

**DRAFT**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**ID #11531  
RESOLUTION E-4532  
September 13, 2012**

**R E S O L U T I O N**

Resolution E-4532. SCE requests approval of tariff revisions to accommodate customer participation in the California Independent System Operator's Station Power Protocol.

**Proposed Outcome:** This resolution approves SCE's proposed revisions to the Station Power Self Supply (SPSS) Schedule to assess certain retail charges to station power load of generators that participate in the CAISO SPP. It also directs SCE to modify the SPSS Schedule so that the station power load is permitted to be netted with on-site generation within the same 15-minute interval.

Estimated Cost: \$0

By SCE AL 2576-E-A, filed on November 18, 2011.

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**SUMMARY**

On April 1, 2006, pursuant to orders by the Federal Energy Regulatory Commission (FERC), the California Independent System Operator (CAISO) implemented the Station Power Protocol (SPP) tariff. Southern California Edison (SCE) challenged FERC's station power policy in D.C. Circuit Court. Upon the court's order, FERC issued an Order on Remand on August 30, 2010, that allowed states to use their own station power load-netting methodologies for assessing retail charges. SCE filed advice letter 2576-E-A to revise its Station Power Self Supply (SPSS) Schedule in light of FERC's August 30, 2010, order. This resolution approves SCE's proposed revisions to SPSS Schedule. SCE's proposal does not explicitly state whether SCE will allow netting for station power load which is self supplied on-site within the same 15-minute interval. This resolution directs SCE to permit a generator to net its station power load with its on-site generation within the same 15-minute interval.

**BACKGROUND**

**Station power load is electricity consumed by a generating facility in order to generate electricity at that facility.**

While the main purpose of a generating facility is to produce electricity and to provide power to the transmission grid, it needs to consume small amounts of electricity to operate the generating facility, including fuel-processing machines, cooling systems, control devices, and office equipment. Electricity consumed by the generating facility is called station power load. Station power load has traditionally been considered retail load. Since the generating facility both generates and consumes power, appropriate metering must be in place to distinguish the station power load from the generation.

**Under the retail tariff before CAISO implementation of the station power protocol, the responsible utility assessed transmission and energy sales charges to station power load.**

Before CAISO implemented the SPP on June 1, 2006, the station power load was treated as retail load and assessed applicable retail charges. When measuring the billing quantities, the utility used an approved 15-minute interval netting methodology.

Table 1 provides an example of the applicable retail charges prior to the CAISO’s implementation of its SPP tariff. Similar to other retail loads, station power loads are assessed transmission charges and energy sales charges.

Table 1

<b>Schedule TOU-8-Subtransmission</b>						
	Trans	Dist	NBC	Delivery	URG	DWR
Customer Charge	-	2,376.00	-	2,376.00	-	-
Energy Charge (\$/kWh)						
On-Peak	(0.00061)	0.00177	0.01500	0.01616	0.08658	0.03952
Mid-Peak	(0.00061)	0.00177	0.01500	0.01616	0.06016	0.03952
Off-Peak	(0.00061)	0.00177	0.01500	0.01616	0.03187	0.03952
Demand Charge (\$/kW)						
NTR	2.68	1.95	-	4.63	-	-
On-Peak	-	-	-	-	16.89	-
Mid-Peak	-	-	-	-	4.46	-
<b>Schedule S- Standby</b>						
	Trans	Dist	NBC		URG	DWR
Capacity Reservation (\$/kW)	0.54	0.57	-	1.11	-	-
Backup Generation (\$/kW)						
On-Peak	-	-	-	-	10.26	-
Mid-Peak	-	-	-	-	2.67	-

**The CAISO SPP allowed monthly netting and re-characterized station power load.**

In response to generators' complaints and FERC's instructions, the CAISO developed the SPP Tariff<sup>1</sup>. The SPP Tariff became effective on April 1, 2006. The SPP was not a mandatory program and some generators voluntarily participated in the CAISO SPP and became the SPP Generators starting from June 1, 2006. Under the CAISO SPP, netting for station power load was permitted on a monthly basis in addition to the 15-minute interval netting that was in place before. Through the SPP, CAISO re-characterized the station power load of the SPP Generator owner's station power portfolio into the following three categories.

