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Comments on the CAISO's Draft Final Proposal on Standard Capacity Product II dated February 19, 2010

NextEra Energy Resources, LLC supports the CAISO's and the Public Utilities Commission's (CPUC) efforts to standardize the capacity product. Fundamentally capacity should be a fungible, tradable product with comparable performance and availability metrics. In pursuant of the goal of standardization, the CAISO should recognize that commercial entities require a reasonable amount of time to incorporate new requirements into their transactions. NextEra's specific comments and request for clarification on the CAISO's revised proposal are below.

Capacity Performance for Wind and Solar Facilities

In the 2009 Resource Adequacy order addressing the qualifying capacity for wind and solar resources, the Commission adopted a monthly peak performance methodology for determining the qualifying capacity value of intermittent resources[1]. Specifically the Commission found the qualifying capacity of a wind or solar resource would be equal to the minimum output achieved by the resource at least 70% of the hours in the data set of historical generation for each month. The peak performance metric from the decision resulted in the following 2010 qualifying capacity values for new resources:

Wind Statewide Percentages by year				
Month	2006	2007	2008	Average
1	5%	3%	9%	6%
2	3%	9%	5%	6%
3	15%	12%	19%	15%
4	13%	20%	11%	15%
5	14%	21%	19%	18%
6	16%	27%	19%	21%
7	9%	17%	16%	14%
8	10%	13%	12%	11%
9	5%	10%	4%	6%
10	8%	7%	4%	6%
11	4%	4%	3%	4%
12	5%	4%	4%	5%

Solar Statewide Percentages by year				
Month	2006	2007	2008	Average
1	0%	0%	0%	0%
2	1%	1%	1%	1%
3	2%	3%	7%	4%
4	42%	45%	70%	53%
5	67%	84%	73%	75%
6	94%	99%	104%	99%
7	83%	98%	101%	94%
8	103%	96%	101%	100%
9	81%	88%	92%	87%
10	25%	38%	37%	34%
11	0%	1%	0%	0%
12	1%	0%	2%	1%

The values above, as the CAISO notes in its proposal, include de-rates for outages. The CAISO in its January proposal to the CPUC proposed modifying the CPUC counting methodology by either (1) eliminating the forced outage and de-rate hours from its calculation of QC for RA resources, or (2) use proxy energy output values for these hours[2].

[1] Decision 09-06-028 June 18, 2009
[2] Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local Procurement Obligations R.09-10-032,

In the Draft final proposal the CAISO proposes that the Net Qualifying Capacity (NQC) value (i.e. the amount of capacity that each resource is permitted to sell) ultimately adopted by the CPUC in a decision scheduled for June 2010 is the amount of capacity that will be subject to the CAISO proposed availability metric and associated bonus and penalties[3]. The CAISO also states that contracts executed prior to June 28, 2009 would be grandfathered and not subject to these new performance standards.

As a starting point, market participants need to know the impact of the CAISO's proposal to eliminate forced outages from the CPUC qualifying capacity values. Presumably, eliminating outages from the existing qualifying capacity values (above) would result in higher qualifying capacity values that will be subject to the new performance metric and associated penalties. However, until the CAISO provides a quantitative assessment of that impact, market participants cannot assess the financial impacts and contractual risks.

We also note that it is unclear how forced outages were factored into the 2010 qualifying capacity values given the relatively small number of solar thermal and large scale PV facilities operating currently. Given the large amount of solar thermal and large scale PV in the exiting queue, it would be particularly helpful if the CAISO and CPUC could provide further information on the solar forced outage assumptions that will impact the qualifying capacity values and potentially expand the number of MWs subject to performance penalties under the CAISO's proposal. NextEra therefore asks that for the benefit of the CPUC decision making process and market participants that need to calculate performance risks, the CAISO provide further detail on how its CPUC proposal will impact qualifying capacity values for wind and solar that resulted from the CPUC June 2009 RA decision.

