

VIA Federal Express and Electronic Mail

March 30, 2006

Mr. Sean Sanderson
Rates Manager
Sierra Nevada Customer Service Region
Western Area Power Administration
114 Parkshore Drive
Folsom, CA 95630-4710
ssander@wapa.gov



	Code	Initial	Date
	6000		
	6100	SD	3/31/06
	6200		
	6400		
	6800		

Original to
M. Gross

RE: The Central Valley Project-Rate Order No. WAPA-128 ("CVP Rate Order No. 128")

Dear Mr. Sanderson:

Pursuant to the February 16, 2006 Notice published in the Federal Register, Vol. 71, No. 41, Calpine Construction Finance Company, L.P. ("Calpine") respectfully submits these comments on the 2006 proposed rate adjustment (CVP Rate Order No. 128) for the Western Area Power Administration - Sierra Nevada Region ("Western").

Calpine owns the Sutter Energy Center, which is a nominal 550 MW combined-cycle power plant located in Sutter County, California (the "Sutter Plant"). The Sutter Plant is interconnected to Western's transmission system at the O'Bannion substation. Calpine and Western are parties to the Contract for Direct Interconnection of Calpine Construction Finance Company's Sutter Power Plant (Contract No. 00-SNR-00229), dated January 28, 2000, as amended (the "Sutter IA"). In addition, Calpine's parent, Calpine Corporation, and Western are parties to Service Agreement for Long-Term Firm Point-To-Point Transmission Service (Contract No. 99-SNR-00210), dated August 30, 1999 (the "Sutter TSA"). To our knowledge, the Sutter Plant is the only generation resource owned by an independent power producer interconnected to Western's transmission system.

Effective as of November 29, 2005, Calpine, Calpine Corporation and Western entered into that certain Agreement Regarding Mutual Release and Settlement (the "Sutter Settlement"), wherein, among other things, Western and Calpine agreed to execute Amendment 2 to the Sutter TSA, dated as of November 30, 2005 (the "IA Amendment 2"), and Western agreed to not oppose Calpine's Offer of Settlement in Docket No. ER05-912 at the Federal Energy Regulatory Commission ("FERC"), whereby Calpine's tariff for reactive service for the Sutter Plant was finalized. FERC accepted the Offer of Settlement in Docket No. ER05-912 on February 28, 2006. Pursuant to the Sutter Settlement, Western has been paying Calpine for reactive support and voltage control at the rates established in the Calpine tariff since December 1, 2005. Calpine and Western dispute whether Western owes Calpine any payment in arrears for reactive support and voltage control.

Of particular relevance to this rate proceeding, Western and Calpine modified Section 15 of the Sutter IA to provide that Western would pay Calpine for reactive power service for operation of the Sutter Plant within a certain specified power factor range (e.g. 0.95 leading, 0.95 lagging) pursuant to the terms of the Calpine tariff for such service subject to certain limitations set forth in the Sutter IA. Section 15.3 of the Sutter IA (as amended by IA Amendment 2) provides in part "If Western pays its own or affiliated generators for reactive power service within the specified range and if the current FERC policy as defined within Order Nos. 2003, *et seq.*, requires a transmission owner to pay an interconnection customer for providing reactive power service within the specified range, Western agrees to voluntarily pay CCFC in a manner that is consistent with the policy of Order Nos. 2003, *et seq.*, if:..." Western's obligation under Section 15.3 was further conditioned as follows:

Furthermore, nothing herein limits Western's ability to establish a separate rate for reactive power or to change the method by which Western collects its own revenue requirement for reactive power. Western maintains that a) it has no legal obligation to pay for reactive power services provided within the power factor range specified in Section 15.1 of this Interconnection Agreement, if Western implements a rate change that includes the method of collection of its revenue requirement for reactive power and b) Western is not required to pay for reactive power services in arrears should Western not pay CCFC based on Western's position, even if at some point in time FERC rejects Western's position described herein. CCFC maintains that Western does have a legal obligation to pay for reactive power services within the range specified in Section 15.1 of this Interconnection Agreement, notwithstanding any action by Western to implement a change in Western's recovery of its own reactive power costs and that Western has no right to be relieved of payment in arrears in the event that Western does not pay reactive power charges to CCFC. The Parties have agreed that nothing contained within this Interconnection Agreement shall be the basis for a resolution of the difference in legal positions described in the preceding sentences.