“On-Site Self-Supply”: Within a SPP Generator owner's portfolio, if any individual generating facility's output is more than its station power load in a given month, the CAISO SPP tariff deems the generating facility's station power load is “On-Site Self-Supply.” For the “On-Site Self-Supply” portion of the station power load, the CAISO exempts transmission charges based on the notion that station power load is “On-Site Self-Supplied” and does not use any transmission facilities. CAISO also introduced a new concept that this portion of the station power load becomes wholesale load. As a result, CAISO assesses wholesale energy charges directly to the SPP Generator owner.

“Remote Self-Supply”: For a SPP Generator owner who has a portfolio of generating facilities at more than one location, if the combined station power load is less than the combined generation in the portfolio in a given month, CAISO deems the station power load as either “On-Site Self-Supply” or “Remote Self-Supply”. For transmission charges, CAISO treats the “Remote Self-Supply” portion of the station power load as retail load and bills the transmission charges to the responsible utility. However for energy charges, CAISO treats the “Remote Self-Supply” portion as wholesale load and bills the wholesale energy charges directly to the SPP Generator owner.

Third Party Supply: For a SPP Generator owner's portfolio, if the combined station power load is in excess of combined generation in the portfolio in a given month, the difference is considered to be supplied by a third party and so is called the Third Party Supply. CAISO treats this portion as retail load and bills the transmission charges and energy sales charges to the responsible utility. The responsible utility is then allowed to assess incremental retail charges for its incremental retail services.

**SCE challenged the FERC station power policy.**

SCE continuously challenged the CAISO proposal and FERC rulings on station power policy. On December 12, 2008, SCE appealed the FERC order approving the CAISO SPP tariff at the D.C. Circuit Court. The main issues SCE brought up were: 1) whether or not FERC can preempt state jurisdiction over retail energy sales, and 2) whether or not FERC has authority to set the netting methodology for the retail energy sales.

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<sup>1</sup> CAISO tariff, Appendix I---Station Power Protocol

**On March 3, 2009, SCE filed Advice Letter 2008-E-B, while waiting for the D.C. Circuit Court decision.**

While waiting for the D.C. Circuit Court decision, SCE, as required by FERC, filed the SPSS Schedule through Advice Letter (AL) 2008-E-B to accommodate the CAISO implementation of the SPP. Under the SPSS Schedule, some of the retail charges applicable to station power loads were to be eliminated retroactively from June 1, 2006. However, since the appeal to the D.C. Circuit Court was still pending, SCE, in the AL 2008-E-B filing, reserved its rights to retroactively impose the retail charges it was being compelled by FERC to eliminate, if SCE prevailed in court.

**On May 4, 2010, the D.C. Circuit Court vacated and remanded the FERC station power policy.**

In an opinion issued May 4, 2010, the D.C. Circuit Court vacated and remanded the FERC station power orders. While the D.C. Circuit recognized FERC's "undeniable right . . . to determine how much electricity generators deliver to and take from the grid for transmission purposes,"<sup>2</sup> it found that this authority did not "empower" FERC to "conclude that a retail sale has not taken place."<sup>3</sup> With regard to netting methodology used for calculating both CAISO transmission charges and retail energy sales charges, the D.C. Circuit concluded that FERC had exceeded its authority and that the netting methodologies used for assessing retail charges need not be the same as that for assessing wholesale charges.

**On July 12, 2010, the CPUC approved Advice Letter 2008-E-B.**

On July 12, 2010, the CPUC approved SPSS Schedule as filed in Advice Letter 2008-E-B and made the filed SPSS Schedule effective retroactively as of June 1, 2006.

With the approval of SPSS Schedule allowing monthly netting, the "On-Site Self-Supply" portion of the station power load, although retail load, is exempted from transmission charges and retail energy sales charges, the "Remote Self-Supply" portion of the station power load, also retail load, is exempted from retail energy sales charges. SCE asserted that CAISO's allowance of the monthly netting and cross netting among generation facilities in different locations resulted in SCE under collecting revenues for the retail services it provided to the SPP Generators.

**On August 30, 2010, FERC issued Order on Remand<sup>4</sup> that allowed states to use their own netting methodologies for assessing retail charges.**

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<sup>2</sup> D.C. Circuit Decision, 603 F.3d at 998; *accord id.* at 997.

<sup>3</sup> *Id.* at 1000.

