CAISO requires maintenance of seven percent operating reserves in order to meet WECC requirements. This seven percent does not include accounting for a variety of additional concerns, including forced generator outages, forecast error, and uncertainties in resource counting conventions.

22. However, the CPUC explains that it believes the Commission should allow the CAISO to set a reasonable minimum standard for system RA for LRAs that would support basic, short-term operational requirements, and charge the LSE for backstop procurement if it fails to meet that minimal CAISO-wide standard.³¹ The CPUC indicates that it could support the CAISO's enforcement of NERC/WECC minimum operating standards, with backstop procurement costs assigned to the deficient LSE. The CPUC states that it would not, however, condone CAISO backstop procurement unless operational reserves fall below that minimum operational standard (rather than the LRA's standard). Otherwise, as the CPUC points out, the CPUC jurisdictional LSEs will subsidize other LRAs low reliability standards.³²

23. In its reply, the CAISO acknowledges that it previously made many of the same arguments that the CPUC now raises regarding a minimum standard for RA. However, the CAISO notes that the Commission has rejected the idea of a minimum system reserve margin. The CAISO claims that sections 40.2.1 and 40.2.2 are consistent with prior Commission orders.

24. In reply comments, CMUA and Six Cites state that the Commission should not abandon its deference to LRAs. They state that the CPUC has shown no cause to do so, and argue that the CPUC's concerns are purely speculative. They also point out that the Commission has already ruled on this issue in favor of deference to LRAs.

Commission Determination

25. As we stated in the *September 2006 Order*, we believe that setting a minimum reserve requirement for non-CPUC jurisdictional LSEs is inconsistent with MRTU's deference to the RA programs of LRAs.³³ While the Commission takes the CPUC's concern that LRAs could set unrealistically low reliability standards seriously, we note that any planning reserve margin adopted by LRAs must meet or exceed WECC's minimum operating reliability criteria, or MORC.³⁴ The Commission believes that this will be a sufficient safeguard against the problem identified by the CPUC. The

³¹ The CPUC reiterates its belief that the Commission does not have jurisdiction to determine planning reserve levels for the CPUC jurisdictional LSEs. Rather, the CPUC here supports enforcement and allocation of costs for short-term operating reserves, which will generally be lower than longer-term planning reserves.

³² CPUC September 7, 2007 Comments and Limited Protest at 13-15.

³³ *September 2006 Order*, 116 FERC ¶ 61,274 at P 1153.

³⁴ *Id.* P 1154.

Commission continues to find that sections 40.2.1 and 40.2.2 of the MRTU tariff are consistent with our prior orders,³⁵ and we believe that these sections appropriately balance proper deference to LRAs and the need for adequate reliability. The CPUC's protest is accordingly rejected.

2. Section 40.3.1 – Reliability Criteria to Determine Local Capacity Area Requirements

26. In the *September 2006 Order*, the Commission directed the CAISO to incorporate into the MRTU tariff the set of reliability criteria it will use in developing the local capacity area resource requirements because the tariff language submitted at that time was ambiguous.³⁶ The Commission further required the CAISO to distinguish in the MRTU tariff between the reliability needs addressed by the Reliability Must Run (RMR) technical study process and the local capacity study process, so that it is clear which criteria are being addressed in each process.³⁷

27. In its August 3, 2007 compliance filing, the CAISO has included, in new section 40.3.1.2, the specific reliability criteria underlying its Local Capacity Technical Study (a newly defined term for the section 40.3 study) to directly address the ambiguity the Commission previously noted regarding the reliability standards the CAISO intended to use in its technical study to determine local capacity area resource requirements.³⁸ The CAISO asserts that this section is consistent with the Commission's directive because it favors transparency and clarity over flexibility and adaptability.

28. The CAISO further notes that new section 40.3.1.1 explicitly states that the CAISO will apply those methods for resolving the contingencies considered appropriate for the performance level that correspond to a particular studied contingency in

³⁵ See, e.g., *June 2007 Order*, 119 FERC ¶ 61,313 at P 359-363.

³⁶ *September 2006 Order*, 116 FERC ¶ 61,274 at P 1167.

³⁷ *Id.* On January 19, 2007, the Commission granted the CAISO's request for an extension of time, until August 3, 2007, to allow the CAISO, stakeholders and the CAISO Board of Governors adequate time to review the single set of local reliability criteria for both RA purposes and the RMR study process. Notice of Extension of Time, Docket Nos. ER06-615-000, *et al.* (Jan. 19, 2007).

³⁸ Section 40.3.1.2 provides, among other things, a list of contingency components that the CAISO will use as part of its Local Capacity Technical Study to determine the minimum amount of local capacity area resources needed to resolve a particular level of contingency.

accordance with North American Reliability Council (NERC)/WECC Planning Standards I.A.³⁹ The CAISO explains that the reliability criteria under the CAISO tariff is “[p]re-established criteria that are to be followed in order to maintain desired performance of the CAISO-controlled grid under contingency or steady-state condition.”⁴⁰ As such, the CAISO states that reliability criteria encompass NERC/WECC standards as well as potentially other “pre-established” CAISO criteria. The CAISO contends that this qualification to the strict application of NERC/WECC standards is necessary to align this provision with the CAISO’s authority under the California Public Utilities Code Section 345, which allows the CAISO to adopt standards that are stricter than those of the WECC.

29. With respect to the CAISO having to distinguish between the reliability criteria, the CAISO proposes to collapse the RMR analysis and Local Capacity Technical Study, which would eliminate the need to distinguish between the respective studies. The CAISO explains that the alignment was necessary to comport with the reality that the Local Capacity Technical Study caused the prior RMR study to become obsolete since the RMR study encompassed a subset of criteria used in the Local Capacity Technical Study. The CAISO also asserts that the RMR study is no longer necessary, as the CAISO will primarily rely on LSE procurement for local capacity area resources. Moreover, the CAISO proposes to use the Interim Capacity Procurement Mechanism (ICPM)⁴¹ as the primary backstop to obtain any residual local area capacity to ensure compliance with the

³⁹ For example, interruption of firm load for performance level C, only to the extent such application will not violate reliability criteria adopted by the CAISO in accordance with its Transmission Control Agreement.

⁴⁰CAISO October 5, 2007 Reply Comments at 24 n.39 (citing CAISO tariff Appendix A).

⁴¹ According to the CAISO’s June 29, 2007 White Paper, the ICPM is the appropriate tool to use for procuring backstop capacity because it can be used to procure capacity in lieu of using the RMR mechanism. Using the backstop tariff to procure capacity is preferred because backstop costs can be allocated just to those entities that have a deficiency or who are affected by the significant event that gives rise to the CAISO’s need to procure backstop capacity, whereas RMR costs are spread to all load in the affected Participating Transmission Owner (PTO) service territory. *See* <http://www.caiso.com/1c0c/1c0cde324f2e0.pdf>.

local reliability criteria included in section 40.3 of the MRTU tariff, with the CAISO using RMR contracts for special cases where the ICPM would not be appropriate.⁴²

Comments

30. State Water Project requests specific clarification of section 40.3.1 (Local Capacity Technical Study) regarding the CAISO's definition of "reasonable time" for (1) review of a draft Local Capacity Technical Study; and for (2) PTOs to propose operating solutions. State Water Project argues that it is critical that it be able to insert specific dates into its own planning schedule for establishing its local RA plan for each calendar year.⁴³

31. PG&E supports the new section 40.3.1.2, as well as the specific list of contingencies it will evaluate to determine local capacity area requirements provided in the table. However, PG&E argues that the notes provided at the bottom of the table are not themselves contingencies, but rather a description of criteria for resolving contingencies.⁴⁴ PG&E states that proposed section 40.3.1.1 provides the methods and criteria the CAISO will use to assess contingency resolutions. PG&E notes that the proposed section states, in pertinent part:

[T]he CAISO will apply those methods for resolving Contingencies considered appropriate for the performance level that corresponds to a particular studied Contingency, as provided for in the version of the WECC Reliability Criteria, NERC/WECC Planning Standards I.A, in effect as of the date that the Local Capacity Technical Study is commenced to the extent such application will not result in a violation of Reliability Criteria adopted by the CAISO in accordance with section 5.1.5 of the Transmission Control Agreement.

32. PG&E contends that the notes provided at the bottom of the table in section 40.3.1.2 are, at a minimum, out of place. PG&E also believes the notes may have the potential to conflict with proposed section 40.3.1.1. Thus, PG&E states that in order to avoid a potential conflict between sections 40.3.1.1 and 40.3.1.2, the Commission should require the CAISO to delete the notes from the specific list of contingencies.

⁴² The CAISO also notes that other elements of the Local Capacity Technical Study (i.e., demand forecast data) remain flexible and the subject of collaboration with the CPUC, LRA, and other stakeholders under section 40.3.1.

