

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**California Independent System            )       Docket No. ER08-1178-\_\_\_\_  
Operator Corporation                    )**

**MOTION FOR LEAVE TO FILE ANSWER ONE DAY OUT OF TIME AND  
ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION TO MOTIONS TO INTERVENE AND COMMENTS, AND  
MOTION TO FILE ANSWER AND ANSWER TO PROTESTS**

On June 27, 2008, the California Independent System Operator Corporation (“CAISO”) submitted in the above-referenced proceeding an amendment (“Amendment”) to the CAISO’s Market Redesign and Technology Upgrade (“MRTU”) Tariff regarding Exceptional Dispatch under that Tariff.<sup>1</sup> The Commission established a July 18, 2008 comment date regarding the Amendment. In response, a number of parties submitted motions to intervene, comments, and protests.<sup>2</sup>

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the MRTU Tariff (also called the CAISO Tariff), and in the Amendment. Except where otherwise specified, references to sections are references to sections of the MRTU Tariff.

<sup>2</sup> Motions to intervene were submitted by the following parties: the Alliance for Retail Energy Markets; Calpine Corporation (“Calpine”); Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (together, “Six Cities”); City of Santa Clara, California d/b/a Silicon Valley Power, and M-S-R Public Power Agency; Dynegy Morro Bay, LLC and Dynegy Moss Landing, LLC (together, “Dynegy”); NRG Power Marketing LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, El Segundo Power LLC, and Long Beach Generation LLC; Pacific Gas and Electric Company; Powerex Corp.; Reliant Energy, Inc. (“Reliant”); Southern California Edison Company (“SCE”); and Western Power Trading Forum (“WPTF”). The California Public Utilities Commission filed a notice of intervention. In addition, Calpine, Dynegy, SCE, and the Six Cities filed comments, and Reliant and WPTF filed protests. Also, on August 4, 2008, PG&E and SCE filed answers in this proceeding.

The CAISO does not object to any party's motion to intervene, and notes that several parties state their support of the Amendment in large part.<sup>3</sup> However, pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213, the CAISO files its answer to the comments, and pursuant to Rules 212 and 213 of the Commission's Rules, 18 C.F.R. §§ 385.212, 385.213, the CAISO respectfully requests leave to file an answer, and files its answer, to the protests.<sup>4</sup> Also, the CAISO respectfully moves for leave to file its answer one day out of time (*i.e.*, sixteen days after the comments and protests were submitted in this proceeding), because the answer provides information that will assist the Commission in its decision-making process. The Commission routinely accepts answers filed out of time in similar circumstances.<sup>5</sup>

For the reasons explained below, the Commission should accept the Amendment without modification.

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<sup>3</sup> See SCE at 2-3; PG&E Answer at 1; Six Cities at 2-3.

<sup>4</sup> The CAISO requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to make an answer to the protests. Good cause for this waiver exists here because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case. See, *e.g.*, *Entergy Services, Inc.*, 116 FERC ¶ 61,286, at P 6 (2006); *Midwest Independent Transmission System Operator, Inc.*, 116 FERC ¶ 61,124, at P 11 (2006); *High Island Offshore System, L.L.C.*, 113 FERC ¶ 61,202, at P 8 (2005).

<sup>5</sup> See, *e.g.*, *Southwest Power Pool, Inc.*, 123 FERC ¶ 61,208, at P 7 (2008) (accepting answer filed one day out of time); *Enbridge Energy, Limited Partnership*, 118 FERC 61,174, at P 12 (2007) (same).

**I. ANSWER**

**A. Contrary to the Arguments of WPTF, the Commission Should Accept the Exceptional Dispatch Mitigation Provisions Contained in the Amendment.**

WPTF makes a number of arguments in an effort to show that the proposed changes to the MRTU Tariff contained in the Amendment regarding the mitigation of local market power (“Exceptional Dispatch mitigation provisions” or “mitigation provisions”) are unnecessary to address market power issues and should be rejected. WPTF’s arguments are without merit.

Although WPTF “concedes that Exceptional Dispatch may be needed because of constraints that are not reflected in the MRTU FNM [Full Network Model],” it argues that the CAISO should modify the FNM and the MRTU market software to model such constraints correctly instead of employing Exceptional Dispatch to address those constraints.<sup>6</sup> WPTF’s argument is based on the false premise that if the CAISO is able to use Exceptional Dispatch as proposed in the Amendment, the CAISO will have no incentive to improve the FNM and the MRTU market software to reduce the need for such Exceptional Dispatch. To the contrary, as explained in the Amendment, the CAISO plans to employ Exceptional Dispatch *and also* to utilize information obtained from its use to modify and improve the FNM and the MRTU market software in order to reduce the need for Exceptional Dispatches to the greatest extent possible.<sup>7</sup> The CAISO

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<sup>6</sup> WPTF at 6 n.13.