<u>Grandfathering</u>
NextEra does not oppose the CAISO's proposal to make qualifying capacity subject to standardized performance metrics. However, we do not support retroactively making these performance metrics applicable to contracts executed prior to FERC approval of the CAISO's current proposal.

NextEra agrees that FERC adopted grandfathering provisions for the resources subject to the CAISO's standardized performance provisions in its April 28,2009 FERC filing. However, intermittent resources were explicitly exempted from the CAISO's 2009 standardized performance metric because the CPUC had not resolved the qualifying capacity issues that would result in double penalties (in fact the CPUC has still not resolved that issue). In rejecting the CAISO's proposed January 1, 2009 grandfathering date FERC stated:

> *due to the notice requirements of section 205 of the FPA, we reject the CAISO's proposed January 1, 2009 cut-off date for grandfathering existing contracts. Section 205 of the FPA states, in relevant part, that "[u]nless the Commission otherwise orders, no change shall be made by any public utility in any such rates, charges, classification, or service, or in any rule, regulation, or contract relating thereto, except after 60 days' notice to the Commission and to the public."[4] Notice, for purposes of the FPA, was provided by the CAISO to the Commission and to the public on April 28, 2009, the date on which the SCP proposal was filed with the Commission. Consequently, we will allow the grandfathering provision to become effective on June 28, 2009[5].*

[3] CAISO Draft proposal page 12-13.
[4] 16 U.S.C. § 824(d) (2006).
[5] June 29, 2009 Order in ER09-1064-000

The same principal applies to the present CAISO proposal that must be submitted to FERC for approval. Therefore, NextEra believes the grandfathering provision should not apply to contracts executed prior to the CAISO ultimately filing this proposal at FERC.

Indeed, it appears that this was the CAISO's intention in its November 20, 2009 comments to the CPUC regarding the scope of the current RA proceeding:

> *The ISO's goal is to have availability standards for the currently exempt resources in place effective with the 2011 RA compliance year. Issuance of a Final Decision on this particular issue in Phase 1by March 2010 will align with the ISO's intended schedule for the stakeholder process and filing of a tariff amendment for SCP in April 2010, to obtain a FERC decision in June 2010. <u>This timing will allow stakeholders to incorporate the SCP modifications into their procurement decisions during the summer of 2010 for compliance year 2011</u>.* [6]

The CAISO comments seem to indicate its intent that these provisions would apply once FERC rules on the CAISO proposal rather than retroactive to June 28, 2009, now proposed. Another important point is that the CAISO did not make it proposal to the CPUC for how to address the double counting issue until January 11, 2010[7]. Even if resources that were specifically exempted from the FERC order of June 28, 2009 anticipated that the same performance and penalty provisions would apply at some time to intermittent resources, it remains unclear what portion of the qualifying capacity that performance metric would apply to until the CPUC rules in the proceeding. It is unreasonable to expect that contracts executed prior to this stakeholder process could have incorporated the performance risks in to their commercial arrangements.

In summary, NextEra does not object to CAISO's performance proposal or its proposal to eliminate forced outages from the qualifying capacity calculation at the CPUC. However, we believe that contracts executed prior to finalizing this stakeholder process should be grandfathered.

<u>Capacity replacement Requirements for Scheduled Outages</u>

In anticipation that the CPUC will eliminate the capacity replacement obligation on Load Serving Entities (LSEs) in an effort the standardized the capacity product, the CAISO proposes to require capacity suppliers to replace capacity if a scheduled outage will be longer than 1 week. The CAISO proposes to apply this replacement rule to both local and system capacity. The proposal further provides that if a local capacity resource owner cannot find replacement capacity within the local area it can provide system capacity, but may be subject to backstop capacity charges. In all instances, the CAISO will procure backstop capacity and allocate the cost to the supplier if the supplier has not listed a replacement resource in its supply plan.