<sup>4</sup> 132 FERC ¶ 61,183

In the order on remand, FERC stated that while FERC determines the amount of station power load that is transmitted on the FERC-jurisdictional transmission grid, the states determine the amount of station power load that is sold in state-jurisdictional retail sales. FERC further stated that states need not use the same netting methodology that FERC uses to determine the amount of station power load that is transmitted in interstate commerce in determining the amount of station power that is sold at retail. On February 28, 2011, FERC issued Order Denying Rehearing.<sup>5</sup>

### **SCE PROPOSAL AS FILED IN ADVICE LETTER 2576-E-A**

On April 22, 2011, in responding to the FERC orders, SCE filed Advice Letter (AL) 2576-E. SPP Generators protested the filing. On November 18, 2011, SCE filed the AL 2576-E-A.

In the AL 2576-E-A filing, SCE has proposed, among other things, the following modifications to the SPSS Schedule:

1. Use of retail meter data and the 15-minute interval netting methodology to assess retail charges to station power loads.
2. Exemption of the “On-Site Self-Supply” portion of the station power load from transmission charges, similar to the CAISO SPP tariff that exempts this portion of the station power load from the transmission access charges.
3. Update of SPSS Schedule effective from June 1, 2006, and a credit to SPP Generator owners for the payments they made directly to CAISO during the period from June 1, 2006, to the approval date of the filed SPSS Schedule.
4. A provision that the charges applicable to station power load of the SPP Generators are subject to change if judicial review of relevant FERC orders is sought.

### **NOTICE**

Notice of AL 2576-E-A was made by publication in the Commission’s Daily Calendar. SCE states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

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<sup>5</sup>134 FERC ¶ 61,151

## **PROTESTS**

SCE's AL 2576-E-A was timely protested by Calpine Corporation, Dynegy, High Desert Power Project, LLC, Independent Energy Producers Association, NRG Energy, and Western Power Trading Forum (WPTF), collectively referred to here as Protesters. The following is a summary of the major issues raised in the protests:

1. The AL process should not be used for dealing with the complicated cluster of issues. Instead, the CPUC should decide on a universal charging methodology for station power load through a rulemaking.
2. The CPUC has not yet established its policy on the netting methodology or the rate components for state-jurisdictional station power loads.
3. SCE neither purchased, sold, nor provided any services associated with the original or any revised version of the SPSS Schedule.
4. Where a generator obtains energy for its station power load from another generator under common ownership, there is no retail sale and the various charges applicable to retail sale should not be imposed on such self-supply.
5. The retroactive application of the revised tariff would lead to double payment. The retroactive application of a revised Schedule SPSS is also unjust, unreasonable, and discriminatory because any retroactive changes to an approved tariff rate are illegal and contrary to established CPUC policy.

## **SCE REPLY**

SCE replied to the protests on December 15, 2011. The following is a summary of the SCE Reply:

1. The AL is an appropriate vehicle to modify the SPSS Schedule. The CPUC previously recognized that there was no need for a rulemaking on station power services.
2. Based on the retail metering, any station power load not supplied from the on-site generator is a retail sale and thus retail charges should be assessed. The CPUC has the authority to assess non-bypassable charges if there is retail distribution service or a retail energy sale to a station power load.
3. In the case of "Remote Self-Supply", there is either a retail sale of energy or usage of the distribution system or both.
4. The CPUC previously adopted and implemented netting period rules and policies for station power load.
5. The filed rate doctrine does not prohibit SCE from changing SPSS Schedule to reflect the outcome of judicial review of FERC's orders. Tariff modifications based on judicial

relief do not violate the rule against retroactive ratemaking. Also, appropriate notice of the potential rate changes was provided.

## **DISCUSSION**

### **Advice Letter filing is an appropriate vehicle for determining the issues presented here.**

In responding to the SPP implementation and FERC mandates, SCE filed the currently effective SPSS Schedule through an advice letter (AL 2008-E-B). SCE now is also proposing to modify the SPSS Schedule through this advice letter to address FERC orders on remand. The tariff modification should be allowed through the advice letter filing.

The SPSS Schedule as filed does not introduce any new netting methodologies; rather it proposes to resume applying the 15-minute interval netting methodology to the SPP Generator owner's station power load. The 15-minute interval netting methodology was used in the tariff before the CAISO implementation of the SPP and is still used for generators who did not participate in the CAISO SPP. Since the 15-minute interval netting methodology was well vetted in the past, an advice letter is the appropriate vehicle to implement the 15-minute interval netting methodology.