<sup>7</sup> Transmittal Letter for Amendment at 21 (“Actual experience under MRTU will provide empirical evidence to indicate whether the FNM can or should be enhanced or whether, as in the case of Path 26, a new 20-minute Operating Reserve product should be created, or whether the need for Exceptional Dispatch for a particular constraint is, in fact, rare and infrequent.”).

anticipates that within two years after MRTU start-up, the experience gained in operating under the MRTU markets and improvements in the FNM and MRTU software may reduce the need to issue Exceptional Dispatches to a level such that specific mitigation of Exceptional Dispatches will, in fact, be rare and infrequent. For these reasons, the CAISO proposed that the Exceptional Dispatch mitigation provisions should terminate 24 months after MRTU is implemented, unless actual experience indicates that market power issues associated with Exceptional Dispatch are still frequent enough to warrant maintaining mitigation, in which case the CAISO will file either an extension of the mitigation provisions or revised mitigation provisions that reflect the CAISO's initial experience with Exceptional Dispatch under MRTU.<sup>8</sup> Therefore, it is fallacious for WPTF to argue that using Exceptional Dispatch as proposed in the Amendment, and improving the FNM and the MRTU market software, are mutually exclusive.

WPTF asserts that there are four reasons why the Exceptional Dispatch mitigation provisions contained in the Amendment are unnecessary and should be rejected. None of WPTF's stated reasons are persuasive.

First, WPTF argues that if Exceptional Dispatch occurs infrequently and unpredictably, a resource will be unable to exercise local market power in anticipation of the onset of an Exceptional Dispatch event.<sup>9</sup> This argument ignores the explanation in the Amendment that, although the CAISO's goal is for

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<sup>8</sup> *Id.* at 17.

<sup>9</sup> WPTF at 7.

Exceptional Dispatches to address reliability constraints to be rare and infrequent events, nevertheless the CAISO is concerned that it may have to issue Exceptional Dispatch instructions more frequently to address local reliability issues that are not modeled in the FNM, particularly during the first two years of operations under MRTU.<sup>10</sup> No one can predict with any accuracy how often Exceptional Dispatches will be needed to address local reliability issues, particularly during the two years after MRTU start-up. Moreover, the mitigation provisions were designed to address Exceptional Dispatches that, although perhaps infrequent, would be predictable based on operator actions and known system conditions, allowing particular units to exert market power up to the Bid cap. Therefore, the CAISO believes it is vitally important that the Exceptional Dispatch mitigation provisions be in effect starting on the day that MRTU is implemented. However, as stated above, because the CAISO believes that experience with MRTU and ongoing improvements in the FNM and MRTU market software may reduce the need for Exceptional Dispatches, the CAISO is proposing that the Exceptional Dispatch mitigation provisions terminate 24 months after MRTU start-up unless there is a need to continue using them beyond that time frame.

WPTF also argues that the Exceptional Dispatch mitigation provisions should not be used as a substitute for effective market monitoring by the CAISO's Department of Market Monitoring ("DMM").<sup>11</sup> The CAISO fundamentally

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<sup>10</sup> Transmittal Letter for Amendment at 19.

<sup>11</sup> WPTF at 7.

disagrees with WPTF's argument that market power should only be addressed on an after-the-fact basis, and believes that WPTF's suggested approach conflicts with the Commission's stated preference for *a priori* mitigation based on clear thresholds and market rules.<sup>12</sup> Under the approach suggested by WPTF, even the most effective market monitoring could only identify the exercise of local market power after it occurs, and would not provide a basis for mitigating market power that had already been exercised. Moreover, while effective market monitoring can help ensure that appropriate mitigation rules are implemented on a relatively expedited basis, there may be a significant lag until such rules changes can be implemented due to various procedural and software requirements associated with those changes,

The second reason that WPTF provides for asserting that the Exceptional Dispatch mitigation provisions should be rejected is that the CAISO has stated that, if issues with MRTU should arise, the CAISO will act quickly to develop and implement an appropriate solution and/or will seek expedited action from the Commission.<sup>13</sup> While it is true that the CAISO will make every effort to quickly address any issues with MRTU (e.g., by updating the FNM, addressing MRTU market software problems, or requesting Commission action), it is unrealistic to assume that such issues can always be fully or even partly addressed on a same-day or a next-day basis. The amount of time needed to address and resolve any particular issue depends on the nature of the issue. Some may take

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<sup>12</sup> See, e.g., *PJM Interconnection, L.L.C.*, 112 FERC ¶ 61,031, at P 63 (2005); *ISO New England Inc.*, 104 FERC ¶ 61,039, at P 38 (2003).

<sup>13</sup> WPTF at 7-8.

more time than others to resolve. For example, in the case of a limit change to a currently defined constraint, it could be fixed within a couple of hours as a derate. On the other hand, if a new constraint needs to be modeled, then it could take several weeks to get the updated FNM. Further, if the constraint is something that cannot be modeled, then there is no immediate fix and a solution might take considerably longer. In contrast, the Exceptional Dispatch mitigation provisions have the advantage of allowing the CAISO to mitigate the exercise of market power at the time the CAISO commits or dispatches resources for any of the three purposes listed in proposed Section 39.10. Thus, the Exceptional Dispatch mitigation provisions ensure quicker action by the CAISO than would be possible through development and implementation of an appropriate solution or seeking expedited action from the Commission.