⁴³ State Water Project September 7, 2007 Comments at 21-22.

⁴⁴ PG&E September 7, 2007 Comments at 10-11.

33. Bay Area Municipals contend that the CAISO's request for approval of the language proposed in sections 40.3.1.1 and 40.3.1.2 is premature, as the planning standards for the Local Capacity Technical Studies are still the subject of review by the CAISO and a stakeholder technical group. For this reason, Bay Area Municipals state that the Commission should withhold acceptance of the proposed language of these two sections until that review has been completed.

34. San Francisco and Bay Area Municipals state that new sections 40.3.1.1 and 40.3.1.2 inappropriately adopt the "NERC/WECC Planning Standards I.A," which are not Commission-approved mandatory and enforceable NERC reliability standards.⁴⁵ They contend that if reliability standards criteria and contingencies are to be included in the MRTU tariff that will form the basis for identifying the magnitude of local capacity that LSEs must procure, the tariff should reference the Commission-approved, mandatory and enforceable NERC reliability standards applicable to Transmission Planners and Planning Authorities, as well as the associated Table I contingencies listed in each of these four planning standards⁴⁶ and/or any successor Commission-approved reliability standards. Bay Area Municipals further contend that the contingency table and qualifying notes for contingency under section 40.3.1.2 is inconsistent with the source documents. Thus, Bay Area Municipals argue that the Commission should require the CAISO to modify the contingency table and qualifying notes to be consistent with the source documents.

35. San Francisco and Bay Area Municipals also state that certain reliability criteria included in the CAISO's transmittal letter,⁴⁷ as well as language proposed in section 40.3.1.1 describing reliability criteria adopted by the CAISO in accordance with section 5.1.5 of the Transmission Control Agreement, should be specifically identified and listed in the MRTU tariff, or otherwise made transparent to all stakeholders, particularly to the extent that they deviate from the Commission-approved NERC Reliability Standards. They contend that section 40.3.1 should be amended to describe, in detail, how load curtailment procedures will be used for NERC/WECC Performance Level C and D

⁴⁵ San Francisco September 7, 2007 Comments and Protest at 7-8; Bay Area Municipals September 7, 2007 Protest at 4.

⁴⁶ San Francisco September 7, 2007 Comments and Protest at 7; Bay Area Municipals September 7, 2007 Protest at 3-4 (citing NERC Reliability Standards TPL-001-0, TPL-002-0, TPL-003-0, and TPL-004-0).

⁴⁷ San Francisco September 7, 2007 Comments and Protest at 7-8; Bay Area Municipals, September 7, 2007 Protest at 4-5 (citing CAISO August 3, 2007 Transmittal Letter, Docket Nos. ER06-615-011 and ER07-1257, at 61).

events. They also assert that the CAISO should describe how the CAISO, Participating Transmission Owners (PTOs), or LSEs can propose manual or automatic load curtailment schemes in the local capacity area resource stakeholder process, the timeline for considering such proposals, the criteria that will be applied in evaluating each proposal and any applicable dispute resolution procedures.⁴⁸

36. NCPA states that because section 5.1.5 of the Transmission Control Agreement and section 215 of the FPA, 16 U.S.C. § 824o (West Supp. 2007), require the CAISO to follow NERC standards, the CAISO's local capacity area resource standards should be consistent with NERC criteria and with the CAISO's obligation to provide economic and efficient transmission.⁴⁹ NCPA states that local capacity area resources are not a requirement of NERC, but rather emanate from an inadequate transmission grid inherited by the CAISO. Therefore, NCPA contends that the Commission should clarify that local capacity area resource obligations are but an interim requirement to be remedied through transmission infrastructure investment. NCPA further states that the Commission should make clear that its approval of this local capacity area resource approach is subject to resolution of the open issues now pending in the stakeholder process.⁵⁰

37. Six Cities contends that section 40.3.1 and its subsections would force them to procure local capacity area resource requirements in excess of their total monthly peak loads in many months of the year because the requirements are derived on a yearly basis. Six Cities requests that the Commission require the CAISO to adjust the local capacity area resource requirements on a seasonal basis, consistent with the load-sensitive criteria on which the Local Capacity Technical Study is based, so as to avoid over-procurement of local capacity area resources during seasons with lower loads.

38. In its reply, the CAISO argues that Six Cities' call for a seasonal adjustment to local capacity area resource requirements should be rejected. The CAISO contends that the original tariff, which has already been accepted, makes it clear that an LSE's local capacity area resource requirements would be a single number and not seasonally adjusted. The CAISO also argues that the benefits to seasonally adjusted local capacity area resource requirements are speculative and likely overstated. The CAISO claims that cost savings and benefits through seasonal adjustments of local capacity area resource

⁴⁸ San Francisco September 7, 2007 Comments and Protest at 7-8; Bay Area Municipals September 7, 2007 Protest at 5.

⁴⁹ CMUA raised similar comments, CMUA September 7, 2007 Motion to Intervene and Protest at 8-9.

⁵⁰ NCPA September 7, 2007 Protest at 18-19.

requirements are likely illusory, and have not been established to overcome the Commission's prior finding that reliance on system peak is a just and reasonable approach to ensuring generators become available. The CAISO also contends that reliance on an annual peak promotes greater protection against the erosion of a planning reserve margin due to unexpected outages.

39. In response to San Francisco and Bay Area Municipals, the CAISO states that their request to modify sections 40.3.1 to describe "how" load curtailments can permissibly be implemented by LSEs for performance level C and D events, the stakeholder process to evaluate manual or automatic load curtailment procedures, and a timeline and dispute resolution process for considering such proposals, should be rejected. The CAISO contends that the current level of detail in the MRTU tariff is sufficient since language in the tariff provides all stakeholders with assurances that the CAISO is under an obligation to implement feasible load curtailment options consistent with reliability criteria, including NERC/WECC standards. The CAISO further states that the Local Capacity Technical Study is performed in a manner that allows PTOs to propose solutions to local capacity area requirements, gives stakeholders the opportunity to review such proposals, and requires the CAISO to allow solutions that are consistent with NERC/WECC standards and specific reliability criteria.

40. In response to San Francisco and Bay Area Municipals' request that reliability criteria beyond the adopted NERC reliability standards be specifically listed in the MRTU tariff, the CAISO states that sections 40.3.1.1 and 40.3.1.2 already do specifically list reliability criteria, but the CAISO states that it agrees that the sections ought to be modified to provide more detail on which reliability criteria are being applied and how they will be used. The CAISO also agrees with the CPUC and PG&E that notes in section 40.3.1.2 more appropriately relate to the CAISO's response to contingencies rather than the contingencies themselves and should be included in section 40.3.1.1 rather than in section 40.3.1.2. The CAISO then sets forth a specific proposal to delete the notes and modify section 40.3.1.1 in response to several entities' concerns.

41. In response to Bay Area Municipals' request that the Commission withhold acceptance of proposed sections 40.3.1.1 and 40.3.1.2 until the CAISO and a stakeholder group review the planning standards for the Local Capacity Technical Studies, the CAISO states that extensive filings on RA as well as two years of stakeholder processes to implement local requirements for 2007 and 2008 have provided the Commission and stakeholders with sufficient information to determine whether the local capacity area resources study process and inputs are just and reasonable.

42. In response to State Water Project's request for clarification of "reasonable time" for review of the draft Local Capacity Technical Study, the CAISO states that a specific schedule will be available in the applicable BPM. The CAISO sets out the proposed schedule beginning in October Year 1 (of MRTU) and ending in May Year 2, with

opportunities for review at several points along the way. The CAISO assures State Water Project that it will have sufficient time to review the draft Local Capacity Technical Study.

43. In response to CMUA, NCPA, and Bay Area Municipals' argument that section 40.3.1.2 should replicate Table 1 from NERC's TPL standards, and that if the CAISO intends to deviate from the NERC/WECC contingency criteria, the CAISO should be required to explain why and parties should be given an opportunity to respond, the CAISO explains that the deviations arose either from the inclusion of the "combined line and generator outage standard" adopted as part of the CAISO's grid planning standards or because not all of the criteria in Table 1 are relevant to the Local Capacity Technical Study. The CAISO also objects to having superfluous information in the tariff.

Commission Determination

44. The Commission finds that the CAISO is in compliance with the Commission's directives in the *June 2007 Order*. The addition of detail to section 40.3.1 about which reliability criteria are being used and how they will be applied, as well as the proposed revisions submitted in the CAISO answer, satisfy the Commission's earlier concerns regarding ambiguity in the MRTU tariff. The Commission accepts the CAISO's explanation regarding the collapsing of the RMR and local capacity studies, and directs the CAISO to file, within 30 days, revised tariff sheets incorporating the changes proposed in its answer.

