

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

**California Independent System                    )     Docket No. ER09-1064-000  
Operator Corporation                            )**

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

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, the California Independent System Operator Corporation (“CAISO”) hereby submits its motion for leave to answer and answer to the protest and comments submitted by other parties in response to the CAISO’s August 10, 2009 compliance filing in this proceeding (“Compliance Filing”).

**I. INTRODUCTION AND BACKGROUND**

On April 28, 2009, the CAISO filed proposed modifications to the CAISO Tariff to adopt a Resource Adequacy (“RA”) Standard Capacity Product (“SCP”) and an Ancillary Services must-offer obligation (“A/S MOO”) for RA Resources.<sup>1</sup> SCP implements Availability Standards and incentives for RA Resources that will promote reliability by rewarding resources that are most available to support grid operations and that will facilitate the selling, buying, and trading of capacity by Market Participants to meet RA requirements. A/S MOO will enhance grid reliability and market efficiency by allowing the CAISO’s markets to co-optimize the use of RA Capacity that is currently subject to an RA must offer obligation to provide Energy, Ancillary Services, or a combination of both, in accordance with each RA Resource’s certified physical capability and the grid’s needs for Energy

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<sup>1</sup> Capitalized terms not otherwise defined herein have the same meaning as set forth in the CAISO Tariff, Appendix A, Master Definitions Supplement.

and Ancillary Services in each market interval, in order to attain the most efficient use of the available RA Capacity.

On June 26, 2009, the Commission issued an order that accepted in part and rejected in part the CAISO's proposed tariff modifications.<sup>2</sup> The Commission approved the SCP and A/S MOO proposals, subject to revisions required for the cut-off date for the grandfathering exemption, the calculation of Non-Availability Charges, the Availability Standard for non-Resource Specific System Resources, and other clarifications to the Tariff language that the CAISO had agreed to make. The Commission directed the CAISO submit a compliance filing consistent with the directives of the June 26 Order within 45 days.

On August 10, 2009, the CAISO submitted its Compliance Filing in accordance with the Commission's directive. The most significant revisions in that filing: 1) changed the cut-off date for the grandfathering exemption from January 1, 2009 to June 28, 2009; 2) replaced the 50 percent availability threshold with a formula for determining Non-Availability Charges that uses a graduated approach throughout the dispatchable range of each RA Resource's RA Capacity; and 3) eliminated the 100 percent Availability Standard for the RA Capacity from non-Resource Specific System Resources and replaced it on a temporary basis with the same monthly Availability Standard as applied to the internal RA fleet, including the same tolerance band of 2.5 percent, until such time as the CAISO is able to compile and evaluate performance data on these resources that will support a proposal to implement a specific Availability Standard for this category of resources pursuant to Section 205 of the Federal

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<sup>2</sup> *California Indep. Sys. Operator Corp.*, 127 FERC ¶ 61,298 (2009) ("June 26 Order").

Power Act. On August 11, 2009, the CAISO filed an errata to this Compliance Filing for the limited purpose of correcting several of the clean the tariff sheets.<sup>3</sup>

On August 31, 2009 and September 1, 2009, three parties filed comments on the CAISO's Compliance Filing and one party filed a protest. The Northern California Power Agency ("NCPA") filed comments in support of the Compliance Filing. NCPA accepts the CAISO's proposed formula for determining the Non-Availability Charges and agrees with use of the same availability requirement for non-Resource Specific System Resources as internal system resources.<sup>4</sup>

The California Department of Water Resources State Water Project ("SWP") requests that the CAISO fix an inconsistency between Sections 40.9.6.1 and 40.9.4.2, where the formula produces a percentage result rather than a MW value. SWP also asks for greater clarity about the derivation of the formula, its components, and intended operation.<sup>5</sup>

Powerex Corp ("Powerex") suggests that the tariff language proposed in the Compliance Filing be modified to provide Availability Incentive Payments to RA imports and internal RA resources that either exceed the monthly Availability Standard by 2.5 percent or that are 100 percent available, whichever is less. Powerex also would eliminate the requirement that Scheduling Coordinators file monthly reports identifying the hours in which they were prohibited from bidding on out-of-service transmission paths.

In the lone protest, Dynegy Morro Bay, LLC, Dynegy Moss Landing, LLC,

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<sup>3</sup> The clean tariff sheets in the Compliance Filing inadvertently omitted several changes made in the redline tariff sheets. The errata added the conforming changes to the clean tariff sheets.

<sup>4</sup> NCPA Comments, p. 1.

<sup>5</sup> SWP Comments, pp. 1-5.