NextEra does not support this proposal because it adds unmanageable risks to suppliers that will simply translate into an added cost to consumers - a cost that are likely to be higher than replacement costs that occur today. First, replacement capacity, whether provided by a supplier or load serving entity, should be limited to system capacity because the monthly peak capacity procurement requirement creates shortfalls of capacity in the off peak months when scheduled maintenance occurs. Local capacity should not have any replacement requirement because it is based on a higher annual

[6] CAISO comments dated November 20, 2009 in R.09-10-032, page 4.
[7] CAISO January 11, 2010 proposal in R.09-10-032 page 5.

reliability standard that addresses contingencies. Second, LSEs are much better able to manage capacity replacement for system capacity than suppliers. This is supported by evidence from the annual RA reports. In 2007 LSE's procured between 12% and 41% more than required in the non-summer months[8]. The most recent 2008 RA report shows a similar pattern[9]:

Table 3. 2008 RA Filing Summary for CPUC Jurisdictional Entities (MWs)

A	B	C	D	E	F	G	H
2008	Demand Forecast[1]	Demand Response[2]	Net Demand	RAR[3]	Total Resources Reported[4]	Resources Reported as % of RAR	Resources Reported as % of Net Demand
			D=B-C	E=D*1.15		G=F/E	H=F/D
Jan	29,529	2048	27,174	31,603	39626	125%	146%
Feb	29,023	2048	26,975	31,021	37816	122%	140%
Mar	28,082	2047	26,035	29,940	34821	116%	134%
Apr	28,973	2047	26,926	30,965	36136	117%	134%
May	33,822	2396	31,426	36,140	40547	112%	129%
Jun	36,437	2629	33,808	38,879	44125	113%	131%
Jul	42,252	2670	39,582	45,519	48771	107%	123%
Aug	44,880	2677	42,203	48,533	49153	101%	116%
Sep	40,495	2653	37,842	43,518	47463	109%	125%
Oct	33,284	2348	30,936	35,576	38445	108%	124%
Nov	29,222	2043	27,179	31,256	34871	112%	128%
Dec	31,272	2046	29,226	33,610	40544	121%	139%

Source: Aggregated LSE Monthly RA Filings[5]

The evidence from the RA program is that LSEs, although only required to procure up to the monthly peak, are typically procuring an annual product to manage scheduled outages in the off peak seasons. LSE's for the most part are already paying for annualized capacity costs. Requiring capacity suppliers to replace capacity in addition to what the LSEs are already paying for, is simply an added and unnecessary cost to the RA program.

While LSEs can manage scheduled outage replacement within their portfolios more easily, it will be very difficult for suppliers to do that without a capacity market to manage risks and price the obligation into transactions. In addition, the transaction costs could be substantial for smaller, lower capacity value resources or resources that have large variation in RA counting value from month to month in the off peak season (e.g. solar counting varies from 1 to 53% in the off peak months).

To the extent the CAISO decides to move forward with its replacement capacity proposal is should provide for grandfathering of existing contracts.

<u>SCE's Alternative Replacement Capacity Proposal</u>

As NextEra understands the proposal, SCE proposes that for system resources, the LSE would have to procure addition capacity in the off peak months to address scheduled outages. This proposal would not be applicable to local capacity requirements. SCE maintains that the alternative proposal would allow a fungible, tradable product and assure sufficient system capacity is available, without placing the additional risk on capacity suppliers and costs on consumer that is inherent in the CAISO proposal. NextEra supports further consideration of SCE proposal. In an effort to better understand the

[8] See the CPUC 2007 RA report dated March 8 2008.
[9] the CPUC 2008 RA report dated March 23, 2009.

implications of the proposal, it would be helpful if the ISO could analyze how much additional procurement would be required of LSEs to address scheduled outages of system resources.

To the extent that SCE's proposal is not developed enough for consideration in the 2010 RA process, or if further details highlight issues not currently evident, NextEra would support keeping the existing scheduled outage rules. While NextEra strongly supports a fungible capacity product, requiring suppliers to replace capacity for scheduled outages without a market to price and mange that obligation is unworkable and costly. NextEra supports further consideration of SCE's approach as most compatible with the existing RA framework, creating a fungible capacity product, and consistent with a capacity market.

NextEra appreciates the opportunity to comment on the CAISO's proposal.

Sincerely,

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