The third reason that WPTF provides is that the Exceptional Dispatch mitigation provisions reduce the incentives for the CAISO, working with Market Participants, to identify and resolve root causes so that reliability products the CAISO needs are procured through (rather than outside) its markets, and reduce the incentives for the CAISO to update and reform the Integrated Forward Market (“IFM”) modeling of the transmission constraints that can lead to the need for Exceptional Dispatch.<sup>14</sup> As explained above, there is no merit to the argument that implementing the Exceptional Dispatch mitigation provisions will reduce the incentives for the CAISO to improve MRTU and thereby reduce the need to issue Exceptional Dispatches. Moreover, the CAISO is obligated to record the reasons

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<sup>14</sup> *Id.* at 8. Reliant (at 7-8) makes a similar argument.

for any Exceptional Dispatches and to publish all instances of Exceptional Dispatches on its Open Access Same-Time Information System (“OASIS”), and will publish monthly summary reports on the CAISO Website concerning the reasons why it has issued Exceptional Dispatch instructions. This publicly available information will provide a high level of transparency to Market Participants concerning the frequency, volume, costs, causes, and degree of mitigation of Exceptional Dispatches.<sup>15</sup> This information will also create an incentive for the CAISO to do all it can to address and resolve the underlying reasons requiring Exceptional Dispatches, particularly with regard to any circumstances indicating that Exceptional Dispatch is not a rare and infrequent event.

The fourth and final reason that WPTF gives for asserting that the Exceptional Dispatch mitigation provisions should be rejected is that the CAISO’s discussion of the relationship between the mitigation provisions and Type 2 Interim Capacity Procurement Mechanism (“ICPM”) designation shows that there is “an overlap – and therefore CAISO discretion – in the events that trigger the Exceptional Dispatch mitigation and the events which might trigger an ICPM designation.”<sup>16</sup> The relationship between Exceptional Dispatch, including the mitigation provisions, and the ICPM does not provide any reason to reject the Amendment. The CAISO explained in its discussion of this relationship that it does not believe that Exceptional Dispatch should be used as a prescriptive

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<sup>15</sup> Transmittal Letter for Amendment at 7.

<sup>16</sup> WPTF at 8.

“hard trigger” that would require an ICPM designation. This would have been the case even without the proposed mitigation provisions. Exceptional Dispatch may be needed to address very short-term and transitory reliability requirements, many of which are likely to be due to MRTU market software limitations. If the need for Exceptional Dispatch is transitory, then a monthly or multi-month ICPM designation would not appear to be proportional to the need; in contrast, a major reliability event, such as loss of a transmission line for an extended period, would be deemed to be a Significant Event and should lead to the offer of a Type 2 ICPM designation.<sup>17</sup>

Moreover, the Exceptional Dispatch mitigation provisions will be used only for the following three purposes: (1) addressing reliability requirements related to non-competitive transmission constraints; (2) ramping units up from Minimum Load to minimum dispatchable levels to protect against reliability contingencies that are not directly incorporated or sufficiently met by the MRTU market software; and (3) addressing other special unit-specific operating or environmental constraints not incorporated in the MRTU model.<sup>18</sup> Exceptional Dispatches not falling into any of these three categories will not be subject to mitigation at all. Most importantly with regard to this issue, in crafting the mitigation provisions (particularly the mitigation provisions that would go into effect five months after MRTU start-up), the CAISO has sought to permit that, in cases where Exceptional Dispatch instructions are issued to a resource that is

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<sup>17</sup> Transmittal Letter for Amendment at 21-22.

<sup>18</sup> *Id.* at 23-24; proposed MRTU Tariff Section 39.10.

clearly needed for reliability reasons and is entitled to receive “Exceptional Dispatch supplemental revenues,” the revenues the resource will receive will match those it would receive under an immediate ICPM designation after only a few hours. Further, the resource could receive an even larger amount of revenues in the event that the resource obtains an ICPM designation shortly thereafter.<sup>19</sup> In fact, this tension could result in faster ICPM designations when the CAISO anticipates relatively frequent use of Exceptional Dispatch which may be linked to a more serious reliability reason constituting a Significant Event. Such designations, however, would apply to resources that do not have a capacity contract. The CAISO anticipates that that vast majority of Exceptional Dispatches subject to mitigation will be to RA Resources that the MRTU market software cannot dispatch due to a modeling problem, outage, or de-rate not reflected in the FNM (and that thus fall into category (3) listed above). In sum, the CAISO believes that Exceptional Dispatch of a non-RA Resource for local needs would be a rare occurrence and should not automatically trigger use of the ICPM.<sup>20</sup> As explained above, ICPM designations based on Type 2 procurement will be made appropriately when system conditions constitute defined Significant

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<sup>19</sup> As explained in the Amendment, contributions to fixed-cost recovery that are provided under the Exceptional Dispatch mitigation provisions to mitigated resources that are not Resource Adequacy (“RA”), Reliability Must-Run (“RMR”), or ICPM resources in certain specified circumstances are called “Exceptional Dispatch supplemental revenues” or “supplemental revenues.” See Transmittal Letter for Amendment at 9, 12. Also, the term “mitigated resource” refers to a resource to which the CAISO applies Mitigation Measures for any of the three purposes described in proposed Section 39.10. *Id.* at 6 n.14. A mitigated resource that is eligible to receive supplemental revenues is referred to as an “eligible mitigated resource.” *Id.* at 9.

<sup>20</sup> *Id.* at 23.

Events. For these reasons, WPTF's concerns about the relationship between the Exceptional Dispatch mitigation provisions and the ICPM are unfounded.

**B. The Commission Should Accept as Filed Proposed Section 39.10, Which Specifies the Circumstances in Which the CAISO Will Apply Mitigation Measures to Exceptional Dispatches of Resources.**

WPTF argues that, if the Commission does not reject the Amendment, it should require revisions to proposed Section 39.10, which lists the three circumstances in which Mitigation Measures will be applied to Exceptional Dispatches. The Commission should reject all of WPTF's arguments regarding Section 39.10.

