

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298**CAISO WHITE PAPER  
STANDARD RESOURCE ADEQUACY CAPACITY PRODUCT****CPUC STAFF COMMENTS  
February 23, 2009**

The CPUC staff appreciate the CAISO Staff's continued efforts to develop a Standard Capacity Product (SCP), including the clarifications included in the most recent proposal. The few suggestions relayed here should not detract from the CPUC staff's appreciation of the great strides that have been made in this stakeholder process. While the CAISO has provided clarification of many technical aspects in the SCP proposal, CPUC staff suggest further detail may be useful on the issues of grandfathering in relation to DWR contracts and the application of the ambient outage provisions via SLIC.

CPUC staff support the CAISO's suggested grandfathering date of January 1<sup>st</sup>, 2009. This strikes the proper balance between acceptance of the need for stability in legacy contracts and the need to avoid an incentive for continued reliance on contracts without SCP terms. CPUC staff also understand that the subject of whether, which, and how existing contracts will be "grandfathered" by the new tariff language has been the subject of some debate in the instant stakeholder process; CPUC staff are concerned about impacts to DWR contracts. The CPUC ruled in Decision ("D.") 04-10-035 that the Department of Water Resources contracts during the 2000-2001 energy crisis ("DWR contracts") may be counted, subject to applicable deliverability screens, as RA capacity "even if certain features would otherwise exclude a non-DWR contract with the same terms and conditions[.]"<sup>1</sup> The CPUC determined that this compromise best balances the need to accommodate California's physical reliance upon these contracted units for reliability against CAISO's operational needs.<sup>2</sup>

Currently, the CPUC is considering whether and how the DWR contracts may be novated or renegotiated in order to remove the Department of Water Resources from the position of providing electric power.<sup>3</sup> Parties in Rulemaking 07-05-025 are expected to engage in novation and/or renegotiation of the DWR contracts.<sup>4</sup> CPUC staff understand

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<sup>1</sup> *Interim Opinion Regarding Resource Adequacy*, issued in Rulemaking ("R.") 04-04-003 on October 28, 2004 at pp. 28-29.

<sup>2</sup> *Ibid.*

<sup>3</sup> D.08-11-056, *Decision Authorizing Measures To Facilitate Removal Of Department Of Water Resources From The Role Of Supplying Electric Power*, issued in R.07-05-025 at pp. 8-18.

<sup>4</sup> *Id.* at pp. 58 ("We hereby adopt a plan . . . to facilitate the logistics and to provide guidance on the negotiating parameters to effect contract revisions to remove DWR from its obligations as supplier of power."), 60 ("We hereby authorize the formation of a Working Group as a vehicle for DWR, the IOUs, and Commission staff to plan and implement detailed protocols and strategies for conducting negotiations

that such renegotiated contracts may contain contract time extensions or less stringent delivery requirements.<sup>5</sup> CPUC staff recommend that novated or renegotiated DWR contracts may continue to qualify for grandfathering. The CPUC staff has advised the CAISO staff of the status of, and encouraged the CAISO to participate in, this ongoing proceeding in order to avoid unnecessary conflicts between CPUC-approved contract terms and CAISO generator performance obligations. CPUC staff appreciate CAISO staff's willingness to contribute to the proceeding.

In relation to implementation of the ambient outage provisions in the SCP proposal, the CPUC staff appreciates CAISO's willingness to engage in potential reorganization of SLIC codes and clarification of important tariff terms. These issues were brought up briefly in CAISO's presentation to the stakeholder call on February 13, and are important to the eventual successful implementation of the SCP program. In coordination with CAISO and other stakeholders, CPUC staff would appreciate the opportunity to reorganize and refine SLIC cause codes in the context of other potential changes to SLIC and related CAISO practices. For example, the CPUC staff note that there may be need for additional clarification regarding the definition of "Uncontrollable Forces" in the context of Ambient Outages and the SCP, since the term is defined broadly as "Any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm, flood . . . or any other cause beyond the reasonable control of the CAISO or the Market Participant which could not be avoided through the exercise of Good Utility Practice[.]" This definition may or may not justify penalties for non-performance as Ambient Outages.<sup>6</sup> The CAISO seeks to focus the SCP performance analysis on peak energy use hours during the year, which consist of the hours of 2 through 6 p.m. from April through October.<sup>7</sup> Ambient Outages, however, will not result in generator penalty for unavailability. The CPUC staff is concerned that this language could be interpreted to suggest that heat of extreme intensity or duration are "acts of God" or otherwise not within the control of the CAISO or market participants. CPUC staff believes that such an interpretation could undermine the purpose of peak hours analysis. Therefore, the definitions of Ambient Outages and/or Uncontrollable Forces, and various other related definitions and SLIC-system processes may require modification.

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with the counterparties to the DWR contracts with the goal of removing DWR as a party to the contracts while ensuring that any resulting contract changes are not detrimental to ratepayers.")

<sup>5</sup> For example, "Reliant suggests that provisions might be negotiated that benefits both the supplier and ratepayers. For example, a supplier might be willing to accept a price reduction in exchange for negotiating a longer contract duration, granting more favorable payment terms, or more flexible delivery requirements." (*Id.* at p. 13.)

<sup>6</sup> CAISO White Paper at p. 5.

<sup>7</sup> CAISO Draft Final Proposal[;] Standard Resource Adequacy Capacity Product, issued on January 8, 2008 at p. 13.