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Via Electronic Mail

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Re: Comments of FPL Energy, LLC to the California Electricity Generation Facilities Standards Committee on Proposed Operations Standards and Guidelines for Generators

Dear Committee Members:

Pursuant to the notice issued on August 23, 2004 by Commissioner Carl Wood as presiding officer of the California Electricity Generation Facilities Standards Committee (“Committee”), FPL Energy, LLC (“FPLE”) submits its comments regarding the “Proposed Operations Standards and Guidelines for Generators” (“Proposed Operating Standards”).¹

¹ In submitting these Comments to the Committee, FPLE expressly reserves its right to challenge fully, in an appropriate forum, the relevant portions of Senate Bill 39XX (SBX2 39) and the authority conferred on the Commission therein, as well as any requirement the Commission may attempt to impose on FPLE pursuant to such authority. Nothing in this submittal constitutes a waiver of such rights or any of the arguments that have been raised in a variety of pleadings filed with the Commission by FPLE in this proceeding relating to jurisdiction over exempt wholesale generators (“EWGs”).

Background

On May 6, 2004, the Commission issued its “Decision Adopting General Order Implementing and Enforcing Electric Generator General Duty Standards, Maintenance Standards, and CAISO’s Outage Coordination Protocol” (D.04-05-018), pursuant to an Order Instituting Rulemaking to Implement the Provisions of Public Utilities Code § 761.3 Enacted by Chapter 19 of the 2001-2002 Second Extraordinary Legislative Session, dated November 21, 2002 (“OIR”). Docket No. R.02-11-039. The OIR seeks to implement SBX2 39. In this proceeding, the Commission has stated that it will develop rules to: (i) implement and enforce the generator operating and maintenance standards adopted by the Committee; and (ii) enforce the California Independent System Operator Corporation’s (“CAISO”) outage scheduling protocols.

FPLE Comments

FPLE supports the comments of the Independent Energy Producers Association and Elk Hills Power, LLC. We do not seek to repeat their comments, and instead offer the following additional comments here. As further discussed below, the Proposed Operating Standards should exclude certain facilities that are not under the operational control of the CAISO – whether located outside of the CAISO control area or under the operational control of a California investor owned utility – and should also exclude EWGs powered by wind. If the Committee believes further discussion of these issues is warranted during the workshops scheduled for September 20 and 21, 2004, FPLE can make appropriate personnel available on September 20, 2004.

- 1. Applicability should be limited to CAISO Participating Generators, As Any Other Policy Would Subject Generators to Conflicting Operational Orders and Requirements that Would Compromise Reliability and Safety.**

Certain generators in California have entered into Participating Generator Agreements (“PGAs”) with the CAISO. These PGAs bind Participating Generators to compliance with the CAISO tariff. The Proposed Operating Standards were apparently written with the belief that all EWG owners have executed PGAs with the CAISO and that operational communication, discretion, and mandates would be between the Generation Asset Owner (“GAO”) and the CAISO. This presumption, however, is not universally true. Subsidiary limited liability companies of FPLE, for example, own two resources – the Blythe Power Plant (“BPP”) and Sky River – that have not signed PGAs and have no contractual or legal relationship with the CAISO. Strict compliance with the Proposed Operating Standards could place system reliability or personnel safety, or both, in peril.

BPP, owned by FPL Energy Blythe, LLC, is a nominal 520 MW combined-cycle, natural gas-fired power plant located near the town of Blythe, California. BPP delivers power to the Western Area Power Administration (“Western”) control area. Its

interconnection agreements and control area agreements are with Western, a federal agency within the Department of Energy. These agreements commit BPP to the Western tariff that govern critical aspects of BPP's communication, preparedness, emergency actions and other operational conditions – many of the same issues addressed in the Proposed Operating Standards.

