

134 FERC ¶ 61,106
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

California Independent System Operator Corporation Docket No. ER10-1524-001

ORDER DENYING REQUEST FOR CLARIFICATION OR REHEARING

(Issued February 15, 2011)

1. On August 20, 2010, the Commission issued an order¹ that accepted, subject to a compliance filing, amendments proposed by California Independent System Operator Corporation (CAISO) to its tariff² to implement the second phase of CAISO's Standard Capacity Product (SCP) provisions. Specifically, the proposed tariff amendments would apply the SCP provisions to previously-exempted resource adequacy (RA) resources.³ On September 20, 2010, the California Public Utilities Commission (CPUC) submitted a request for clarification or, in the alternative, rehearing of the August 20 Order. We deny CPUC's request for clarification or rehearing, as discussed below.

I. Background

2. The Commission approved CAISO's initial SCP proposal, with modifications, in an order issued on June 26, 2009.⁴ Under its initial proposal, CAISO developed a

¹ *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,148 (2010) (August 20 Order).

² California Independent System Operator Corporation, FERC Electric Tariff, Fourth Replacement Volume No. 1 (CAISO Tariff).

³ These previously-exempted RA resources are those resources whose qualifying capacity is determined by relying on historical output data rather than by relying on maximum or nameplate capacity. These resources include wind, solar, and qualifying facility (QF) resources. *See discussion infra* P 3-4.

⁴ *Cal. Indep. Sys. Operator Corp.*, 127 FERC ¶ 61,298 (2009) (June 26 Order), *order on reh'g*, 131 FERC ¶ 61,149 (2010).

standard RA capacity product to facilitate the selling, buying and trading of capacity to meet CAISO's RA requirements. Pursuant to the initial SCP provisions, the RA capacity subject to SCP is tracked by CAISO for availability during specified availability assessment hours of each month (i.e., the extent to which the total amount of a resource's RA capacity is available and not on a forced equipment outage or de-rate). The resource's calculated availability is subject to non-availability charges or availability incentive payments depending on the extent by which the actual availability of the resource deviates from the monthly SCP availability standard. These SCP provisions became effective on January 1, 2010.⁵

3. In the June 26 Order, the Commission approved a temporary exemption from the SCP rules for RA resources whose qualifying capacity is determined by the CPUC or a local regulatory authority based on historical output data rather than based on maximum or nameplate capacity.⁶ In approving this exemption, the Commission relied on CAISO's explanation that applying the SCP provisions to these resources could subject these resources to an unreasonable double counting of any forced outages they experience.

4. More specifically, CAISO stated that the CPUC bases the qualifying capacity values for wind, solar and QF resources on the historical hourly energy each such resource has delivered to the CAISO grid. To the extent these resources experience forced outages or de-rates, such outages or de-rates will affect the resources' hourly energy deliveries, which the CPUC methodology reflects in reduced qualifying capacity values for these resources for the following RA compliance year. CAISO argued that if these resources were also subject to SCP, they would be assessed an SCP non-availability charge in the current year for underperformance caused by the same forced outage or de-rate, essentially resulting in a double penalty. To prevent this result, the Commission permitted exemptions of these resources from the SCP rules. However, the Commission emphasized that the exemptions were temporary and directed CAISO to work with stakeholders, the CPUC, and local regulatory authorities toward eliminating the exemptions in a timely manner.⁷

5. In accordance with this directive, as the August 20 Order noted, CAISO explained that it participated in a proceeding at the CPUC with the purpose of eliminating the double counting issue for the RA resources with qualifying capacity based on historical data. CAISO also noted that the CPUC had then recently issued a decision eliminating forced outages and de-rates from the qualifying capacity calculation for these RA

⁵ June 26 Order, 127 FERC ¶ 61,298 at P 7.

⁶ June 26 Order, 127 FERC ¶ 61,298 at P 56.

⁷ *Id.* P 58.

resources, for the same hours as those included in the SCP availability calculation, and had replaced these hours with proxy data.⁸ Accordingly, CAISO argued that this decision eliminated the potential of the double penalty, and it submitted tariff amendments to implement a second phase of SCP (SCP II) to end the temporary exemption for RA resources with qualifying capacity determined by historical output.

6. CAISO's SCP II proposal included revisions to the existing SCP provisions to accommodate the extension of SCP to the previously-exempt RA resources, as well as clarifications and corrections to certain SCP provisions. One such revision to section 40.9.6 of the CAISO Tariff included establishing a three-month advisory period for calculating non-availability charges and availability incentive payments for those RA resources whose qualifying capacity was determined by historical output. Under this revision, non-availability charges and availability incentive payments would be calculated and published on settlement statements but would not actually be assessed on invoices for a three-month advisory period following the effective date of SCP II.

7. CAISO stated that the advisory period would facilitate the transition to SCP II by these resources, allowing them to observe how their management and reporting of forced outages and de-rates affects the SCP availability calculation, without incurring financial consequences during the transition. CAISO also noted that it intended to establish a proactive monitoring team that would detect inadvertent errors in charges and assessments, allowing these errors to be corrected during the advisory period, thereby reducing the number of settlement disputes it would receive.