Dynergy Oakland, LLC, Dynergy South Bay, LLC, and RRI Energy, Inc. (“Dynergy”) contest two aspects of the formula that implements graduated Non-Availability Charges.<sup>6</sup> Dynergy contends that the portion of the formula that addresses the situation where the minimum normal capacity of the unit (“PMin”) exceeds its monthly RA availability is unnecessary because PMin has no bearing on the amount of capacity subject to the Non-Availability Charge.<sup>7</sup> Dynergy also suggests that the first portion of the formula be modified so that when the monthly RA availability is zero, the amount of capacity subject to the Non-Availability Charge is the full amount of RA Capacity.<sup>8</sup>

As discussed below, the CAISO will correct the difference in the measurement terms of the availability determination noted by SWP. The CAISO otherwise disagrees with the revisions suggested in the comments and protest and urges the Commission to reject those changes.

## **II. MOTION TO FILE ANSWER**

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2007), the CAISO hereby requests leave to file this answer to the comments and protest submitted in the above-referenced proceeding. To the extent necessary, the CAISO requests waiver of Rule 213(a)(2)(18), C.F.R. § 385.213(a)(2), to permit it to answer the protest. Good cause for this waiver exists because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to

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<sup>6</sup> Dynergy Protest p. 1.

<sup>7</sup> *Id.* at 2-4.

<sup>8</sup> *Id.* at 4.

assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case. The Commission has accepted answers that are otherwise prohibited if such answers clarify the issues in dispute, *Southwest Power Pool, Inc.*, 89 ¶ 61,284 at 61,888 (2000). Answers have also been accepted where the information assists the Commission in making a decision, *El Paso Electric Co.*, 72 FERC ¶ 61,292 at 62,256 (1995).<sup>9</sup> The instant answer will serve both purposes and is intended to provide clarification of the issues and assistance to the Commission in considering and reaching its determination regarding the CAISO's Compliance Filing.

### **III. ANSWER**

#### **A. AVAILABILITY CALCULATION FOR NON-RESOURCE SPECIFIC SYSTEM RESOURCES**

CAISO Tariff Section 30.8 prohibits Scheduling Coordinators from submitting "Bids or ETC Self Schedules at Scheduling Points using a transmission path for any settlement Period for which the Operating Transfer Capability for that path is zero (0) MW." This means that, if a transmission path is out of service, Scheduling Coordinators can not submit, or be paid for, bids or ETC Self-Schedules that use Scheduling Points on that path.

In the Compliance Filing, the CAISO revised Tariff Sections 40.9.7.1 and 40.9.7.2 to account for this prohibition in Section 30.8 when calculating the availability of non-Resource Specific System Resources under SCP. As modified

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<sup>9</sup> See, e.g., *Entergy Services, Inc.*, 116 FERC ¶ 61,286 at P 6 (2006); *Midwest Independent Transmission System Operator, Inc.*, 116 FERC ¶ 61,124 at P 11 (2006); *High Island Offshore System, L.L.C.*, 113 FERC ¶ 61,202 at P 8 (2005); *Entergy Services, Inc.*, 101 FERC ¶ 61,289, at 62,163 (2002); *Duke Energy Corp.*, 100 FERC ¶ 61,251, at 61,886 (2002); *Delmarva Power & Light Co.*, 93 FERC ¶ 61,098, at 61,259 (2000).

in the Compliance Filing, Sections 40.9.7.1 and 40.9.7.2 provide that the Availability Standard applicable to a non-Resource Specific System Resource will not include any hours in which that resource was prohibited by Section 30.8 from bidding across an out-of-service transmission path at its designated Scheduling Point. In order to obtain the data necessary to exclude those hours, Section 40.9.7.2 requires that Scheduling Coordinators for non-Resource Specific System Resources submit a monthly report of such hours occurring under Section 30.8.

Powerex proposes to eliminate this reporting requirement. Powerex claims that requiring Scheduling Coordinators to provide information on intertie outages is unnecessary and unduly burdensome because the CAISO, as the Balancing Authority Area, has access to information regarding transmission path de-rates.

Although Powerex is correct that the CAISO has access to transmission outage information, that is only part of the data needed to calculate the number of hours that should be excluded from the availability determination. Sections 40.9.7.1 and 40.9.7.2 contemplate that the exclusion will occur when a transmission path was out of service and the non-Resource Specific System Resource was prohibited from bidding at its designated Scheduling Point due to that transmission outage. Under these Sections, if a transmission path was out of service but the resource's bidding was not affected by that outage, then the outage hours will not be excluded from the availability determination. There are at least two circumstances where the exclusion will not apply: 1) if the

transmission outage occurred during a period in which the resource did not propose to submit bids on that transmission path; and 2) if the resource is associated with a designated external Generating Unit that is not a Resource Specific System Resource as defined in the CAISO Tariff and that Generating Unit was also on outage for all or a portion of the period that the transmission path was out of service. In both situations, the resource would not have submitted bids whether or not there was a transmission outage and, therefore, the outage hours will not be excluded. Because the CAISO does not have this information necessary to distinguish between hours in which the resource was prevented from bidding by the transmission outage and hours in which it was not bidding for reasons unrelated to that outage, the information must be provided by the Scheduling Coordinators for the resources.