45. With regard to San Francisco and Bay Area Municipals' request for inclusion in the MRTU tariff of more detail regarding load curtailment procedures, the Commission finds that the CAISO has provided a just and reasonable level of detail and additional detail would not be appropriate in the tariff. The CAISO is obligated to implement feasible load curtailment options consistent with reliability criteria, including NERC/WECC standards. If the Commission were to require that the CAISO describe load curtailment procedures in greater detail, it could deprive the CAISO of necessary flexibility in situations where load curtailment is necessary. This lack of flexibility could result in costlier load curtailment and a less reliable grid during such situations. San Francisco and Bay Area Municipals have not shown how requiring load curtailment procedures consistent with reliability criteria would cause unjust and unreasonable results absent specification of each procedure in the tariff. San Francisco and Bay Area Municipals have therefore not presented benefits sufficient to outweigh the potential costs of adding more detail to the tariff.

46. With regard to San Francisco and Bay Area Municipals' request for inclusion in the MRTU tariff of more detail regarding the Local Capacity Technical Study, the tariff already emphasizes that the Local Capacity Technical Study will be a collaborative process with ample time for stakeholders to review, including assessment of load

curtailment procedures. We reject San Francisco and Bay Area Municipals' request for the CAISO to include a detailed schedule and description of the process by which the Local Capacity Technical Study will be conducted because we find the CAISO's proposal appropriately balances the need for detail with the need for some level of flexibility. Given that the process by which the Local Capacity Technical Study will be conducted is not complete, requiring insertion of such specific detail into the tariff would be premature. Furthermore, we also agree with the CAISO that the BPM, rather than the tariff, is a more appropriate place for specific information regarding the Local Capacity Technical Study because the study will not have a material effect on rates, terms and conditions of service.⁵¹ Therefore, the Commission will not require additional detail.

47. The Commission also finds reasonable the CAISO's assurance that State Water Project, and all stakeholders, will have "reasonable time" to review the draft Local Capacity Technical Study. The CAISO has committed to a collaborative approach that will allow all parties reasonable time to review the Local Capacity Technical Study. The Commission supports this collaborative approach and will not circumvent this stakeholder process by requiring more detail in the tariff than is necessary at this time.

48. The Commission continues to find that using an annual system peak to determine local capacity area resource requirements is a reasonable approach.⁵² While a seasonal adjustment of local capacity area resource requirements may allow LSEs to meet obligations at a lower cost, such adjustments may also make it less likely that sufficient resources are available to ensure system reliability at a reasonable cost throughout the year. This has the potential to raise costs through the need for backstop procurement, could even compromise system reliability, and may be a more risky strategy in the long run. In addition, the tariff provides sufficient flexibility for LSEs to meet their capacity obligations by including such options as the ability to choose between modified reserve sharing and reserve sharing.⁵³ For these reasons, the Commission will reject Six Cities' protest in this instance, and will not require the CAISO to adopt a seasonal adjustment of local capacity area resources.

49. Regarding the composition of the table in section 40.3.1.2, the Commission finds that it is consistent with the CAISO tariff and NERC/WECC standards, given that the contents of the table are NERC TPL standards augmented by the CAISO's reliability criteria. However, the Commission finds that the CAISO needs to explain the contents of

⁵¹ *City of Cleveland v. FERC*, 773 F.2d 1326, 1376 (D.C. Cir. 1985).

⁵² *See September 2006 Order*, 116 FERC ¶ 61,274 at P 1325.

⁵³ *September 2006 Order*, 116 FERC ¶ 61,274 at P 1239-40.

the table in section 40.3.1.2. Accordingly, the CAISO's proposed amendment, contained in its answer, would meet this need. The Commission directs the CAISO to file, within 30 days, revised tariff sheets incorporating the amendment proposed in its reply.

50. The Commission also agrees with the CAISO that the approval of sections 40.3.1.1 and 40.3.2.2 of the MRTU tariff should not be delayed any longer than necessary. The process undertaken thus far has been thorough and informative, and the Commission sees no benefit in waiting to approve these sections of the tariff.

51. In response to NCPA's and CMUA's requests to clarify that the local capacity area resource requirement is merely an interim condition, we believe that as long as conditions that threaten the reliability of the grid exist, the Commission must continue to ensure reliability through policy instruments, such as the ones contained in this MRTU tariff, and through the encouragement of the construction of energy infrastructure.

3. Section 40.3.2 – Allocation of Local Capacity Area Resource Obligation

52. Section 40.3.2 of the proposed tariff states that LSEs will be allocated procurement obligations for all local areas with RA requirements within the Transmission Access Charge (TAC)⁵⁴ area based on the LSE's proportionate share of TAC area peak load, regardless of the location of the LSE's load.

Comments

53. The CPUC and Six Cities contend that a potential consequence of aggregating procurement obligations according to TAC area, as included in section 40.3.2, is that LSEs may over-procure local capacity in some local capacity areas within a TAC area, but not procure enough local capacity in other local capacity areas within the same TAC area. They contend the result may be increased use of CAISO backstop procurement. The CPUC is also concerned that the TAC area methodology would allow some non-CPUC jurisdictional LSEs to cherry pick local area procurement zones in California that are less expensive. Thus, the CPUC contends that the methodology will allocate the most expensive areas to CPUC jurisdictional LSEs. The CPUC also argues that the proposed methodology prevents a more granular allocation of the local procurement obligation

⁵⁴ The Master Definitions Supplement in Appendix A to the MRTU tariff defines TAC area as "the portion of the CAISO controlled grid with respect to which Participating [Transmission Owner's] high voltage transmission revenue requirements are recovered through a high voltage access charge."

based on location of the LSE's load.⁵⁵ CPUC and Six Cities recommend that the local capacity area requirement provisions be amended to require the CAISO to allocate local capacity area requirements on a local capacity area basis to each LSE, as well as to allow LSEs an opportunity for additional procurement to cure deficiencies prior to any CAISO backstop procurement.

54. The CAISO responds to the CPUC and Six Cities' suggestion by stating that the data is not available to allocate the cost of local capacity with greater granularity, so the CAISO believes an allocation methodology based on the location of an LSE's load is not currently practical. The CAISO also disagrees with the contention that assigning discrete local capacity obligations to LSEs is the only reasonable method for allocating responsibility for local capacity backstop costs. The CAISO explains that it elected to aggregate local capacity area minimum requirements to prevent small LSEs from having to buy small or fractional MW quantities in each local capacity area, which might lead to high transaction costs or market power. The CAISO states that it recognizes the concerns identified by the CPUC and Six Cities and would reweigh the considerations if experience demonstrates that its current approach leads to insufficient aggregate LSE portfolios and a concomitant need for the CAISO backstop procurement or, alternatively, upon the implementation of a capacity market that would facilitate procurement by small LSEs.

Commission Determination

55. The Commission finds that allocating procurement obligations according to an LSE's contribution to TAC area peak load is a just and reasonable method of allocation. While the Commission recognizes that this may not result in a perfectly precise allocation of capacity procurement obligations, any method of allocation will result in similar imperfections and distortions, as the CAISO illustrates with its example of the small LSEs.⁵⁶ A method that allocates procurement obligations according to an LSE's contribution to TAC area peak load results in easily quantifiable obligations for each

⁵⁵ CPUC September 7, 2007 Comments at 12-13 and 15-16; Six Cities September 7, 2007 Motion to Intervene and Protest at 13-14. The CPUC aggregates local capacity areas in the TAC area corresponding to PG&E's service territory, except for the "Greater Bay Area." The CPUC does not aggregate local capacity areas in the TAC area corresponding to SoCal Edison's service territory. Aggregation is irrelevant in the southern TAC area, given that San Diego Gas & Electric's service territory contains only one local capacity area.

⁵⁶ See CAISO October 5, 2007 Reply Comments at 23.

LSE. It also fits well into the current market design of the CAISO, as many provisions in the tariff already use the TAC area to determine charges, such as the high voltage access charge.⁵⁷

4. Section 40.3.4 – Procurement of Local Capacity Area Resources by the CAISO

56. In the *June 2007 Order*, the Commission found that the CAISO did not adequately justify why it omitted the opportunity for an LSE to cure its RA deficiency before the CAISO engages in backstop procurement.⁵⁸ As a result, the Commission directed the CAISO to modify section 40.3.4 to give LSEs an opportunity to cure a deficiency in their local capacity area resource requirements prior to any action by the CAISO. In its compliance filing, under section 40.3.4(a), the CAISO defers backstop procurement for an LSE-specific deficiency until after the deficient LSE has had the opportunity to supplement its RA plan as permitted by the CPUC, LRA, or federal agency.⁵⁹

Comments

57. The City of Santa Clara, California and M-S-R Public Power Agency (collectively SVP/M-S-R) contend that the provisions regarding backstop procurement of resources are incomplete and fail to comply with the Commission's directive. While SVP/M-S-R agree that the CAISO must have the ability to procure backstop local capacity area resources when an LSE's Scheduling Coordinator fails to demonstrate procurement of sufficient resources,⁶⁰ they argue that section 40.3.4(b) allows the CAISO to acquire backstop resources even if all Scheduling Coordinators demonstrate that they acquired sufficient local capacity area resources to meet the requirements established by the CAISO. SVP/M-S-R contend that the proposed tariff language leaves the CAISO with too much procurement discretion, and increases the uncertainty regarding the allocation of backstop procurement costs.⁶¹

⁵⁷ CAISO FERC Electric Tariff Third Replacement Volume No. II at First Revised Sheet No. 531.