WPTF states its belief that the CAISO does not intend to be authorized, under proposed Section 39.10(1), to mitigate Exceptional Dispatches for any non-competitive constraint.<sup>21</sup> WPTF is incorrect. The CAISO does intend to have this authority under MRTU because it needs to be able to employ the Exceptional Dispatch mitigation provisions to address all constraints that are not modeled (and hence not enforced) in the Competitive Constraints Run of the Market Power Mitigation-Reliability Requirement Determination ("MPM-RRD"). WPTF provides no reasons why the Commission should not grant the CAISO this authority or should otherwise require revisions to the language in Section 39.10(1). Therefore, the Commission should accept Section 39.10(1) as proposed in the Amendment.

Turning to proposed Section 39.10(2), WPTF argues that the CAISO does not provide support for the use of Exceptional Dispatch to address contingencies

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<sup>21</sup> WPTF at 9-10.

such as an overload of Path 26 or justify why such Exceptional Dispatch should be mitigated.<sup>22</sup> WPTF is incorrect. In the Amendment, the CAISO explained at length that one reason it needs to employ the Exceptional Dispatch mitigation provisions is to prevent the exercise of local market power in situations where a reliability constraint is not modeled (or not fully modeled) in the FNM, which is the case with the Path 26 constraint due to that constraint's complexity.<sup>23</sup> WPTF also incorrectly states that the CAISO proposes to use Exceptional Dispatch to procure Operating Reserves.<sup>24</sup> Under MRTU market rules, the CAISO will continue to procure enough 10-minute Operating Reserve to meet all Reliability Standards of the North American Electric Reliability Corporation ("NERC") and the Western Electricity Coordinating Council ("WECC") to address 10-minute contingencies. The CAISO may also – under some conditions – utilize Exceptional Dispatch as one of a variety of means for being prepared to respond to certain *30-minute* contingencies. Any resource that is issued an Exceptional Dispatch instruction for that purpose would, of course, be eligible for Bid Cost Recovery, and non-RA Resources would also be eligible to receive supplemental revenues if dispatched for Energy and subject to mitigation. However, the CAISO recognizes that it may be appropriate to develop a new market product that can help to protect against 30-minute contingencies. For these reasons, the CAISO has started discussions in its stakeholder initiatives forum to review the

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<sup>22</sup> *Id.* at 10.

<sup>23</sup> Transmittal Letter for Amendment at 19-21.

<sup>24</sup> WPTF at 11, 12.

need for a new product to address 30-minute contingences. The CAISO anticipates publishing an issue paper on this topic later this year. However, the CAISO believes that the potential need for and appropriate market design of such a product can only be accurately assessed after MRTU is implemented and the CAISO has gained substantial experience with that new market design with respect to factors such as unit commitment and dispatch patterns, participation in various CAISO Markets by specific resources, and the actual need for any Exceptional Dispatches. Hence, this issue should be considered separately from the Exceptional Dispatch mitigation provisions, which should not be modified to provide payments for a product that does not yet exist.

The Commission should also reject WPTF's argument that Section 39.10(2), under which the CAISO could use Exceptional Dispatch to address contingencies on Path 26 (a competitive path under MRTU), is inconsistent with Section 39.10(1), under which the CAISO could use Exceptional Dispatch to address reliability requirements related to non-competitive transmission constraints.<sup>25</sup> There is no inconsistency. On the contrary, Sections 39.10(1) and 39.10(2) were included in the Amendment specifically to describe two different circumstances in which the CAISO will employ the Exceptional Dispatch mitigation provisions. First, as specified in Section 39.10(1), the mitigation provisions would apply to Exceptional Dispatches to address reliability requirements related to all non-competitive transmission paths. In addition, Section 39.10(2) specifies that the mitigation provisions would apply to

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*Id.* at 11.

Exceptional Dispatches of the type that would be used to address contingencies (such as an outage on the Nevada-Oregon Border (“NOB”) direct current transmission line) that could require a 30-minute response to mitigate flows on Path 26, which is deemed a competitive path under MRTU and is therefore not covered under Section 39.10(1). As noted above, this scenario represents a specific case in which the CAISO anticipates it may need to issue Exceptional Dispatch instructions in real time to meet 20- to 30-minute contingencies not incorporated in the MRTU market software. In real time, grid operators may need to ramp up specific units to protect against this category of contingency, so that specific units may have temporary locational market power for this Energy. Consequently, the CAISO has specifically identified this category of Exceptional Dispatch as being subject to mitigation under Section 39.10(2).

In addition, there is no merit to WPTF’s argument that Section 39.10(2) is inconsistent with the fact that, apart from a \$250/MWh offer cap, the MRTU Tariff contains no provisions regarding the mitigation of Ancillary Services bids.<sup>26</sup> The CAISO would use Section 39.10(2) for the purpose of ramping units up from Minimum Load to minimum dispatchable level, not for the purpose of committing units to provide Ancillary Services or imposing an Ancillary Services offer obligation under the current MRTU market rules, and the CAISO will not count any such commitments or dispatches toward meeting Operating Reserve requirements. In the event that the CAISO creates a new 20-30 minute reserve product, it will address any locational market power issues associated with

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<sup>26</sup> *Id.* at 11-12. Section 39.6.1.3 contains the offer cap, which WPTF mistakenly calls a \$250/MW (rather than a \$250/MWh) cap.

procurement of such a product at that time, based on an assessment of the competitiveness of the market for that product given the relative demand requirements, and on the expected supply and ownership or control of resources available to meet demand given the specific market design under consideration.

