

J.P. Morgan Comments on CAISO Draft Final Proposal on Standard Capacity Product II

Submitted by	Company	Date Submitted
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J.P. Morgan Ventures Energy Corporation and BE CA, LLC (collectively, "J.P. Morgan") appreciates this opportunity to provide comments on the California ISO's (CAISO's) February 19, 2010, Draft Final Proposal entitled Standard Capacity Product II ("Draft Final Proposal") and the issues discussed on the CAISO's February 26, 2010, SCP II conference call.

J.P. Morgan continues to support the development of a Standard Capacity Product ("SCP") that will support a liquid and active market for resource adequacy capacity. Consistent with its earlier comments on this issue, J.P. Morgan's comments focus on the CAISO's proposed "Replacement Rule." J.P. Morgan does not support the CAISO's Replacement Rule as currently described in the Draft Final Proposal. While J.P. Morgan does not object to the concept of a supplier-based Resource Adequacy ("RA") Replacement Rule, the CAISO's proposed rule lacks adequate specificity. J.P. Morgan recommends that, unless further clarified, the CAISO not seek CAISO Governing Board ("Board") approval of the Replacement Rule at the upcoming March 25-26, 2010, Board meeting. J.P. Morgan recommends that the CAISO continue to refine and clarify the current proposal. While J.P. Morgan is cognizant of the CAISO's and load-serving entities' ("LSEs") desire to finalize all applicable RA procurement-related rules so that LSEs can finalize their procurement plans for compliance year 2011, the draft final SCPII proposal requires further clarification and refinement.

Comments

Consistent with its earlier comments, J.P. Morgan is not opposed to the development of a revised RA Replacement Rule that places the obligation to replace resource adequacy capacity on a scheduled outage on suppliers of resources adequacy capacity. Currently, while the CPUC's rules place that obligation on LSEs, the obligation to replace resource adequacy capacity on a scheduled outage is often a term negotiated between an LSE and a supplier. J.P. Morgan agrees that specifying the obligation in the CAISO tariff will eliminate the

need to negotiate these terms in each individual bilateral resource adequacy contract.

However, J.P. Morgan continues to have the following concerns with the CAISO proposal.

Grandfathering

The CAISO proposal continues to be silent on the “grandfathering” issue. J.P. Morgan previously recommended that the CAISO clarify that the proposed provisions would not apply to those existing contracts where the obligation and terms of procuring replacement capacity are already detailed. In other words, the CAISO should specifically exempt or “grandfather” those existing bilateral resource contracts that already address the obligation to procure replacement capacity for resource adequacy on a scheduled outage. Arguably, the CAISO should exempt all existing RA contracts, as the balance of benefits and burdens reflected in those contracts were negotiated under the then existing replacement capacity and general RA rules. In its SCP I effort the CAISO recognized the need to grandfather certain contracts from the SCP availability standards and the CAISO should likewise recognize the need to do the same with respect to the SCP II replacement rule provisions.

Further clarification is needed regarding the process and mechanics of reviewing and approving scheduled outage requests, designating ICPM capacity, and allocating ICPM costs.

As expressed in its earlier comments, J.P. Morgan requests that the CAISO clarify and appropriately modify the process by which it may rely on its Interim Capacity Procurement Mechanism (“ICPM”) to designate what it views as necessary resource adequacy replacement capacity and the process by which it will allocate or assign ICPM costs to RA suppliers.

The CAISO’s current ICPM tariff provisions enable the CAISO to designate ICPM capacity in instances where individual LSEs are deficient in local or system capacity as detailed in their annual or monthly RA showings or where the CAISO has identified a need despite the fact that LSEs have satisfied the CAISO’s minimum requirements in an area. The existing ICPM tariff provisions also provide opportunities for LSEs to cure identified capacity deficiencies, either thirty days prior to a compliance year or ten days prior to a compliance month.

J.P. Morgan requests that the CAISO clarify, by providing a detailed timeline, and specify the mechanics of the process by which the CAISO will review monthly supply plan submissions, approve or disapprove requests for scheduled outages, and determine whether ICPM designations are warranted. Based on the discussion on the February 26, 2010, conference call, it appears that the CAISO will not allow suppliers an opportunity to “cure” (offer alternative replacement capacity) capacity deficiencies in instances where the CAISO has approved a requested scheduled outage but either not approved identified replacement

capacity or has otherwise determined that a capacity deficiency exists. Similar to the existing process whereby, as understood by J.P. Morgan, the CAISO undertakes a deliberative analysis regarding whether an ICPM designation is needed to ensure reliability, the CAISO should do the same here and not automatically designate and assign related costs to those RA suppliers that have not proffered what the CAISO views as adequate replacement capacity.

In addition, and once again as previously discussed, J.P. Morgan requests further clarification on the process by which the CAISO will allocate replacement capacity costs (ICPM) in instances where there are multiple requests to replace designated resource adequacy capacity (multiple outage requests) or where there exists both replacement capacity requests and LSE deficiencies. J.P. Morgan also requests that the CAISO provide further detail on the circumstances under which it may or may not designate ICPM capacity when a capacity deficiency exists. While J.P. Morgan understands that the CAISO's existing ICPM tariff provisions provide the CAISO with the discretion to not designate ICPM capacity in circumstances where a capacity deficiency exists, further clarification of the criteria the CAISO will employ to make such determinations is appropriate in light of the resulting cost allocation issues.

In the end, J.P. Morgan is concerned that the proposed ICPM designation and cost allocation elements of the CAISO's proposal, and related ambiguity regarding such rules, may result in unnecessary ICPM designations, potentially increase risk premiums related to the selling of RA capacity, and thus ultimately raise costs to consumers.

Conclusion

J.P. Morgan recommends that the CAISO further clarify and refine the proposed Replacement Rule prior to seeking Board approval of the rule. While J.P. Morgan is sensitive to the LSEs' desire to modify the existing Replacement Rule now so that they can finalize their 2011 procurement plans, the rules and requirements regarding any new Replacement Rule must be clearly specified and the CAISO's process for administering the new rule must be clear and transparent.

J.P. Morgan appreciates the opportunity to provide these comments and looks forward to further discussions with the CAISO and stakeholders on the issues discussed herein.