⁵⁸ *June 2007 Order*, 119 FERC ¶ 61,313 at P 379.

⁵⁹ CAISO August 3, 2007 Transmittal Letter, Docket Nos. ER06-615-011 and ER07-1257, at 64.

⁶⁰ See section 40.3.4(a) of the MRTU tariff.

⁶¹ SVP/M-S-R, September 7, 2007 Protest at 3-4.

58. SVP/M-S-R also state that section 40.3.4 inappropriately cross references section 11.20 as the mechanism for allocating costs of local capacity backstop procurement. They argue that section 11.20, which is currently labeled “Not Used,” fails to provide a mechanism for allocating costs of local capacity backstop procurement.⁶²

59. CMUA and Six Cities state that the Commission cannot accept provisions allowing the CAISO to engage in backstop procurement without understanding and evaluating how the CAISO will recover and allocate backstop procurement costs.⁶³ They contend that the Commission should require the CAISO to submit the allocation provisions for comment by market participants and review by the Commission in sufficient time for the provisions to be modified or accepted before MRTU implementation.

60. In its reply, the CAISO acknowledges that implementation of section 40.3.4 is contingent upon acceptance of the cost allocation provisions of the backstop capacity procurement program, (also known as the ICPM), which is to be filed in January 2008. Thus, the CAISO requests that the Commission conditionally approve section 40.3.4 of the MRTU tariff.⁶⁴

61. The CAISO states, however, that it does not believe that the decision whether to comply with RA obligations should properly be considered an economic decision. It states that LSEs are under an independent obligation to procure local capacity in which the CPUC establishes the obligation for its jurisdictional LSEs.⁶⁵ Further, until the ICPM is approved, the CAISO states that it will rely upon RMR tariff revisions to provide any necessary backstop local capacity. The CAISO contends that the Commission has

⁶² WPTF raised similar concerns with regard to allocation backstop procurement costs. WPTF September 7, 2007 Motion to Intervene and Protest at 19-20.

⁶³ CMUA September 7, 2007 Protest at 5-7; Six Cities September 7, 2007 Motion to Intervene and Protest at 11-12.

⁶⁴ CAISO October 5, 2007 Reply Comments at 28.

⁶⁵ Public Utilities Code section 9620 covers the RA requirements for publicly owned utilities. Specifically, the CAISO states that subdivision (b) of Public Utilities Code section 9620 provides: “Each local publicly owned electric utility serving end use customers shall, at a minimum, meet the most recent minimum planning reserve and reliability criteria approved by the... [WECC].” As noted above, the local capacity requirements are based on meeting WECC system performance standards and therefore complement the legal obligation imposed by Public Utilities Code section 9620.

already approved the cost allocation under RMR provisions.⁶⁶ Finally, the CAISO further asserts that the reasonableness of the procurement cost under the ICPM is a separate issue that can, and should, be addressed when the CAISO files the ICPM proposal.⁶⁷

Commission Determination

62. Contrary to CMUA's and Six Cities' contention regarding the allocation of backstop procurement costs, the Commission finds that we have enough information in this proceeding to evaluate the justness and reasonableness of the backstop procurement process. As to cost allocation, we note that the CAISO plans to submit cost allocation provisions for its backstop capacity procurement program later in January 2008. Accordingly, we will defer action on the cost allocation provisions until the CAISO makes this filing.

63. Regarding the CAISO's modification to section 40.3.4, SVP/M-S-R express concern about the CAISO's ability to procure backstop resources despite the fact that each LSE has sufficiently met its local capacity area resource requirements. We find it reasonable to allow the CAISO the flexibility to engage in backstop procurement activities even though LSEs have adequately met their immediate local capacity obligation. We believe this flexibility is appropriate for those unforeseen circumstances where the CAISO must act in response to a system contingency (*e.g.* transmission outage) that prevents an LSE from meeting its local procurement obligation in its applicable TAC area location. We also emphasize the necessity of this approach because the CAISO is responsible for maintaining the efficiency and reliable operation of the transmission grid consistent with the NERC planning standards. In addition, we note that the CAISO is under an obligation to meet other applicable reliability criteria under its Transmission Control Agreement. While the CAISO has discretion to engage in backstop procurement, we continue to believe there are adequate safeguards to mitigate concerns regarding unnecessary backstop procurement of local capacity area resources.⁶⁸ For example, we note that section 40.3.4.2 (Local Capacity Area Procurement Report) provides that the CAISO must explain the reasons for over-procurement and publish a report on the CAISO website showing the local capacity area resources procured under section 40.3.4, the amount of capacity procured, the duration of procurement, the

⁶⁶ CAISO October 5, 2007 Reply Comments at 40.

⁶⁷ *Id.*

⁶⁸ *September 2006 Order*, 116 FERC ¶ 61,274 at P 1192; *see also June 2007 Order*, 119 FERC ¶ 61,313 at P 382.

reason(s) for the procurement, and all payment itemized to each local capacity area. This report should provide transparency to the CAISO's backstop procurement process that is sufficient to ameliorate SVP/M-S-R's concerns.

64. For these reasons, we accept the proposed MRTU tariff language under section 40.3.4, allowing the CAISO to engage in backstop procurement activities: (1) when an LSE fails to meet its obligation; and (2) when the applicable reliability criteria cannot be met despite the fact that each LSE has sufficiently procured the minimum amount of local capacity area resources. We also note that our acceptance is without prejudice to the CAISO filing further modifications, if necessary, to coincide with the cost allocation provisions of its backstop procurement program.

5. Section 40.4.7 – Submission of Supply Plans

65. In the *April 2007 Order*, the Commission agreed that generation capacity under bilateral contract or committed for minimum operating reserves should not be offered as RA capacity, because this capacity cannot meet the availability requirements under resource adequacy. However, the Commission found that this issue was more appropriately addressed through verification of supply plans that Scheduling Coordinators representing RA resources are required to submit under section 40.4.7.⁶⁹ Accordingly, the Commission directed the CAISO to amend its tariff to provide that Scheduling Coordinators representing RA capacity must show that their generation capacity is not already under bilateral contract or committed for minimum operating reserves.⁷⁰

66. In its compliance filing, the CAISO modified section 40.4.7 to explicitly require an affirmative representation from the Scheduling Coordinator of the accuracy of the information in the supply plan (i.e., the RA capacity will be available to the CAISO). Specifically, the CAISO modified section 40.4.7 to state the following:

. . . The Supply Plan must be in the form of the template provided on the CAISO Website, which shall include an affirmative representation by the Scheduling Coordinator submitting the Supply Plan that the CAISO is entitled to rely on the accuracy of the information provided in the Supply

⁶⁹ It is our understanding that Scheduling Coordinators will provide the CAISO with an annual and monthly supply plan verifying LSEs' agreement to provide any RA capacity.

⁷⁰ *April 2007 Order*, 119 FERC ¶ 61,076 at P 618.

Plan to perform those functions set forth in this section 40. The CAISO shall be entitled to take reasonable measures to validate the accuracy of the information submitted in Supply Plans under this section.⁷¹

Comments

67. State Water Project contends that the Commission should encourage the CAISO to specify precisely the measures that the CAISO plans to assume under section 40.4.7 to validate the accuracy of supply plans and how, in such circumstances, the CAISO will defer to the LRA.

68. The CAISO responds that it will contact the Scheduling Coordinator for the supplier, which may or may not also be affiliated with an LRA, to determine if the quantity submitted is accurate. If the amount is in excess of the resource's net qualifying capacity, the CAISO states that it will reduce the amount in the supply plan. However, if the reported RA capacity is simply different from that included in prior reports, the CAISO asserts that it may contact the Scheduling Coordinator to confirm the accuracy of the supply plan.⁷² Finally, the CAISO indicates that it will defer to the LRA for determining qualifying capacity, but to the extent there is a disagreement between the supply plan of the resource and the RA plan of the LSE, the CAISO will follow the supply plan.⁷³

Commission Determination

69. We find reasonable State Water Project's request that the CAISO clarify the measures it will use to validate the accuracy of supply plans and how, in such circumstances, the CAISO will defer to the LRA. Given the CAISO's clarification in its answer that it will contact Scheduling Coordinators to confirm the accuracy of the supply plan, and the fact that the CAISO will defer to the LRAs for determining qualifying capacity, we find the CAISO has adequately addressed State Water Project's concern. However, the MRTU tariff should reflect these procedures. We therefore direct the CAISO to modify section 40.4.7 to include the course of action the CAISO will take to validate supply plans, and submit this tariff modification within 30 days of the date of this order.