With regard to proposed Section 39.10(3), WPTF asserts that the CAISO should explain why it needs to use Exceptional Dispatch to address Path 26 and Delta Dispatch constraints when the purpose of the zonal and local RA requirements is to provide sufficient capacity within a defined geographic area to maintain reliability.<sup>27</sup> The CAISO has already explained in its transmittal letter that Path 26 and Delta Dispatch constraints need to be addressed through Exceptional Dispatch because they can present opportunities for the exercise of local market power due to the fact that they are extremely difficult, if not impossible, to model in the FNM. Moreover, Delta Dispatch is also in place only for a few weeks in the spring and summer.<sup>28</sup> The CAISO fully expects to have all the RA Resources it needs to address local requirements, but the CAISO may still need to utilize Exceptional Dispatches because the MRTU market software may not dispatch the required RA Resources due to constraints that are not sufficiently modeled or not modeled at all.

There is also no merit to WPTF's argument that Section 39.10(3) should be rejected or narrowed on the grounds that it is vague and gives the CAISO too

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<sup>27</sup> WPTF at 12-13.

<sup>28</sup> Transmittal Letter for Amendment at 20.

much discretion.<sup>29</sup> The Commission has already authorized the CAISO to use Exceptional Dispatch for a variety of purposes.<sup>30</sup> The CAISO requests approval of Section 39.10 so that it can apply Mitigation Measures to Exceptional Dispatch in all conditions where there is significant potential for the exercise of market power due to localized or unit-specific constraints and other reliability requirements that are not subject to the automated Local Market Power Mitigation (“LMPM”) measures incorporated in the MRTU market software.<sup>31</sup> In this regard, Section 39.10(3) addresses the problems that (1) idiosyncratic operating parameters and constraints exist that cannot reasonably be modeled, and (2) environmental constraints are not engineering constraints, so it is not possible to truly model them, it is only possible to cobble together approximations of them, which itself creates other problems. The CAISO requires the experience that will come with the operation of the MRTU markets in order to determine whether and what changes need to be made to the FNM, whether the CAISO should introduce new market products (e.g., a new 20-minute reserve product), and whether the Exceptional Dispatch mitigation provisions need to be maintained, revised, or terminated. The Commission should not hinder this knowledge-gathering process by rejecting or narrowing the provisions of Section 39.10(3).

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<sup>29</sup> WPTF at 13-14.

<sup>30</sup> See MRTU Tariff, §§ 34.9.1, 34.9.2, 34.9.3.

<sup>31</sup> Transmittal Letter for Amendment at 6.

Reliant argues that the Commission should require the CAISO to develop, in place of the application of Mitigation Measures pursuant to Section 39.10, market monitoring tools or protocols to detect whether market bids submitted by a resource that is subject to Exceptional Dispatch result in market power.<sup>32</sup> While the CAISO's DMM will perform market monitoring under MRTU as described above, there is no need for the CAISO to develop market monitoring tools or protocols in place of the three categories listed in Section 39.10. As explained in the Amendment, these three categories reflect the circumstances in which the CAISO has, through careful analysis, already determined that market power will likely exist and thus Mitigation Measures should be applied to Exceptional Dispatch. Moreover, because such Exceptional Dispatches result from real-time system or operating constraints and conditions that are not captured in the MRTU market software, it is not feasible to develop the type of automated or dynamic tests for local market power that Reliant seems to suggest should be utilized to trigger mitigation. In addition, Commission approval of Section 39.10 is consistent with the authorization the Commission has given to other ISOs and RTOs to apply mitigation measures to manual dispatches issued to resources that have the ability to exercise locational market power.<sup>33</sup> Therefore, the Commission should accept the proposal contained in the Amendment and should reject Reliant's suggested requirement.

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<sup>32</sup> Reliant at 8-9.

<sup>33</sup> Transmittal Letter for Amendment at 6-8.

**C. The Amendment Already Permits Partial RA Resources and Partial ICPM Capacity to Be Eligible to Receive Exceptional Dispatch Supplemental Revenues.**

WPTF argues that the Commission should permit RA and ICPM resources to earn Exceptional Dispatch supplemental revenues because such resources may be under RA contracts or ICPM Capacity designations for only part of their capacity or for only a short period of time.<sup>34</sup> WPTF fails to note that the Amendment addresses this issue: proposed Sections 39.10.1.3(ii) and 39.10.2.3(ii) already permit recovery of supplemental revenues by Partial RA Resources and partial ICPM resources that satisfy all of the other criteria listed in Sections 39.10.1.3 and 39.10.2.3, to the extent their capacity is not committed as RA Capacity or ICPM Capacity.<sup>35</sup> Therefore, the Amendment already permits RA and ICPM resources to be eligible for supplemental revenues in the circumstances that WPTF describes.