The CAISO believes that requiring the submission of a monthly report identifying the hours in which the resource was prohibited from bidding on out-of-service transmission paths is necessary for the availability determination under SCP. As a monthly report with limited scope, the CAISO believes that its submission will not unduly burden Scheduling Coordinators. Indeed, only one party has objected to the requirement.

**B. CALCULATION OF AVAILABILITY INCENTIVE PAYMENTS AND NON-AVAILABILITY CHARGES**

**1. Calculation of Availability Incentive Payments**

CAISO Tariff Sections 40.9.6.3 and 40.9.7.1, respectively, provide that internal RA Resources and non-Resource Specific System Resources that achieve availability that is more than 2.5 percent above the monthly Availability

Standard will be eligible to receive an Availability Incentive Payment for that month. Powerex suggests that the tariff language proposed in the Compliance Filing be modified to provide Availability Incentive Payments to RA imports and internal RA resources that either exceed the monthly Availability Standard by 2.5 percent or that are 100 percent available, whichever is less.

The CAISO submits that Powerex's argument constitutes an impermissible collateral attack on a Commission order. The tolerance band is not a new feature of SCP that the CAISO introduced in the Compliance Filing. It was developed through a lengthy and robust stakeholder process and was included in the CAISO's initial tariff filing in this proceeding. More importantly, it has already been approved by the Commission. The Commission's June 26 Order approved tariff language providing that an RA Resource is not eligible to receive an Availability Incentive Payment unless it exceeded the monthly Availability Standard plus the tolerance band of 2.5 percent. Accordingly, Powerex's quarrel with the tolerance band is a clear collateral attack on the June 26 Order that must be rejected by the Commission.

Further, the CAISO disagrees with Powerex's argument. The intent of the Availability Incentive Payment is to reward RA resources whose availability is significantly above the standard. The design of the 2.5 percent tolerance band above the monthly Availability Standard was developed in conjunction with stakeholders as a reasonable means to implement that intent and reward superior availability. If the Availability Standard is so high as to leave insufficient room for the 2.5 percent tolerance band between the standard and 100 percent

availability, then resources that perform at 100 percent are not sufficiently superior to resources that simply meet the standard to warrant an Availability Incentive Payment. The CAISO believes, therefore, that in such cases it is more appropriate to redistribute any Non-Availability Charge funds back to measured demand, rather than make the relatively minor distinction Powerex proposes and reward resources that achieved 100 percent while not rewarding resources that achieved an extremely high level of availability, say, 99.5 percent. Any change to this tolerance band should first be vetted in an ISO stakeholder process.

## **2. Non-Availability Charge Formula**

In its protest, Dynegy challenges the formula that implements graduated Non-Availability Charges.<sup>10</sup> Dynegy suggests that the portion of the formula that addresses the situation where PMin exceeds the resource's monthly RA availability be eliminated. Dynegy claims that this portion of the formula is unnecessary because PMin has no bearing on the amount of capacity subject to the Non-Availability Charge.<sup>11</sup> At the same time, Dynegy accepts the CAISO's approach in the Compliance Filing that the Non-Availability Charge should apply to the resource's full RA Capacity when the resource's availability is zero for a month. Dynegy proposes that the CAISO simply add a rule that captures this point, and apply the first portion of the two-part function in the CAISO's formula over the entire range of potential availability values up to but excluding zero.

Dynegy's argument is flawed. Under Dynegy's suggested approach, if an RA Resource's actual availability is infinitesimally close to zero but still positive,

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<sup>10</sup> Dynegy Protest p. 1.

<sup>11</sup> *Id.* at 2-4.

the resource would avoid the Non-Availability Charge for that portion of its RA Capacity that is infinitesimally greater than  $RA*(S - 0.025)$ . That result is the straightforward, mathematical outcome of applying the first part of the CAISO's proposed two-part formula over the entire range of potential availability values up to but excluding zero. The key point, however, of having the two-part function in the CAISO's formula is so that the amount of capacity to which the Non-Availability Charge applies (the value P in the formulation) gradually approaches the resource's full RA Capacity as the resource's availability value approaches zero. The CAISO believes that such a methodology makes much more sense and is more consistent with the intent of the Non-Availability Charge than having the capacity subject to the charge suddenly jump up to the full RA value when availability is exactly zero, but remain substantially less than the full RA value when availability is infinitesimally close to zero.