BPP has not executed a PGA with the CAISO because its first point of interconnection is with Western. The CAISO has no contractual or jurisdictional control over the operation of BPP. Nonetheless, the Proposed Operating Standards include more than two dozen requirements – either as standards or guidelines – in which the GAO must communicate with, receive approval from, or otherwise coordinate with the CAISO. Given BPP's supervisory control area relationship with Western, many of these standards place BPP in the position of being a “slave to two masters.” If BPP were to be fully compliant with the Proposed Operating Standards as drafted, conflicting operational orders are both possible and likely. Such uncoordinated conflict could place system reliability in question and could compromise the safety of plant personnel.

Sky River, now 100% owned by FPL Energy Sky River Wind, LLC, is a nominal 77 MW wind facility located within the CAISO control area in Kern County, California. Prior to FPL Energy Sky River Wind's acquisition of a 100% interest in the Sky River facility, Sky River was once a qualifying facility (“QF”). Pursuant to the terms of a settlement approved by both the Commission and the Federal Energy Regulatory Commission (“FERC”), Sky River as an EWG continues to operate in accordance with the terms and conditions of its Standard Offer 4 (“SO4”) contract with Southern California Edison Company (“SCE”), though it no longer meets the ownership requirements under PURPA. Under the SCE SO4 contract, SCE maintains all operational control and communication must be coordinated through SCE. Moreover, the facility has not, and is not required to, sign a PGA with the CAISO. Like BPP, the Proposed Operating Standards could result in Sky River having conflicting operational requirements.

The CAISO tariff does not foresee control over entities that are *not* Participating Generators, like BPP and Sky River. *See* CAISO Tariff § 5.1 *et seq.* For example, Section 5.1.1 of the CAISO Tariff requires that: “Participating Generators shall operate, or cause their facilities to be operated, in accordance with the relevant provisions of this ISO Tariff, including, but not limited to, the operating requirements for normal and emergency operating conditions specified in Section 2.3 and the requirements for the dispatch and testing of Ancillary Services specified in Section 2.5.” Similarly, during system emergencies, the CAISO tariff requires, in relevant part, that: “Each Participating Generator shall take, at the direction of the ISO, such actions affecting such Generator as the ISO determines to be necessary to maintain the reliability of the ISO Controlled Grid.” *See* CAISO tariff § 5.1.3. Such requirements do not apply to EWGs that are not Participating Generators and are located outside of the CAISO control area, like BPP, or are subject to the operating control of a Utility Distribution Company (“UDC”), such as SCE.

In fact, the CAISO tariff specifically recognizes that the operating requirements of the UDC may conflict with the CAISO requirements. Although the Sky River facility is not a Participating Generator, Section 5.1.4 of the CAISO tariff is instructive:

With regard to any Generating Unit directly connected to a UDC system, a Participating Generator shall comply with applicable UDC tariffs, interconnection requirements and generation agreements. With regard to a Participating Generator's Generating Units directly connected to a UDC system, the [CAISO] and the UDC will coordinate to develop procedures to avoid conflicting [CAISO] and UDC operational directives.

The CAISO has no contractual or jurisdictional control over the operation of BPP, Sky River, and other similarly situated EWGs located in California. Nonetheless, the Proposed Operating Standards include more than two dozen requirements – either as standards or guidelines – in which the GAO must communicate with, receive approval from, respond to, or otherwise coordinate with the CAISO. Given such facilities contractual relationship regarding operations, many of the Proposed Operating Standards place them in the position of being a “slave to two masters.” If they were to be fully compliant with the Proposed Operating Standards, conflicting operational orders are both possible and likely. Such uncoordinated conflict would place system reliability in question and could compromise the safety of plant personnel.

Though not meant to be an exclusive list, the following Proposed Operating Standards are examples of standards that could place EWGs that have not executed PGAs in conflict with its host control area or are otherwise unnecessarily duplicative:

- Standard 4: Problem Resolution and Continuing Improvement
- Standard 19: Emergency Grid Operations
- Standard 22: Readiness
- Standard 23: Notification of Changes in Plant Status
- Standard 24: Changes in Plant Status
- Standard 25: Transfer of Ownership
- Standard 26: Planning for Unit Storage
- Standard 28: Equipment and Systems

FPLE believes that the most prudent course of action is to exempt BPP, Sky River and other similarly situated non-PGA EWGs from the Proposed Operating Standards. Such a result would allow Western – the host control area – to establish, command and instruct generation operations in a safe and reliable manner within its control area, and would permit SCE (as the UDC) and the CAISO to coordinate operations in accordance with the express requirements in the CAISO tariff.