⁷¹ CAISO August 3, 2007 Modifications to MRTU Tariff section 40.4.7, Docket Nos. ER06-615-011 and ER07-1257-000 (black-lined version).

⁷² CAISO October 5, 2007 Reply Comments at 32.

⁷³ *Id.*

6. Information Requirements for Coincident Peak Demand

70. In the *April 2007 Order*, the Commission granted the CAISO's request for rehearing and agreed that coincident peak demand determination should be made by one entity and that the CEC is best suited to provide this service, both for the CPUC and non-CPUC jurisdictional LSEs.⁷⁴ Alternatively, the Commission stated that if the CEC is somehow not able to provide this service, the CAISO would be required to implement such change as the provider of demand forecast information for such non-CPUC jurisdictional LSEs. The Commission directed the CAISO to file amended tariff sheets to reflect this modification.⁷⁵

71. In its compliance filing, the CAISO made several changes to sections 40.2.2.3, 40.2.3.3, and 40.2.4 of the MRTU tariff, clarifying that all forward demand forecasts should rely on those developed by the CEC. The CAISO further explains that reliance on the CEC demand forecast also has necessitated other conforming changes. First, section 40.5.2 addresses the accuracy of demand forecasts submitted by modified reserve sharing LSEs. Because the CEC and not the modified reserve sharing LSE prepare the demand forecasts, the CAISO contends there is no need for assessing the accuracy of the annual and monthly demand forecasts. Second, the CAISO states that section 40.3.2 currently proposes to allocate responsibility for local capacity area resources based on historic contribution to the CAISO control area peak from the prior year. However, the CAISO notes that the use of historic data for a local capacity obligation conflicts with the current Local Capacity Technical Study methodology. As a result, the CAISO proposes to amend section 40.3.2 to also rely on CEC demand forecasts. Finally, the CAISO notes that section 20, relating to confidentiality, was altered to acknowledge that the CAISO may exchange otherwise confidential demand information with the CEC to facilitate its role in developing demand forecasts.⁷⁶

Comments

72. State Water Project asserts that the CAISO's reporting requirements under section 40.2.2.3 require further development. Specifically, State Water Project is concerned that

⁷⁴ See generally *September 2006 Order*, 116 FERC ¶ 61,274 at P 1324-1326.

⁷⁵ *April 2007 Order*, 119 FERC ¶ 61,076 at P 638.

⁷⁶ The CAISO states that it will only provide this information to the CEC if the CEC determines the information also warrants confidential treatment under the California Public Records Act. CAISO August 3, 2007 Modifications to MRTU Tariff, ER06-615-011 and ER07-1257-000, Volume 1 A at 68.

RA templates designed for conventional LSE loads and resources intended exclusively to support the CAISO grid are not suited to State Water Project's hydroelectric and other use-limited resources essential for public health and safety water management mandates.

73. In its answer, the CAISO disagrees with State Water Project's assertion that section 40.2.2.3 needs further development. According to the CAISO, section 40.2.2.4 already provides the CAISO with the necessary flexibility to work with LSEs whose circumstances legitimately do not conform to the general RA reporting templates. The CAISO further notes that it has no objection to exercising its discretion to accommodate State Water Project's admittedly unique circumstances. For these reasons, the CAISO contends that no additional tariff modifications are necessary.⁷⁷

Commission Determination

74. We disagree with State Water Project's assertion that the further refinements to the reporting requirements under section 40.2.2.3 are necessary. We find the tariff section generally indicates "Scheduling Coordinators for CPUC and Non-CPUC LSEs subject to section 40.2.1.1(b) electing reserve sharing LSE status must provide annual and monthly demand forecast on the schedule and *in the reporting format(s)* set forth in the Business Practice Manual."⁷⁸ While the tariff does not explicitly discuss RA templates for hydroelectric and other use-limited resources, it appears that section 40.2.2.3 will provide multiple reporting formats to accommodate both conventional and non-conventional LSE loads and resources. We also believe that such details are more appropriately set forth in the applicable BPM rather than the MRTU tariff.⁷⁹ We also accept the CAISO's commitment to explore various reporting formats that may address State Water Project's unique circumstance. Thus, we find that the CAISO has satisfied the Commission's directive and no further modifications are required.

D. Resource Adequacy Changes under Section 205

1. Section 40.3.4.2 – Local Capacity Area Procurement Report

75. In the *September 2006 Order*, the Commission found that the CAISO's proposed safeguards in section 40.3.4 mitigate concerns that the CAISO might undertake

⁷⁷ CAISO October 5, 2007 Reply Comments at 37.

⁷⁸ CAISO August 3, 2007 Modifications to MRTU Tariff section 40.2.2.3, ER06-615-011 and ER07-1257-000 (emphasis added).

⁷⁹ *City of Cleveland*, 773 F.2d at 1376.

unnecessary backstop procurement of local capacity area resources. Specifically, the Commission indicated that these safeguards addressed the need for transparency and justification for backstop procurement of local capacity area resources.⁸⁰ Despite our finding, the CAISO stated its intention to clarify its proposed process of safeguards in the BPM. The Commission, instead, directed the CAISO to include these safeguards in the MRTU tariff.⁸¹

Comments

76. SVP/M-S-R contend that the CAISO's August 3, 2007 compliance filing diminishes the benefits of the previously approved language by allowing 90 days for the CAISO to publish its reports. SVP/M-S-R oppose a 90-day delay because it prevents meaningful opportunities to challenge the basis for backstop procurement. Six Cities and CMUA also contend that the proposed timeframe will not provide LSEs adequate notice of the additional procurement costs. Six Cities and CMUA argue that the Commission should require the CAISO to post a report within 10 days after the end of each month: (1) identifying any backstop procurement of capacity that took place within that month and the associated costs; or (2) stating that no backstop procurement of capacity was necessary for that month. SVP/M-S-R believe the Commission should require the CAISO to justify its procurement decisions at the time it executes its backstop procurement authority.

77. The CAISO, in its answer, indicates that it does not object to the proposed modification to post the report within 10 days after the end of each month.

Commission Determination

78. As noted above in paragraphs 18-19, we accept the CAISO's commitment to report the quantity, duration and cost of any backstop procurement of local capacity area resources within 10 days after the end of the month. Unlike the previous 90-day reporting obligation, we find that the 10-day reporting obligation will allow market participants an opportunity to examine the CAISO's procurement activities and the costs incurred from the CAISO's backstop procurement decisions in a more timely manner.

⁸⁰ *September 2006 Order*, 116 FERC ¶ 61,274 at P 1192.

⁸¹ The CAISO modified section 40.3.4.2 to provide that the CAISO will report the quantity, duration and cost of any backstop procurement of local capacity area resources. The Commission accepted this modification as providing sufficient oversight to the CAISO's backstop procurement process. *See June 2007 Order*, 119 FERC ¶ 61,313 at P 381.

We deny SVP/M-S-R's request to report procurement data immediately following the backstop of an RA resource, as this process may prove to be administratively burdensome for the CAISO. Thus, we direct the CAISO to file the proposed tariff modification, as discussed above, within 30 days of the date of this order.

2. Section 40.4.2 – Net Qualifying Capacity Report

Comments

79. PG&E notes that section 40.4.2 states that “[t]he Net Qualifying Capacity of any resource included in the annual report, once posted to the CAISO Website, shall not be reduced by the CAISO for the next Resource Adequacy Compliance Year.” PG&E agrees with the intent of this section, but is concerned that the absolute prohibition would preclude the remediation of inadvertent typographical or other errors. PG&E contends that the CAISO should be free to amend the annual report to correct such errors, provided it explains and offers a remedy for the errors. PG&E believes the CAISO should modify the proposed tariff language to provide this administrative flexibility to amend the annual report.⁸²

80. Six Cities and CMUA believe the CAISO should provide notification of any proposed changes to the net qualifying capacity value and supporting analyses to affected Scheduling Coordinators within 10 days of the CAISO's determination that such a change is appropriate, but not later than 15 days prior to the posting of the net qualifying capacity annual report. They assert that this early notification will ensure that Scheduling Coordinators have timely notice of changes.⁸³

81. The CAISO agrees with PG&E that inadvertent errors should be correctable. However, it disagrees that the MRTU tariff should permit changes after publication of the annual net qualifying capacity report. The CAISO states that LSEs should be able to reliably procure resources based on the information included in the annual report and, therefore, errors should be fixed prior to the report's publication.⁸⁴ The CAISO further

⁸² PG&E September 7, 2007 Comments at 12.

⁸³ Six Cities September 7, 2007 Comments at 14-15.