**D. The Commission Should Approve the Requirement that a Mitigated Resource Must Have a Bid in the Appropriate CAISO Markets in Order to Be Eligible to Receive Exceptional Dispatch Supplemental Revenues.**

WPTF argues that the Commission should reject the CAISO's proposed requirement that a resource must have a Bid in the IFM, Hour-Ahead Scheduling Process ("HASP"), and Real-Time Market ("RTM") in order to be eligible to receive supplemental revenues. As part of this argument, WPTF asserts that the CAISO's proposal imposes a must-offer obligation on non-RA Resources in order

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<sup>34</sup> WPTF at 20-21.

<sup>35</sup> Transmittal Letter for Amendment at 9. 10; Attachment B to Amendment (at proposed Sections 39.10.1.3(ii) and 39.10.2.3(ii)).

to receive a payment for Exceptional Dispatch.<sup>36</sup> WPTF’s assertion is, in fact, an attack on Exceptional Dispatch provisions that the Commission has already approved. Under the current MRTU Tariff, the CAISO has the authority to issue Exceptional Dispatch instructions to all types of resources, including non-RA Resources.<sup>37</sup> Also, under the current MRTU Tariff, when the CAISO issues an Exceptional Dispatch instruction to a resource that has submitted an Energy Bid into the CAISO Markets, that resource is paid the higher of its Energy Bid price, the Default Energy Bid (“DEB”) price for the resource, or the Resource-Specific Settlement Interval Locational Marginal Price (“LMP”), and when the CAISO issues an Exceptional Dispatch instruction to a resource that has not submitted an Energy Bid, that resource is paid the higher of the DEB price for the resource or the Resource-Specific Settlement Interval LMP.<sup>38</sup> Therefore, the MRTU Tariff *already* authorizes the CAISO to issue Exceptional Dispatch instructions to non-RA Resources and to pay such resources as specified therein. As a result, WPTF’s assertion amounts to nothing more than an untimely collateral attack on the Commission’s previous authorization for the CAISO to use Exceptional Dispatch.

WPTF also argues that it is non-RA Resources, which are not required to offer into the CAISO Markets because they do not have RA contracts that provide up-front fixed-cost recovery, that “most need” supplemental revenues.<sup>39</sup>

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<sup>36</sup> WPTF at 16-17.

<sup>37</sup> MRTU Tariff, §§ 34.9.1, 34.9.2, 34.9.3.

<sup>38</sup> See, e.g., MRTU Tariff, § 11.5.6.1.

<sup>39</sup> WPTF at 18.

Again, WPTF ignores the existing, Commission-approved MRTU Tariff provisions that permit the CAISO to issue Exceptional Dispatch instructions to non-RA Resources (and all other resources) and that provide for such resources to receive payment at the higher of the DEB price or the Resource-Specific Settlement Interval LMP if they choose not to submit Energy Bids. The Exceptional Dispatch mitigation provisions maintain these tariff rules. If a non-RA Resource believes that it needs supplemental revenues, it should be required to submit an Energy Bid. Moreover, there is nothing to prevent a unit that does not have an Energy Bid in the market when it is issued an Exceptional Dispatched instruction from submitting an Energy Bid into the next eligible market interval during the period of its Exceptional Dispatch.

**E. The Commission Should Approve the Two Methodologies Contained in the Amendment for Determining the Amount of Exceptional Dispatch Supplemental Revenues that an Eligible Mitigated Resource Will Receive.**

WPTF argues that, with the CAISO's proposed cap on supplemental revenues in place from day one of MRTU, it is unnecessary to settle mitigated Exceptional Dispatch differently in the first four months following MRTU implementation than in the period after that. Therefore, WPTF asks the Commission to reject the CAISO's proposed methodology for determining the amount of supplemental revenues that an eligible mitigated resource will receive during the first four months after MRTU start-up.<sup>40</sup> WPTF fails to provide any reasons why the cap on supplemental revenues should make it unnecessary to

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<sup>40</sup> *Id.* at 14-15. The CAISO addresses issues that parties raise regarding the cap on supplemental revenues in Section I.F below.

utilize the different methodology the CAISO proposes for the initial period after MRTU start-up, nor does WPTF come to grips with the rationale for that initial methodology, which the CAISO provided in the Amendment. As explained therein, the CAISO anticipates that Exceptional Dispatch instructions will need to be issued more frequently during the first few months after MRTU is implemented and therefore a greater safeguard is needed during those initial months to ensure that supplemental revenues do not accrue at an excessive rate. Moreover, the CAISO's proposed use of a \$24/MWh adder during that time period is appropriate because that is the level of the Bid Adder that applies under the existing MRTU Tariff to certain resources that are not designated as ICPM Capacity or as RA Resources for purposes of applying the CAISO's market power Mitigation Measures to Frequently Mitigated Units ("FMUs"); the \$24/MWh adder is explicitly tied to going-forward fixed-cost recovery by FMUs and hence is reasonable to use during the first four months of MRTU operations as a safeguard measure that still provides a contribution to fixed costs.<sup>41</sup> Therefore, the Commission should accept the CAISO's proposed methodology for determining the amount of supplemental revenues during the first four months after MRTU start-up, and should reject WPTF's argument to the contrary.