8. The August 20 Order accepted the SCP II provisions, including the three-month advisory period, subject to a compliance filing.⁹ The Commission agreed that the three-month advisory period for calculating non-availability charges and availability incentive payments would serve as a useful transitional tool for the previously-exempt RA resources brought under the SCP II rules.¹⁰

⁸ August 20 Order, 132 FERC ¶ 61,148 at P 4.

⁹ The August 20 Order provided for the following effective dates: (i) June 22, 2010 for section 40.9.6.3 of the CAISO Tariff; (ii) August 22, 2010 for sections 40.9.2(2), 40.9.2(3), 40.9.4.1, and 40.9.4.2.1(1) of the CAISO Tariff; and (iii) January 1, 2011 for all other accepted tariff revisions. August 20 Order, 132 FERC ¶ 61,148 at P 60.

¹⁰ *Id.* P 42.

II. Request for Clarification or Rehearing

9. The CPUC states that it generally supports the August 20 Order. However, it notes that CAISO is currently holding a stakeholder process to modify the performance reporting requirements for generation units bidding subject to the RA SCP requirements. The CPUC believes that the likely result of this stakeholder process will be a lower threshold for renewable resources to report forced outages than traditional thermal generation units. The CPUC states that it is concerned that the combination of different forced outage reporting requirements with the application of the SCP II availability incentive payment/non-availability charge mechanism to renewable resources may result in rates that either discriminates in favor of or against intermittent renewable resources versus traditional thermal resources with similar performance.

10. Accordingly, the CPUC requests clarification of the August 20 Order that CAISO is required to issue a public report analyzing the results of the hypothetical availability incentive payments and non-availability charges that arise during the three-month advisory period. The CPUC also requests that stakeholders be afforded an opportunity to comment on whether the results from the advisory period and the CAISO report indicate whether any modification is needed to the availability incentive payment/non-availability charge mechanism, in order to achieve just, reasonable, and not unduly discriminatory rates, before any such payments or charges are included in the renewable generators' financial statements. The CPUC argues that these measures are necessary to ensure consistency of payments between different types of providers and to ensure just and reasonable rates.

11. The CPUC states that if the Commission does not direct the report and opportunity for public input requested above, then the CPUC requests rehearing on the grounds that implementation of the availability incentive payments and non-availability charges without analysis and public review of the three-month advisory period data may result in unjust, unreasonable, and/or unduly discriminatory rates. The CPUC states that by accepting CAISO's proposed three-month advisory period, the Commission has recognized that unexpected and potentially unjust outcomes may arise from CAISO's availability incentive payment/non-availability charge mechanism. Thus, in order to support the Commission's finding that the mechanism results in just, reasonable, and non-discriminatory rates, the CPUC argues that the Commission must provide the public an opportunity to comment before any payments or charges are actually assessed.

III. Discussion

12. We deny the CPUC's request. In the August 20 Order, the Commission found that the three-month advisory period for calculating availability incentive payments and non-

availability charges would serve as a useful transitional tool for the previously-exempt RA resources brought under the SCP II rules.¹¹ This advisory period was established for the benefit of RA resources that would be newly subject to the SCP provisions, upon acceptance of the SCP II proposal. The advisory period was intended to allow previously-exempt RA resources an opportunity to observe how their management and reporting of forced outages and de-rates affects the SCP availability calculation, prior to financial settlement obligations taking effect. Further, CAISO explained that it would also use the three-month advisory period to identify activities that are producing non-availability charges and to work with the scheduling coordinator of those resources to avoid assessment of such charges due to inadvertent errors.¹²

13. The Commission found that the SCP II provisions were just and reasonable in the August 20 Order, building on the previously-accepted SCP provisions, which were found to be just and reasonable in the June 26 Order. The three-month advisory period was established merely as a transitional feature to assist previously-exempt RA resources as described above, not as a tool for reconsidering the justness and reasonableness of the SCP.¹³ As a result, we are not persuaded by the CPUC's argument that the Commission should require CAISO to publish a report on the result of its three-month advisory period. If CAISO and stakeholders determine that modifications to the reporting requirements are necessary and those changes are filed with the Commission, the CPUC may raise its concerns and we will address them at that time. Accordingly, the CPUC's request for clarification or rehearing is denied.

¹¹ *Id.* P 42.

¹² *Id.* P 41.

¹³ The Commission has previously found that transitional periods or measures may be useful to facilitate a smooth transition to new and uncertain market mechanisms. *See California Independent System Operator Corporation*, 126 FERC ¶ 61,150, at P 84-85, n.151, *order on reh'g*, 129 FERC ¶ 61,144 (2009) (approving a temporary revenue cap for a mechanism accepted as part of CAISO's Market Redesign Technology Upgrade, finding that it would permit CAISO to gain operational experience and resolve software glitches and protect customers from potentially unjust and unreasonable rates during the early stages of the new mechanism) (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163 (2004); *New York Indep. Sys. Operator, Inc.*, 92 FERC ¶ 61,073 (2000); *Blumenthal, et al v. ISO New England Inc.*, 117 FERC ¶ 61,038 (2006)).

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The Commission orders:

The CPUC's request for clarification or, in the alternative, rehearing is hereby denied.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.