⁸⁴ Section 40.4.2 provides that “any changed proposed to be made to a net qualifying capacity value for a resource included in a prior annual report shall be explained, and any test results or analyses underlying the change provided, to the Scheduling Coordinator upon request at least 15 days prior to posting on the CAISO's website of the annual report.”

avers that LSEs should not be at risk that the net qualifying capacity it secured under contract will change for the next year.

82. In response to Six Cities and CMUA's recommendation that the CAISO notify affected Scheduling Coordinators of any changes in a resource's net qualifying capacity, the CAISO supports the proposed modification and commits to file tariff sheets reflecting this change.

Commission Determination

83. We find reasonable the CAISO's proposal to prohibit generating owners and Scheduling Coordinators from changing net qualifying capacity data after publication of the CAISO's annual report. It is our understanding that the annual net qualifying capacity report includes a list of resources that LSEs could rely upon to satisfy RA requirements. While we believe generating owners should have an opportunity to correct inadvertent errors, LSEs should have the assurance that any procurement of capacity to meet its RA requirement is available at the time LSEs secure a contract. To allow generators to modify their net qualifying capacity value beyond the correction period provided in section 40.4.2 introduces uncertainty and potentially additional procurement costs due to backstop procurement activities by the CAISO. As a result, we find the proposed tariff language strikes a reasonable balance between the dissemination of accurate data and the ability to update this data prior to the CAISO publishing the report on its website, and we will accept it.

84. We also accept the CAISO commitment to notify Scheduling Coordinators of any change in net qualifying capacity values and, therefore, direct the CAISO to file appropriate tariff sheets to reflect this change in a compliance filing within 30 days of the date of this order.

3. Section 40.4.6.1 – Deliverability Within the CAISO Control Area

85. The CAISO proposes modifying section 40.4.6.1 of the MRTU tariff to state the following:

[I]n order to determine Net Qualifying Capacity from RA resources subject to this section 40.4, the CAISO will determine that a RA resource is available to serve the aggregate of load by means of a deliverability study. . . . The deliverability study will be performed annually and shall focus on peak demand conditions. The results of the deliverability study shall be incorporated into the Net Qualifying Capacity annual report under section 40.4.2 and will be effective for the next Resource Adequacy Compliance Year.

Comments

86. Six Cities opposes the new tariff language under section 40.4.6.1, as, in Six Cities' opinion, the analysis does not provide adequate stability for long-term procurement of RA Resources. Six Cities asserts that, at a minimum, the Commission should direct the CAISO to adopt a proactive transmission expansion process that includes as an objective continuing deliverability of RA resources.

87. In its reply, the CAISO contends that the Commission has already rejected its attempt to incorporate a duty to prevent degradation of resource deliverability in the context of the interim reliability requirements program (IRRP), and that the Commission repeated this directive in the *September 2006 Order*. The CAISO also states that the Commission previously accepted provisions of the IRRP providing that the deliverability analysis will be effective for a period no shorter than the next calendar year. In summary, the CAISO states that while it may agree that greater stability is desirable and that developing longer term deliverability tests may be appropriate, the annual deliverability assessment is nevertheless just and reasonable.

88. Finally, the CAISO also states that in reaching its conclusion the Commission implicitly recognized that it may not be economically efficient to build transmission solely in order to retain a particular resource's deliverability.

Commission Determination

89. The CAISO is correct when it states that the Commission has rejected its attempts to incorporate a duty to prevent degradation of resource deliverability in the context of the IRRP, and that the Commission has already approved an annual deliverability assessment.⁸⁵ Six Cities has provided the Commission with no new evidence or arguments that would compel the Commission to abandon this approach and replace it with the longer term approach suggested by Six Cities. Accordingly, the Commission will not require CAISO to modify the proposed tariff provision.

4. Sections 40.4.6.2.1 (step 8); 40.6.2.2.1; and 40.6.2.2.2

90. Sections 40.4.6.2.1 (step 8), 40.6.2.2.1, and 40.6.2.2.2 provide that the CAISO will post notifications of transfers of import capability allowances for RA purposes.

⁸⁵ See *Cal. Indep. Sys. Operator Corp.*, 115 FERC ¶ 61,172, at P 84 (2006).

Comments

91. Six Cities and CMUA state that because the CAISO has not always fulfilled reporting obligations under the tariff within the time specified in the tariff, market participants are not able to assume that the absence of a posting implies the absence of the events or occurrences. Six Cities and CMUA recommend that the Commission require the CAISO to confirm that it has not received notification of any transfers of import capability allowances for RA purposes when that is the case.⁸⁶

92. WPTF objects that the CAISO is requiring a “per MW” price for all bilateral transactions. WPTF claims that the CAISO has no need for recording pricing information on these transactions.

93. In its answer, the CAISO responds to the posting recommendation by Six Cities and CMUA by stating that such a recommendation would place a needless burden on the CAISO by forcing it to constantly report the absence of activity. The CAISO states that this is especially true with transactions under section 40.6.2.2.2, since that section deals with transactions that can occur at any time of the year after the initial assignment process.⁸⁷

94. In response to WPTF, the CAISO states that such pricing information is needed because the Commission requires it.⁸⁸

Commission Determination

95. The Commission agrees that requiring the CAISO to report inactivity would be unnecessary and burdensome. If the CAISO were forced to report that no activity has been recorded, this message would most likely only serve as a placeholder for an absence of a posting.

96. It appears that Six Cities and CMUA are concerned with the CAISO’s alleged failure to report activity in a timely manner. The referenced tariff sections already require prompt postings or posting by a deadline, so it does not appear that additional tariff language is necessary to solve whatever problem exists. If the CAISO fails to

⁸⁶ Six Cities September 7, 2007 Comments at 15; CMUA September 7, 2007 Comments at 8.

⁸⁷ CAISO October 5, 2007 Reply Comments at 31.

⁸⁸ *Id.*

comply with its tariff obligations, Six Cities and CMUA should refer the specific instances where the CAISO has failed to report activity in a timely manner to the Commission's hotline so that the issue may be dealt with in an appropriate and reasonable manner. The Commission, accordingly, will not require the CAISO to adopt Six Cities' and CMUA's proposal.

97. The Commission also finds that the CAISO is correct in its assertion that the Commission has required it to record the pricing information protested by WPTF.⁸⁹ Essentially, the WPTF's argument is a collateral attack on a prior Commission order. Accordingly, we will deny WPTF's request that the CAISO not provide this information.

5. Section 40.6.4.1 – Registration of Use-Limited Resources

98. Under section 40.6.4.1, resources with physical or regulatory operating limitations may register with the CAISO as use-limited resources. The CAISO states that previously, given their recognized operating limitations, hydroelectric generating units were exempt from the requirement to seek use-limited resource status. In its compliance filing, the CAISO proposes to modify section 40.6.4.1 to expand the exemption to participating load and pumping load.⁹⁰

Comments

99. Six Cities claims that the CAISO has not yet posted a registration form, even though the BPM for reliability requirements indicates that this form is to be submitted in September 2007. Six Cities urges the Commission to direct the CAISO to post the registration form immediately. Further, Six Cities states that the Commission should require the CAISO to undertake a prompt review of the requirements for use plans, bidding, and availability applicable to use-limited resources, in light of MRTU developments subsequent to the issuance of the August 2005 proposal.

100. In its reply, the CAISO states that it recognizes the need for the actions requested by Six Cities, and that it intends to undertake them in the near future.⁹¹

⁸⁹ *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,164, at P 30 (2007).

⁹⁰ CAISO August 3 Transmittal Letter, Docket Nos. ER06-615-011 and ER07-1257, at 18.

⁹¹ CAISO October 5, 2007 Reply Comments at 40.

Commission Determination

101. We recently addressed this issue in the context of approving the CAISO's proposed changes to its current tariff.⁹² In that *December 2007 Order*, we directed the CAISO to post the draft registration form for use-limited resources and complete the stakeholder process it had committed to within 15 days of the date of that order.⁹³ We expect the CAISO to have complied with that directive by now. Our resolution of the registration form issue in that proceeding renders Six Cities' objection moot.

6. Section 40.6.4.2 – Use Plan

102. Under section 40.6.4.2, the Scheduling Coordinator is required to provide for the following RA compliance year a proposed annual use plan for each use-limited resource that is an RA resource. The proposed annual use plan will delineate on a month-by-month basis the total MWhs of generation, total run hours, expected daily supply capability (if greater than four hours) and the daily energy limit, operating constraints, and the timeframe for each constraint.

