

June 16, 2004

Mr. Carl Wood
Presiding Officer
California Electricity Generation Facilities Standards Committee
505 Van Ness
San Francisco, CA 94102

RE: Revised General Duty Standard No. 4

Dear Mr. Wood:

The Independent Energy Producers Association (“IEP”) provides these comments to your June 7, 2004 letter regarding the proposed revisions to General Duty Standard No. 4 (“GDS 4”). IEP represents the interests of a number of private generators that provide reliable power throughout California (including, but not limited to some of the companies erroneously named “respondent parties” or as “interested parties” in this proceeding). It is IEP’s understanding that the Committee will contemplate these revisions to GDS 4 and if the Committee approves the changes they will be submitted to the California Public Utilities Commission (“CPUC”) for a decision to add it into the General Order adopted last month.

IEP does not believe that GDS 4 is necessary or appropriate. More importantly, it simply does not make sense. IEP understands and agrees with the goal of assuring that power is provided in a safe and reliable manner. However, the revisions to GDS 4 do not satisfy the jurisdictional concerns that led the CPUC to refer this provision back to the Committee. In light of existing requirements imposed by the Federal Energy Regulatory Commission (“FERC”) and the additional provisions found in the California Independent System Operator (“CAISO”) tariff, the focus of GDS 4, namely withholding, is already sufficiently addressed.¹ Imposing the revised GDS 4 on generators will create conflicting regulatory signals, some of which conflict directly with existing reliability requirements.

The revised GDS 4 creates a number of practical problems that make it impossible for generators to comply with its provisions. GDS 4 does not reflect standard industry definitions of “forced outage” and conflicts with the concept of “good utility practice”. By definition, “forced outage” addresses unexpected events which preclude continued operation of a generator. This is recognized both in the CAISO Tariff and North American Electric Reliability Council (“NERC”) definitions.² The CAISO defines a forced outage as

¹ See, *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 (2003) (Market Behavior Rules Order), and *Order on Rehearing*, 107 FERC ¶ 61,175 (2004); See also, CAISO Tariff, Market Monitoring and Information Protocol, Original Sheet 490, available at <http://www.aiso.com/docs/09003a6080/27/ff/09003a608027ff1d.pdf>.

² See, CAISO Tariff, Master Definition Supplement, Original Sheet 316, available at <http://www.aiso.com/docs/09003a6080/27/ff/09003a608027ff02.pdf>. See also, NERC Glossary, available at

“an Outage for which sufficient notice cannot be given to allow the Outage to be factored into the Day-Ahead Market or Hour-Ahead Market scheduling processes.” NERC’s definition is “the removal from service availability of a generating unit, transmission line, or other facility for emergency reasons or a condition in which the equipment is unavailable due to unanticipated failure.” Therefore the requirement that a generator keep operating in light of a forced outage is nonsensical. Moreover, to the extent an operational problem is perceived to be starting, failing to take actions to investigate and take the unit off-line (or operate until failure) would violate notions of “good utility practice” because the failure to timely act could lead to more extensive damage to the generating asset, leading to a longer outage period and a concomitant impairment of reliability.

The revised GDS 4 will further diminish reliability by creating greater uncertainty as to the operation of facilities insofar as it requires the generator to seek and obtain an “affirmative declaration” from both the CAISO and CPUC prior to taking a unit off-line. Today generators must request approval from the CAISO to go offline either in the context of the CAISO’s Outage Coordination Procedure (particularly with respect to Planned Outages) or in the context of the current Must-Offer Obligation (“MOO”). CAISO has in place detailed tariff provisions as related processes implementing these requirements. Moreover, the process for requesting a waiver of MOO is dynamic. To impose an additional layer of approval at the CPUC will unnecessarily complicate these processes in a manner which can only impair system reliability.

Another new condition in revised GDS 4 is that a forced outage during system emergencies, warnings or alerts can only be taken if the reasonably expected cost of continuing to run the unit exceeds the public benefit, considering the unit’s contribution toward maintaining reliable electric supply under current conditions. This revision purports to require generators to make an assessment of the “public costs and benefits” of running a unit to failure rather than implementing prudent and safe practices to ensure reliability. Even supposing that such a calculus were associated with specific decision guidance, which it is not, it is not one that a generator is in a position to make particularly in the real time conditions in which it would have to be made. In fact, IEP does not understand how anyone could make such an assessment under those conditions. Moreover, the proposed standard is completely vacant with respect to other potential constraints on generators such as emissions limitations, requirements under vendor warranties or obligations under long-term or other contractual arrangements. It is simply not realistic or reasonable to expect that plant operators weigh those factors, even if they could, in the face of a potentially unsafe condition with regard to reliability or safety.

Lastly, as noted above, concerns about potential market manipulation have been addressed in the CAISO Tariff and FERC rules regarding market-based rate authority. These requirements have been put into place under the auspices of FERC’s jurisdiction since the Committee began its work. GDS 4 promises to needlessly trigger a potential jurisdictional

<http://www.nerc.com/glossary/glossary-body.html>. The relationship between forced outages and system reliability is also explicitly addressed in the Western Electricity Coordinating Council’s (“WECC’s”) Minimum Operating Reliability Criteria (“MORC”). See also, http://www.wecc.biz/documents/policy/WECC_Reliability_Criteria.pdf.

dispute when the underlying concern is already addressed. Therefore, IEP urges the Committee to reject the revisions to GDS 4 and to omit this standard as unnecessary and unwise.

June 16, 2004

Respectfully submitted,

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