### **Monthly netting does not result in a true measure of station power load supplied by the utility. It can zero out much of the power that was actually supplied by the responsible utility when the generating facility needed that power.**

The SPP tariff that was implemented by the CAISO under a FERC mandate allowed generators to net the station power load over a month. So, even when a generator consumed a lot of station power load, due to the netting at the end of the month, it could show that the generator did not consume station power load at all from retail perspective. With monthly netting, the responsible utility could not bill much of the power supplied by it at the otherwise applicable retail tariff. That is why SPP Generators argue that they did not receive that power and should not be billed. However, the fact is that the power was actually supplied by the responsible utility but netted out over the month, showing the power was not supplied.

### **The CPUC's established 15-minute netting methodology is more appropriate than the monthly netting methodology in reflecting electric power supply/demand situation.**

The station power load tariff in effect before the CAISO's SPP implementation used a 15-minute netting methodology for station power loads. The 15-minute netting methodology more accurately reflects the electric power situation as power demand needs to be constantly balanced with power supply. To maintain a reliable power system, energy and transmission services must be provided immediately; otherwise it can lead to reliability and safety risks and blackouts. That is why CAISO's real time energy dispatch interval is five (5) minutes and its automatic generation control issues ramp up or ramp down instructions every four (4) seconds.

Given the need for continuous balancing, monthly netting does not accurately reflect the amount of power that is needed for station power services. Monthly netting would always result in underestimating the external power needs of a generating facility. It does not show all the time

periods when the power is being brought in from the outside and the responsible utility's transmission/distribution/generation system was used for supplying that power. Use of monthly netting methodology to assess charges for services is also inconsistent with the development of smart grid and for managing intermittent or renewable resources.

**When station power load supplied by off-site generation uses the utility's transmission/distribution/generation system, it should pay applicable retail charges.**

Before the SPP implementation, station power load received wholesale services from CAISO and incremental retail services from the responsible utility. CAISO billed the wholesale services through the responsible utility but did not bill directly to the SPP Generator owners. The responsible utility's bill for the station power load included 1) passing through of the wholesale charges for the wholesale services, and 2) the incremental retail charges for the incremental retail services.

The SPP tariff allowing monthly netting did not change the fact that the station power loads that were netted out over a month were supplied by the responsible utility. Depending on the situation, these loads used either utility generation, transmission, or distribution systems or all of them. Station power load should be billed at the applicable retail rate. Had these loads been netted on a 15-minute interval, it would become clear when and how much service the responsible utility provided to the SPP Generator's station power load.

Although the CAISO SPP tariff characterized part of the station power load as "On-Site Self-Supply" or "Remote Self-Supply", they are not self-supplied when measured on a 15-minute interval basis. They are characterized as "Self-Supply" as an artifact of the monthly netting.

**SCE should permit netting for station power load self supplied on-site within the same 15 minute interval.**

SCE's proposal does not explicitly state whether SCE will allow netting for station power load self supplied on-site within the same 15-minute interval. Netting station power load that is supplied by the on-site generation within the same 15-minute interval is a reasonable approach and should be allowed.

**The argument about retroactive ratemaking raised by the protestors is baseless because these generators were made aware of possible modifications of the SPSS Schedule depending on the outcome of the court action.**

The SPSS Schedule as filed should be made effective retroactively as of June 1, 2006. Operating under the currently effective SPSS Schedule, SPP Generator owners were aware that the currently effective SPSS Schedule was subject to further judicial review.

**SCE's proposal addresses and resolves the double-payment concerns for the past by issuing credit to the SPP Generators based on their payments to the CAISO. Prospectively, the station power load of the SPP Generators should be assessed retail charges comparably with station power load of other generators**

For the period from June 1, 2006, to the effective date of this resolution, SCE proposes to issue credits based on SPP Generator's payments to the CAISO such that SPP Generators will be charged the difference between the charges calculated based on the SPSS Schedule as approved and the charges that SPP Generators have already paid to the CAISO. The incremental charges reflect incremental services SCE provided to the SPP Generators but never assessed charges. Assessing the incremental retail charges to the station power load will not lead to double charges; it only results in the station power load of the SPP Generators being assessed comparably with other station power loads.

To ensure that there is no over- or under-charge, SCE should work with the CAISO and credit SPP Generators for the payments the SPP generators paid to the CAISO from June 1, 2006. With this, there will be no need for CAISO to re-run the market or re-bill SCE or the SPP Generator owners.

Thirty (30) days after the approval of this resolution, any charges billed by the CAISO directly to the SPP Generators should no longer qualify for the crediting.

Prospectively, station power load of SPP Generators should be assessed retail charges comparably with other station power loads.