Reliant states that it opposes the CAISO's proposed methodology for calculating supplemental revenues starting in the fifth month of MRTU operations. Reliant argues that a resource that is issued an Exceptional Dispatch instruction and that is not an RA, RMR, or ICPM resource provides the

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<sup>41</sup> Transmittal Letter for Amendment at 11-13.

same reliability service as, and therefore should receive payment on the same basis as, a forward-contracted resource that is an RA, RMR, or ICPM resource.<sup>42</sup> The CAISO disagrees. What Reliant fails to recognize is that, if a resource that is not an RA, RMR, or ICPM resource is issued Exceptional Dispatch instructions on only rare and infrequent occasions – which is the CAISO’s goal as explained in the Amendment<sup>43</sup> – the resource cannot be considered as providing the same reliability service as one of the types of forward-contracted resources with must-offer requirements that Reliant describes. If, on the other hand, a resource that is not an RA, RMR, or ICPM resource is issued Exceptional Dispatch instructions on more frequent occasions and satisfies all of the other criteria listed in proposed Section 39.10.1.3, that resource will receive supplemental revenues up to the level of the monthly ICPM Capacity Payment even though the resource has not been designated as ICPM Capacity. The provision of these supplemental revenues ensures that such resources will receive sufficient compensation for their Exceptional Dispatches. It is also important to recognize that the only resources that will be subject to the Exceptional Dispatch mitigation provisions are those that are committed or dispatched for any of the three purposes specified in proposed Section 39.10; resources that receive Exceptional Dispatch instructions for other reasons will not be subject to mitigation. For these reasons, Reliant’s arguments are unpersuasive.

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<sup>42</sup> Reliant at 2, 10-11.

<sup>43</sup> Transmittal Letter for Amendment at 19.

Reliant also notes that the Commission has rejected payment for Transitional Capacity Procurement Mechanism (“TCPM”) capacity service on a daily basis and directed the CAISO to make a minimum 30-day designation for capacity service provided under the TCPM. Reliant argues that the Commission should therefore reject the CAISO’s hourly supplemental payment approach and replace it with a minimum one-month term ICPM designation triggered by one Exceptional Dispatch of a resource.<sup>44</sup> In making this argument, Reliant ignores the critical differences the Commission has recognized between the market and tariff environment under MRTU, in which Exceptional Dispatch (and the ICPM) will apply, and the current market and tariff environment in which the TCPM applies. As the CAISO explained in the Amendment, the TCPM Order “require[d] the designation of a TCPM capacity resource for a (minimum) 30-day period upon the first commitment, *i.e.*, must-offer waiver denial, of a resource under the must-offer obligation,” and directed that this first commitment under the must-offer obligation would trigger a minimum 30-day TCPM payment.<sup>45</sup> But the TCPM Order also recognized that the implementation of MRTU would introduce a new market and tariff environment: “[t]he ICPM differs from the RCST and TCPM, however, in that it is designated to work under the new MRTU market paradigm, which includes locational marginal pricing and scarcity pricing components, but, significantly, no must-offer obligation.”<sup>46</sup> Further, an

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<sup>44</sup> Reliant at 11-12 (citing *California Independent System Operator Corp.*, 123 FERC ¶ 61,229 (2008) (“TCPM Order”).

<sup>45</sup> Transmittal Letter for Amendment at 22-23 (quoting TCPM Order at PP 32, 37 & n.35).

<sup>46</sup> *Id.* at 23 (quoting TCPM Order at P 9).

Exceptional Dispatch instruction is quite different from a must-offer waiver denial for the reasons explained in the Amendment.<sup>47</sup> Given these differences between Exceptional Dispatch and the TCPM, the Commission should accept the CAISO's supplemental payment proposal and should disregard Reliant's suggested alternative approach.

SCE expresses concern that the CAISO's proposed methodology for calculating supplemental revenues starting in the fifth month of MRTU operations could create an incentive for non-RA Resources to immediately change their bids after they receive Exceptional Dispatch instructions, with the result that such resources would have the ability to quickly extract non-competitive rents from the market. SCE anticipates that the CAISO would then offer ICPM contracts to the non-RA Resources, and thus the non-RA Resources would end up receiving twice the monthly ICPM Capacity Payment, which would create the risk of distorting prices for RA capacity. SCE requests that the Commission either (1) make the proposal for the first four months after MRTU start-up a permanent structure, or (2) less preferably, limit daily Exceptional Dispatch rents to a maximum of 1/30<sup>th</sup> of the monthly ICPM Capacity Payment.<sup>48</sup> In the Amendment, the CAISO acknowledged potential disadvantages of its proposal that are much like the ones SCE describes, but on balance the CAISO has determined that the benefits of the proposal outweigh the potential disadvantages, particularly given the CAISO's determinations that most Exceptional Dispatches will be of RA

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<sup>47</sup> *Id.*

<sup>48</sup> SCE at 3-4.

Resources, supplemental revenues will be capped in most cases at the ICPM level, and the double-payment scenario is unlikely to occur.<sup>49</sup> In addition, as the CAISO has explained, its proposal provides an appropriate approach to balancing stakeholder interests by, on the one hand, providing backstop capacity payments when appropriate for reliability support, and on the other hand, not triggering ICPM designations with every Exceptional Dispatch of resources that lack capacity contracts.<sup>50</sup> For these reasons, the Commission should find that the CAISO's proposal is just and reasonable.