103. In its compliance filing, the CAISO modified section 40.6.4.2 to explicitly acknowledge that “[h]ydroelectric Generating Units and Pumping Load will be able to update use plans intra-monthly as necessary to reflect evolving hydrological and meteorological conditions.” The CAISO also modified this section to be consistent with the CAISO's practice of utilizing BPMs to set forth procedural schedules.⁹⁴

Comments

104. State Water Project is concerned that it may not be able to meet the stringent reporting requirements under section 40.6.4.2. State Water Project explains that it has encountered unavoidable delays in software acquisition and implementation necessary to satisfy the MRTU reporting requirements. Additionally, State Water Project states that it did not anticipate the CAISO's additional reporting requirements for use-limited participating load. Thus, State Water Project seeks confirmation that the reporting

⁹² See *December 2007 Order*, 121 FERC ¶ 61,258 at P 26.

⁹³ *Id.* The *December 2007 Order* was issued December 14, 2007.

⁹⁴ CAISO August 3, 2007 Transmittal Letter, Docket Nos. ER06-615-011 and ER07-1257, at 18-19.

requirements are not for compliance purposes. It further seeks verification that deviations in reporting and updates will not subject the Scheduling Coordinator to penalties.⁹⁵

105. In response to State Water Project, the CAISO states that use plans will not form the basis of any CAISO enforcement actions, and that deviations from the use plan will not subject the resource Scheduling Coordinator or the owner to potential penalties. The CAISO states that it may seek further information if deviations from the use plan persist or are substantial.⁹⁶

Commission Determination

106. The CAISO's clarification resolves State Water Project's concern that reporting requirements for use-limited participating load are for compliance purposes and deviations in reporting and updates could subject the Scheduling Coordinator to penalties. Accordingly, the Commission will not require any further action.

7. Section 40.2.2.4 – Annual and Monthly Resource Adequacy Plan

107. Section 40.2.2.4 states that “the Scheduling Coordinator for a Non-CPUC Load Serving Entity or a CPUC Load Serving Entity. . . electing Reserve Sharing LSE status must provide annual and monthly Resource Adequacy Plans for such Load Serving Entities, on a schedule and in the reporting format(s) set forth in the Business Practice Manual.”

Comments

108. State Water Project seeks the addition of clarifying language to section 40.2.2.4, to require specification of local capacity area resources in annual and monthly RA plans. Specifically, State Water Project states that the CAISO should clarify any potential relationship between updates to use-limited resource plans and monthly demand forecast.⁹⁷

109. In the CAISO's answer, it contends that there is no regulatory requirement that the use-limited resource plans and the monthly demand forecasts match, and that any

⁹⁵ State Water Project September 7, 2007 Comments at 18.

⁹⁶ CAISO October 5, 2007 Reply Comments at 38.

⁹⁷ State Water Project September 7, 2007 Comments at 19.

practical relationship will be reconciled by CEC demand forecast protocols. The CAISO also states that it recognizes that State Water Project's demand and resource capacity and availability fluctuate with changing hydrological conditions, and recommends that State Water Project work with the CEC to improve the accuracy of demand forecast protocols applied to State Water Project.⁹⁸

Commission Determination

110. As the CAISO notes, section 40.2.2.4 already contains language requiring the Scheduling Coordinators to include local capacity area resources procured by LSEs in the annual RA plan, and local capacity area resources that the LSE will rely upon to satisfy the applicable month's peak hour demand. Accordingly, we will not require the clarifying language requested by State Water Project.

8. Section 40.7– Resource Adequacy Compliance

111. Under section 40.7, the CAISO will evaluate whether each annual and monthly RA plan submitted by the Scheduling Coordinator demonstrates RA capacity sufficient to satisfy the LSE's allocated responsibilities. If the CAISO determines that an RA plan does not demonstrate sufficient local area capacity resources or applicable reserve requirements, the CAISO will notify the Scheduling Coordinator for the LSE, other relevant regulatory authorities, and, if appropriate, the Scheduling Coordinator for the Local Area Capacity Resource in an effort to informally resolve the deficiency. If the deficiency, i.e., reporting error, is not resolved through this informal process, the LSE shall have until thirty (30) days prior to the beginning of the Resource Adequacy Compliance Year to submit a revised annual RA plan.⁹⁹

Comments

112. State Water Project contends that the CAISO should modify its RA tariff language to address clear notice and due process provisions in the event of disputes, particularly as

⁹⁸ CAISO October 5, 2007 Reply Comments at 16.

⁹⁹ Accordingly, based on the current definition of Resource Adequacy Compliance Year, the CAISO states that LSEs will have, if permitted by their regulatory authority, until December 1 to cure any deficiency in their local capacity area resource procurement. LSE-specific deficiencies that arise after submission of the annual Resource Adequacy Plan and are revealed through the monthly Resource Adequacy Plan may be corrected, similar to all types of errors in the monthly Resource Adequacy Plans, up until ten days prior to the effective month.

this pertains to circumstances where competing interests must be considered (such as the State Water Project's primary responsibility to manage water).¹⁰⁰

113. State Water Project also argues that the CAISO should revise section 40.7 to require the CAISO to recognize: (1) a clear deference to each LRA; and (2) the ability of an LRA to elect a lesser degree of reliability. Additionally, State Water Project argues that the Commission should require the CAISO to establish clear deadlines for the CAISO to act in providing notice and opportunity to cure, in addition to those set forth for Scheduling Coordinators representing LSEs.

114. In its reply, the CAISO asserts that section 40.7 already provides clear notice, deadlines, and an obligation to provide justifications for the CAISO's decisions regarding RA plan compliance. The CAISO also notes that section 37 sets clear procedures for the application of penalties, and that due process is further established through the Alternative Dispute Resolution (ADR) process in section 13. The CAISO also states that it expects disputes regarding the dispatch of State Water Project resources to be minimal because State Water Project's resources, which the CAISO assumes are hydroelectric resources and pumping loads, remain under the control of the Scheduling Coordinator for the resource and are not subject to must offer obligations.¹⁰¹

115. The CAISO also states that it does not believe changes to section 40.7 are warranted, and that it does not believe the deference requested is appropriate. The CAISO states that section 40.7 identifies the CAISO as the entity that determines whether local capacity was provided in a quantity sufficient to avoid backstop procurement, so the CAISO explains that it would be unreasonable for LRAs to determine whether they should be able to avoid cost consequences for failing to provide sufficient local capacity. However, the CAISO offers that in making such a determination it will rely on resources' net qualifying capacity values, which incorporate qualifying capacity determinations by the LRAs. The CAISO adds that section 40.7 simply provides notice for the LRA or the CPUC of a need for correction, and that this has been incorporated in all CAISO resource adequacy filings from IRRP to MRTU.

Commission Determination

116. The Commission finds that section 40.7 is sufficiently detailed as filed, and therefore we will accept it. The section already contains a workable schedule with clear

¹⁰⁰ State Water Project September 7, 2007 Comments at 20.

¹⁰¹ CAISO October 5, 2007 Reply Comments at 33, 34.

deadlines to resolve any deficiencies or disputes resulting from the reporting of the RA plans. Also, as the CAISO notes, its tariff already contains procedures for resolving disputes.

117. The Commission also finds that additional language emphasizing deference to LRAs would not be appropriate in this section. As State Water Project points out, the Commission has already provided that LRAs will have the right to set their own reserve margin. If State Water Project is requesting an addition to the tariff that simply recognizes that principle, we find such an addition superfluous and unnecessary. If State Water Project is asking for further deference to the LRAs beyond that which we have already granted, it would seem that State Water Project is asking for an “opt out” clause to certain provisions of the tariff, since the right to choose a “lesser degree of reliability” would give LRAs the ability to ignore the local capacity area resources that are derived from the Local Capacity Technical Study. This would make the RA provisions of the tariff akin to a system of optional recommendations and would not fulfill the Commission’s responsibility to ensure the reliability of the grid. As we have stated before, we have a responsibility to ensure that the system is reliable and that entities comply with the RA provisions of the tariff because the reliability of the grid has an impact on rates, and the actions of individual entities with respect to RA can affect the reliability of the grid.¹⁰² Therefore, we find that State Water Project’s suggested revision is not appropriate, and we will deny it.

E. Other Issues Raised Concerning Resource Adequacy Tariff Provisions

1. Authority to Approve

118. State Water Project seeks confirmation that the CAISO recognizes that it has no tariff authority to enforce LSEs’ provision of RA plans that meet the MRTU criteria prior to the effective date of the MRTU tariff provisions.¹⁰³

119. State Water Project also argues that the CAISO’s allocation of local capacity area resource obligations under section 40.3.2 has the effect of a public utility rate, inasmuch as it imposes potential costs on LSEs, but provides no mechanism for those paying these costs or for the Commission to examine the justness and reasonableness of the underlying data or the allocation outcomes.

¹⁰² *September 2006 Order*, 116 FERC ¶ 61,274 at P 1113.

¹⁰³ State Water Project September 7, 2007 Comments at P 16.