2. The Readiness Requirements (Standard 22) Must Be Conditioned Upon Reasonable Compensation.

Notwithstanding FPLE's concern over CAISO control as stated above, a literal reading of Standard 22 would have GAOs "able to operate at full power ... for an indefinite time."

FPLE supports the comments of Elk Hills and others that question the reasonableness of the financial commitments and requirements that would be necessary for strict compliance with this requirement. Standard 22, however, must also include a provision such as the following as included in Standard 24:

"This standard is applicable only to the extent that the regulatory body with relevant ratemaking authority has approved a mechanism to compensate the GAO for readiness services provided."

3. Applicability of the Proposed Operating Standards Should be Limited to Participating Generator Facilities that are 50 MW or Greater.

The Committee found in establishing applicability for the General Maintenance Standards that a limitation to units of 50 MW or greater met a reasonable balance between the costs of compliance and the benefits of compliance. Given that the Proposed Operating Standards include over 100 pages of Standards and Guidelines, it is clear that the costs of compliance with the Proposed Operating Standards will be non-trivial. FPLE believes that the same applicability limitation attached to the General Maintenance Standards (only units that are 50 MW or larger) should attach to the Proposed Operating Standards, and urges the Committee to adopt such a standard.

4. Wind Generation Should be Excluded From the Proposed Operating Standards.

The High Winds facility is a nominal 162 MW wind farm owned by FPLE's subsidiary, High Winds, LLC, and is located in Solano County, California. It is an EWG with FERC-approved market-based rate authority, and has executed a PGA with the CAISO. FPLE owns and operates other EWG wind farms that may also be subjected to the Proposed Operating Standards depending on the CPUC's determination of the scope of applicability.

The Proposed Operating Standards are clearly not written with intermittent resources in mind, but rather with the understanding that units are fully dispatchable and the discretion of the dispatch rests with the GAO. Wind GAOs have very little control over the output of the units and no control over the fuel supply (wind). Therefore, compliance with several of the draft standards or guidelines, simply put, is impossible for

wind GAOs. In addition, many of the technical standards are not applicable to wind generation and therefore compliance, if required, must be interpreted broadly.

The CAISO has previously recognized the operating limitations of intermittent resources, such as wind. In proposing its tariff rules for intermittent resources, the CAISO explained in its FERC filing:

Wind generators and other intermittent Energy resources have special operational characteristics. Such units generally are unable to adjust their generation output to ISO Dispatch instructions. In addition, "as-available" Energy from intermittent resources is difficult to forecast accurately for more than one or two hours into the future due to the significant variability of the fuel source, *e.g.*, wind, sunlight.²

Without limiting the scope of our concern, we look, for example, to Standard 22: Readiness. Standard 22 generally establishes requirements to ensure that a generation facility can operate when called upon. However, it is not possible for an intermittent resource to comply with the requirement "to operate at full power" if the wind (fuel) is insufficient to generate at full power. Moreover, we have yet to discover a contingency plan to "ensure the uninterrupted supply of fuel."

In addition, most of the draft standards include references that are entirely inapplicable to wind operations. For example, the majority of the guidelines in Standards 18, 26, 27 and 28 are simply not applicable to a wind turbine generator.

For these reasons, FPLE requests that wind generation be exempted from the Operational Standards.

Conclusion

FPLE appreciates the opportunity to offer these comments, and looks forward to further discussion of these issues at the workshops scheduled for September 20 and 21, 2004.

Respectfully submitted,

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cc: Service List

² Amendment 42 Transmittal Letter, California Independent System Operator Corporation, FERC Docket No. ER02-922-000, p. 2 (Jan. 31, 2002).