In the CVP Rate Order No. 128, Western is proposing to revise the transmission revenue requirement ("TRR") for Western Rate Schedules CV-T1, CV-NWT3, PACI-T1 and COTP-T1 such that the formula rates associated with reactive power and voltage control ("VAR Support") will no longer be recovered from transmission customers taking service pursuant to those rates. According to Western, this proposed revision to the TRR would permit Western to relieve itself from any payment obligations to both Federal and non-Federal generation sources that are otherwise providing VAR Support. Specifically, we understand that it is Western's belief that if CVP Rate No. 128 were to be adopted, Western would no longer be obligated to compensate Calpine for the VAR Support from

the Sutter Plant despite (1) the continued provision of such service from the Sutter Plant, (2) the existence of a FERC-approved tariff authorizing Calpine to invoice Western for the VAR Support that the Sutter Plant provides to Western, and (3) the receipt by Western of payment of VAR Support for its own generation.

Notably, and in direct conflict with the comparability requirement articulated in FERC Order No. 2003¹, the new rate proposal contemplates that Western will continue to charge its customers and receive compensation for VAR Support provided by its generation facilities. Western seeks to accomplish this by merely moving the recovery of costs attributable to VAR Support from its own generation assets from the TRR to the Base Resource and First Preference PRR (CV-F11). Previously, Western's statutory customers had paid for VAR Support costs as part of the Base Resource and First Preference PRR (CV-F11), which had incorporated the TRR, which in turn included the VAR Support costs. Western has now simply pulled the VAR Support element out of the TRR and placed it within the PRR – in essence skipping a step. The sole purpose of this shifting of rates is to relieve Western from paying Calpine for the exact same service that Western believes it is entitled to charge its customers from its own generation.

Western asserts that this manipulation of its rate structure to avoid paying Calpine for VAR Support is consistent with a belief "...that both Federal generators and non-Federal generators should be treated comparably when they provide VAR Support." Western, however, misunderstands the FERC's articulation of the requirement of comparability when it comes to compensation for reactive service and voltage control. In its Order Denying Rehearing in Entergy Services, Inc.², FERC addressed arguments by independent generators, including Calpine Corporation, regarding comparability of treatment associated with Entergy's determination to stop compensating generators, affiliates or otherwise, for reactive service and voltage control by "zeroing out" Schedule 2 of its Open Access Transmission Tariff. Unlike in the present rate proceeding, Entergy maintained that it was not otherwise compensating its affiliated generators through other means. While the independent generators questioned the veracity of this claim, and argued that the FERC's earlier holding was in error because it inappropriately shifted the burden of proof from Entergy to the independent generators on the issue of whether the Entergy rates were just, reasonable and not unduly discriminatory, the FERC held that unless the independent generators could prove that Entergy was otherwise compensating its affiliated generators for reactive service, Entergy's determination to "zero out" Schedule 2 and to stop paying unaffiliated generators for such service was consistent with the comparability principle enunciated in Order No. 2003-A. So therefore, while there may be an argument that comparability would permit Western to "zero out" the VAR Support component of the TRR and not compensate either Federal or non-Federal generators, it is not comparable treatment to manipulate the rate structure to deprive non-affiliate (non-Federal) generators of compensation while assuring affiliate (Federal) generators of compensation.

¹ Order No. 2003-A at P 416 (comparability of compensation).

² 114 FERC 61,303, (issued March 23, 2006)

In addition to its miscomprehension of the comparability principle, Western attempts to justify its position in nonsensical and otherwise telling ways. For instance, Western argues that the change in the rate structure is justified because "[b]y excluding the VAR Support component from the TRR, Western can accurately determine the costs associated with transmission service." Calpine fails to see how this can be the case. Western is merely shifting a cost element that traditionally is part of the transmission service rate to its power rate. If anything, this new allocation obfuscates the costs associated with providing transmission service by allocating costs traditionally allocated in transmission rates to other rates. Further, Western notes that by manipulating its rate structure in a manner that it believes will result in it not being obligated to pay Calpine, "...the overall cost to Western's statutory customers would be lower and more predictable since they are paying for only costs associated with Federal generators." Stated more directly, rates are lower because Calpine is providing VAR Support at no charge.

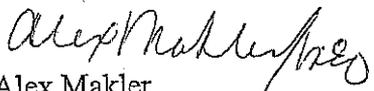
Calpine respectfully recommends that Western not adopt the CVP Rate Order No. 128. Western's proposal rate does not comport with the principle of comparability articulated by FERC and is therefore discriminatory and inconsistent with Western's reciprocity obligations under its tariff.

Calpine reserves all of its rights under the Sutter IA and at law with respect to any action that Western takes associated with a change in its rates.

If you have any questions regarding the foregoing, you may contact me at (925) 479-6691.

Respectfully submitted,

CALPINE CONSTRUCTION FINANCE COMPANY, L.P.


Alex Makler
Vice President and Managing Counsel
Calpine Corporation