Consider an example using the scenario provided by Dynegy. Suppose the same resource's monthly availability metric X is 0.1 MW. If only the first segment of the CAISO's proposed two-part function is used, as Dynegy proposes, then the capacity subject to the Non-Availability Charge will be 36.9 MW. Thus, even though the resource's actual availability was very close to zero, the charge would be applied to only 36.9 MW out of its 40 MW of RA Capacity. In contrast, under the CAISO's proposal, the second segment of the two-part function would apply, and the capacity subject to the charge would be 39.8925 MW, which is very close to the resource's full RA Capacity. This example clearly illustrates why the second segment of the CAISO's proposed two-part function is

necessary. It appropriately ensures that the MW quantity subject to the Non-Availability Charge approaches the full RA Capacity as the monthly availability metric approaches zero.

Given the need for a two-part function to capture the dual objectives of (a) maintaining consistency with the CAISO's originally filed proposal over the higher range of availability values, and (b) converging to the full RA Capacity as the availability metrics converge to zero, the CAISO determined that each resource's PMin should be used as the break point between the two segments. The CAISO selected PMin because it provides a reasonable range over which the second segment of the function will apply, i.e., not too close to zero, so that there is not a sudden dramatic increase in the capacity subject to the charge as the availability metric gets close to zero. In addition, PMin represents the lowest operational MW value a resource must have in order for any portion of its RA Capacity to be available to the CAISO.

In accordance with this explanation and example, the CAISO believes that its proposed two-part function is fully compliant with the intent of the Commission's order. Moreover, it reflects a reasonable and appropriate way to calculate an RA Resource's Capacity that should be subject to the Non-Availability Charge in any given month. It also satisfies part of Dynegey's proposal, namely, that the capacity subject to the charge should equal the resource's full RA capacity when the availability metric equals zero. For these reasons, the CAISO urges the Commission to approve the Non-Availability Charge formula proposed by the CAISO.

SWP comments ask for greater clarity about the derivation of the formula, its components, and intended operation. In particular, SWP seeks examples showing “what values are assumed and what outcomes were produced” in order to substantiate how the formula operates and increase understanding by the parties.<sup>12</sup>

The CAISO believes that Tariff Sections 40.9.6.1 and 40.9.7.1 through 40.9.7.3 of the Compliance Filing sufficiently describe the composition and application of formula and the calculation of the Non-Availability Charge, and that no further detail is needed in the tariff. The information that SWP requests is granular technical information and mathematical examples of how the formula works. The CAISO submits that this level of detail pertaining to and underlying the formula is more appropriate for inclusion in the Business Practice Manual (“BPM”).

On September 4, 2009, the CAISO initiated the Change Management process for revising the Reliability Requirements BPM to incorporate SCP and A/S MOO provisions. The proposed revisions include two detailed examples of how the formula calculates Non-Availability Charges. The CAISO believes that these examples are directly responsive to SWP’s request. In addition, the example and accompanying explanation provided above in response to Dynegy’s comments should satisfy SWP’s request for better understanding of the rationale behind the derivation of the formula and how it will work in practice. If SWP wants additional information about the formula to be included in the Reliability Requirements BPM, the CAISO encourages SWP to participate in the BPM

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<sup>12</sup> SWP Comments at 5.

Change Management process and provide its comments and suggestions in that forum.

### **3. Different Measurement Terms**

SWP has identified an inconsistency in the measurement terms of the availability calculations. The calculation of the monthly availability for each RA Resource, as described in CAISO Tariff Section 40.9.4.2, produces a percentage measure of availability, whereas the calculation of the RA Capacity subject to the Non-Availability Charge, under the formula in Section 40.9.6.1, results in a MW value.<sup>13</sup> The CAISO has reviewed the pertinent tariff provisions and agrees that the measurement terms differ. The CAISO will in a future compliance filing modify Section 40.9.6.1. to include a term that converts the product of the formula from MW to a percentage so that it aligns with measure of monthly availability produced by the calculation described in Section 40.9.4.2.

### **IV. CONCLUSION**

For the foregoing reasons, the CAISO respectfully requests that the approve the Compliance Filing as proposed and discussed herein, without suspension or hearing.

Respectfully submitted,

**/s/ Anthony Ivancovich**  
Anthony Ivancovich  
Beth Ann Burns  
The California Independent  
System Operator Corporation  
151 Blue Ravine Road  
Folsom, CA 95630  
Tel: (916) 351-4400  
Fax: (916) 608-7296

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<sup>13</sup> SWP Comments, pp. 3-4.

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-captioned docket, in accordance with the requirements of Rule 2010 of the Commission Rules of Practice and Procedure (18 C.F.R. §385.2010).

Dated this 16th day of September, 2009 at Folsom, California.

*/s/ Anna Pascuzzo*  
Anna Pascuzzo