**CPUC encourages the parties and the CAISO to collaborate on the modification of the CAISO SPP to better reconcile it with state law.**

While generation output is sold to the CAISO wholesale power market, station power load, when cannot be self-supplied on-site in a 15-minute interval, has to be supplied by responsible utility who is authorized and obligated to provide retail services to the station power load, which is similar to other retail loads. Settlement of wholesale power transactions at the CAISO and settlement of retail power services at the responsible utility need to be streamlined.

To address any double- or over-payment concerns for the future, we encourage the CAISO to commence a stakeholder process to modify the CAISO SPP to better reconcile it with state law.<sup>6</sup>

**The filed tariff should be subject to change if judicial review of relevant FERC orders is granted.**

The CPUC does not need to wait until the completion of the second judicial review of the FERC orders on remand to decide on this filing. Waiting until the appellate court completes its review and possible FERC remand orders would further extend the uncertainty of retail rates. However, the CPUC believes that retail tariffs applicable to the station power load of the SPP Generators are subject to modification if judicial review of relevant FERC orders is granted.

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<sup>6</sup> FERC Orders on Rehearing on Remand paragraph 28.

## **COMMENTS**

P.U. Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the CPUC. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

## **FINDINGS**

1. Station power load is the amount of electricity consumed by a generating facility in order to generate electricity.
2. Prior to the CAISO's SPP tariff, under the CPUC approved retail tariff, within any 15-minute interval, station power load was allowed to be offset or netted by generation output in the same generating facility as long as the responsible utility's transmission, distribution, or generation was not used.
3. Under the retail tariff before the CAISO implementation of the SPP, the responsible utility assessed transmission and energy sales charges to station power load.
4. Through the implementation of the SPP, CAISO introduced the monthly netting methodology. The monthly netting re-characterized the station power load as "On-Site Self Supply", "Remote Self-Supply" and Third Party Supply. CAISO exempted the "On-Site Self-Supply" portion from transmission access charges. CAISO, using wholesale prices, settles energy charges for the "On-Site Self-Supply" and the "Remote Self-Supply" portions of the station power load with the SPP Generators directly.
5. SCE had to file the currently effective SPSS Schedule through Advice Letter 2008-E-B to comply with the FERC directives. Under the SPSS Schedule, some of the retail charges applicable to station power load of the SPP Generators were eliminated due to the monthly netting approach of the SPP.
6. The D.C. Circuit Court vacated and remanded the FERC station power policy.
7. FERC issued an Order on Remand and has left it to the states to use their netting methodology for assessing retail charges.
8. SCE filed this Advice Letter to resume using the 15-minute netting methodology 1) to assess retail charges to station power load of the SPP Generators; 2) to pass through the exemption of the transmission charges for the "On-Site Self-Supply" portion of the

station power load; 3) to make the rate effective from June 1, 2006; and 4) to note that the rate, if approved, is subject to change if judicial review of the related FERC orders is granted.

9. SPP Generators filed protests and SCE replied to the protests.
10. The Advice Letter is an appropriate vehicle for determining the issues presented here.
11. Monthly netting does not result in a true measure of station power load supplied by the utility. It can zero out much of the power that was actually supplied by the responsible utility when the generating facility needed that power.
12. The CPUC's established 15-minute netting methodology is more appropriate than the monthly netting methodology in reflecting electric power supply/demand situation.
13. Netting station power load that is supplied by the on-site generation within the same 15-minute interval is a reasonable approach and should be allowed.
14. The argument about retroactive ratemaking raised by some protestors is baseless because SPP Generator owners were made aware of possible modification of the tariff depending on the outcome of the court action.
15. SCE's proposal addresses and resolves the double-payment concerns for past payments made by the SPP Generators to the CAISO.
16. Prospectively, station power loads of the SPP Generators should be assessed retail charges comparable with other station power loads who did not participate in the CAISO SPP.
17. After approval by the CPUC, the SPSS Schedule is subject to change if judicial review of relevant FERC orders is granted.
18. CAISO and stakeholders are encouraged to modify the CAISO SPP to better reconcile it with state law.

**THEREFORE, IT IS ORDERED THAT:**

1. This Resolution approves SPSS Schedule to assess retail charges to SPP Generator's station power load on the 15-minute interval basis, with the modification that the station power load is permitted to be netted with on-site generation within the same 15-minute interval.
2. The SPSS Schedule shall be effective from June 1, 2006.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on September 13, 2012; the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director