120. In response to State Water Project's request for clarification concerning the CAISO's authority before the effective date of the MRTU tariff, the CAISO states that it understands its current tariff authority and plans to seek approval of earlier effectiveness of appropriate portions of the MRTU RA provisions, since the RA provisions contain forward planning process elements that need to be accomplished for MRTU to have an effect on the CAISO's operations at the start of the new market.¹⁰⁴ In response to State Water Project's objection to the CAISO's allocation of the local capacity area resource obligations, the CAISO states that State Water Project's objections are misplaced. According to the CAISO, the allocation of local capacity area resource obligations is done through the CPUC allocation where applicable, and otherwise through a formula that is on file with the Commission. The CAISO states that the nature of the formula is that outcomes can change without the need for a FERC filing. The CAISO offers that if State Water Project disagrees with the application of the formula it can initiate dispute resolution procedures or file a complaint with the Commission.¹⁰⁵

Commission Determination

121. State Water Project's request for confirmation has been rendered moot by the Commission's acceptance of the CAISO's tariff sheets in Docket No. ER08-64-000 with an effective date of December 17, 2007.¹⁰⁶ The Commission agrees with the CAISO that preparation regarding RA is necessary for MRTU to be implemented in a timely manner.

122. The Commission also disagrees with State Water Project's concern that there is no mechanism to review the allocation of local capacity area resource obligations. Section 40.3.2 provides that the allocation of local capacity area resource obligations will be set by the CPUC or by a formula in section 40.3.2(a) of the MRTU tariff. The formula, which appears to be the basis of State Water Project's objections, is clearly stated in the tariff. State Water Project has not protested the composition of the formula, so the only concern would involve its application. As the CAISO has explained, there are dispute resolution procedures in place if an entity believes that the formula is being applied incorrectly. Additionally, an entity always has the ability to make a filing with the Commission if it believes that the allocation is being incorrectly calculated. Therefore, the Commission will require no further revisions to section 40.3.2.

¹⁰⁴ CAISO October 5, 2007 Reply Comments at 37.

¹⁰⁵ *Id.* at 38.

¹⁰⁶ *December 2007 Order*, 121 FERC ¶ 61,258 at P 1.

2. Future Resource Adequacy Tariff Revisions

123. Calpine states that the RA provisions in the August 3, 2007 compliance filing reflect revisions to section 40 that include “many straightforward and non-controversial elements of the stakeholder proposal.”¹⁰⁷ Calpine asserts that its comments are submitted to provide the Commission with background on the major elements of the stakeholder proposal and to underscore that, in order to implement it fully, additional action by the CPUC, CAISO and the Commission will be required. Calpine expects that the CPUC stakeholder process will conclude with recommendations that the CPUC take action to approve elements of the proposal. Calpine seeks confirmation from the CAISO that it intends to submit to the Commission additional revisions to section 40 of the tariff upon CPUC approval of the elements of the stakeholder proposal within its jurisdiction.

124. Calpine states that the essence of the stakeholder proposal is to unlink the RA capacity product procured by LSEs to meet their capacity procurement obligation from the ongoing performance obligations of RA capacity suppliers, who should be responsible for such performance directly to the CAISO, pursuant to section 40.¹⁰⁸ Calpine asserts that stakeholders are continuing discussion regarding the appropriate specification of RA resources’ performance obligation and the calculation of penalties for non-performance. Calpine notes that the proposed tariff language does not address these issues, nor does it prejudice them. However, Calpine requests that the CAISO acknowledge these important issues and commit to addressing them, upon resolution in the CPUC stakeholder process, by making a follow-up tariff filing. Calpine also requests the Commission to require the CAISO to submit additional tariff revisions that would implement those elements of the stakeholder proposal that the CAISO must incorporate in the MRTU tariff.

¹⁰⁷ See CAISO August 3, 2007 Transmittal Letter, Docket Nos. ER06-615-011 and ER07-1257, at 17. The proposed MRTU revisions that the CAISO has identified as directed toward the stakeholder proposal include revisions to sections 40.4.2, 40.4.3, 40.4.4, 40.4.6.1, 40.4.7 and 40.7.2.

¹⁰⁸ Calpine Corporation September 7, 2007 Comments at 1-9. For example, Calpine explains several core elements that stakeholder proposal contemplates that LSEs would purchase fungible “RA tags” from net qualifying capacity of RA resources. Calpine states that the CAISO would determine a resource’s net qualifying capacity (NQC) *ex ante*, prior to an applicable RA year. Thus, a resource’s NQC would be filed in advance of a RA year and LSEs could rely on NQC that they procure to meet their procurement obligations, without regard to a resource’s subsequent performance with respect to its obligations owed to the CAISO.

125. In response to Calpine's request that the Commission require the CAISO to submit additional tariff revisions that would implement elements of the stakeholder proposal that the CAISO must incorporate in the MRTU tariff, the CAISO states that the Commission already approved the CAISO's projected schedule of addressing performance obligations and schedules for generators in section 40.4.5 of the CAISO tariff. The CAISO claims that while this schedule may be changed to address certain priorities, including the one brought up by Calpine, it should to be done through the stakeholder process.¹⁰⁹

Commission Determination

126. Section 40.4.5 of the MRTU tariff lays out a process to develop and review performance criteria, such as the criteria Calpine is asking that we require the CAISO to implement. Section 40.4.5 calls for the CAISO, the CPUC and other LRAs to collaborate in developing performance criteria to be submitted to the Commission. We continue to believe that this collaborative and deliberative process is a reasonable way to develop performance criteria. As Calpine notes, the CPUC is still reviewing the stakeholders' proposal.¹¹⁰ Requiring the CAISO to adopt these criteria before the process is completed would be inconsistent with the reasonable process laid out in the tariff and approved by the Commission. Therefore, the Commission will deny Calpine's request. However, we direct the CAISO to submit, in a future compliance filing, any additional revisions to section 40 of the MRTU tariff that result from the stakeholder process.

3. Section 42.1.8 – Assurance of Adequate Generation and Transmission to Meet Reserves

127. SVP/M-S-R¹¹¹ argue that the CAISO's proposed change in section 42.1.8 eliminates the allocation method the Commission already approved. SVP/M-S-R states that section 42.1.8 unjustly allocates the costs to all users of the grid, without regard to causation, rather than first allocating costs to entities that caused the costs to be incurred, and then allocating remaining costs to all users of the grid.

128. In its reply, the CAISO responds by explaining that it will be filing the ICPM in January 2008, which will serve as the primary source of the CAISO's authority to secure capacity to backstop LSE RA procurement under MRTU. The CAISO states that in light

¹⁰⁹ CAISO October 5, 2007 Reply Comments at 42, 43.

¹¹⁰ Calpine September 7, 2007 Comments at 3.

¹¹¹ SVP/M-S-R September 7, 2007 Comments at 6.

of this, it decided to simply maintain the status quo and acknowledge within the tariff that the ICPM would soon be filed. The CAISO also notes that the existing provision has already been approved by the Commission.¹¹²

Commission Determination

129. Given that the CAISO is expected to file the ICPM in January 2008, which will supersede certain tariff modifications proposed in this compliance filing, the Commission accepts the CAISO's clarification and sees no need to modify section 42.1.8 at this time. The CAISO is correct in noting that we previously approved the existing tariff provision, and, with the CAISO about to make its ICPM filing, continuing to require pre-ICPM tariff modifications to section 42.1.8 would be inefficient. Thus, we see no need to revisit the issue or require revisions at this late stage.

The Commission orders:

(A) The resource adequacy provisions of the CAISO MRTU tariff are hereby conditionally accepted for filing, subject to further modification as discussed in the body of this order.

(B) The CAISO is hereby directed to make the compliance filings specified in this order, within the timeframes provided in the body of this order.

(C) The CAISO is hereby directed to make modifications, if any, to the tariff provisions conditionally accepted in Docket No. ER08-64-000, consistent with the determinations in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹¹² CAISO October 5, 2007 Reply Comments at 36, 37.

APPENDIX A

Motions to Intervene

Alliance for Retail Energy Markets

Bay Area Municipal Transmission Group

California Department of Water Resources, State Water Project

California Electricity Oversight Board

California Municipal Utilities Association

Cogeneration Association of California

Energy Producers & Users Coalition

Golden State Water Company

Imperial Irrigation District

Metropolitan Water District of Southern California

Modesto Irrigation District

Northern California Power Agency

NRG Companies (NRG Power Marketing, Inc., Cabrillo Power I, LLC, Cabrillo Power II, LLC, El Segundo Power, LLC and Long Beach Generation LLC)

Powerex Corporation

Sacramento Municipal Utility District

City and County of San Francisco, California

City of Santa Clara, California and the M-S-R Public Power Agency

Six Cities, California (Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California)

Southern California Edison Company

Transmission Agency of Northern California

Western Area Power Administration

Western Power Trading Forum

Williams Power Company

Notices of Intervention

California Public Utilities Commission

Motions to Intervene Out of Time

Coral Power LLC

EPIC Merchants Energy LP