**F. The Commission Should Accept the Proposed Cap on the Amount of Exceptional Dispatch Supplemental Revenues that an Eligible Mitigated Resource Will Receive.**

Reliant asserts that, after the CAISO's proposed monthly cap on supplemental revenues is reached, there will be a substantial gap between the actual costs a resource incurs to respond to an Exceptional Dispatch and the settlement revenues the resource will receive. Reliant notes that when it raised this issue with the CAISO in the stakeholder process that preceded the filing of the Amendment, the CAISO suggested that a possible solution to concerns about insufficient revenues would be for the resource and the CAISO to negotiate a DEB pursuant to the Negotiated Rate Option. Nevertheless, Reliant states that "there exists some uncertainty as to whether a negotiated Default Energy Bid could replicate the flexibility of bids that CAISO seeks to take away from a

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<sup>49</sup> Transmittal Letter for Amendment at 13-14.

<sup>50</sup> See *id.* at 14, 21-24.

resource in its Exceptional Dispatch proposal.”<sup>51</sup> Reliant’s arguments regarding this purported uncertainty are speculative and run contrary to the Commission’s repeated acknowledgement that the Negotiated Rate Option is sufficiently flexible to allow resources to be fully compensated (even without the negotiated price having to be made subject to prior Commission approval).<sup>52</sup> Moreover, each negotiated DEB must be filed with the Commission for informational purposes after it is negotiated, and to the extent the Commission then determines that the negotiated DEB is not just and reasonable it may require retroactive adjustments.<sup>53</sup> Therefore, Reliant’s concerns regarding insufficient revenues under the Negotiated Rate Option are unfounded.

Reliant also notes the CAISO’s statement that the Commission has approved the use of the DEB price (specifically, the variable-cost DEB price plus 10% under the Variable Cost Option) as the mitigated price under the local

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<sup>51</sup> WPTF at 3-7.

<sup>52</sup> *California Independent System Operator Corp.*, 120 FERC ¶ 61,271, at P 17 (2007) (stating that the negotiated DEB option is “a flexible means by which a mitigated market participant could recover its costs during market power mitigation”); *California Independent System Operator Corp.*, 119 FERC ¶ 61,076, at P 510 (2007) (“There are a myriad of pragmatic reasons for not requiring prior Commission approval of these negotiated default energy bids, including the undesirability of limiting the CAISO’s and generators’ flexibility to make timely modifications to these bids in response to changing conditions.”); *California Independent System Operator Corp.*, 116 FERC ¶ 61,274, at P 1046 (2006) (“Thus, we accept the values of \$2/MWh and \$4/MWh as the O&M default level for generation as proposed. We deny WPTF/IEP’s request to include a third adder for gas turbines. We reiterate that, if a supplier finds that its O&M costs for gas turbine units are higher than the proposed default value, it should enter into negotiations with the CAISO to determine an alternate default energy bid.”); *id.* at P 1048 (“We recognize SoCal Edison’s concerns regarding opportunity costs for hydroelectric units. To the extent that market participants, including hydroelectric units, believe that a particular default energy bid calculation will cause them to under-recover their costs, they may elect the negotiated option for establishing the default energy bid. We add that any negotiated default energy bid for hydroelectric units should reflect a reasonable estimate for opportunity costs.”).

<sup>53</sup> See *California Independent System Operator Corp.*, 120 FERC ¶ 61,271, at PP 17-27 (2007); MRTU Tariff, § 39.7.1.3.

market power provisions of the MRTU Tariff, but asserts that the “categorical assumption that 10% is adequate for compensate [sic] a unit for operating costs above and beyond those costs factored into the variable cost default energy bid is mistaken.”<sup>54</sup> As the CAISO explained in the Amendment, this issue has already been decided by the Commission and thus is outside the scope of the instant proceeding.<sup>55</sup> The Commission has already approved the use of the DEB price with regard to Exceptional Dispatch compensation,<sup>56</sup> and there is no reason to modify that result in this proceeding.

Reliant argues that the Commission should require the CAISO to modify its MRTU market software to allow offers for Start-Up and Minimum Load generation that are less than or equal to a resource’s DEB parameters, in order to allow a negotiated DEB to be developed with the CAISO as an alternative to reliance on the variable-cost DEB.<sup>57</sup> The Commission should reject this proposed modification to the MRTU market software. As explained above, resources are able to obtain full compensation pursuant to a negotiated DEB even in the absence of Reliant’s suggested modification. Further, under the MRTU Tariff, a resource located within a Local Capacity Area that chooses the Registered Cost option can receive up to 200% of Projected Proxy Costs with regard to its Start-Up Costs and Minimum Load Costs, and a resource located

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<sup>54</sup> Reliant at 5-6 (citing Amendment at Attachment C, p. 21 n.18; *California Independent System Operator Corp.*, 116 FERC ¶ 61,274, at P 1045 (2006)). See also MRTU Tariff, § 39.7.1.1 (describing the Variable Cost Option).

<sup>55</sup> Amendment at Attachment C, p. 21 & n.18.

<sup>56</sup> See *supra* note 38 and accompanying text.

<sup>57</sup> Reliant at 9.

outside of a Local Capacity Area that chooses the Registered Cost option can receive up to 400% of such Projected Proxy Costs.<sup>58</sup> Although the values that the resource specifies for its Start-Up and Minimum Load Costs will be in place for six months after the resource chooses the Registered Cost option,<sup>59</sup> the 200% and 400% caps should be high enough to ensure that the resource recovers all of its Start-Up and Minimum Load Costs. Even if gas costs rise sharply during the six-month period, the resource can always choose to recover its Start-Up and Minimum Load Costs by switching to the Proxy Cost option.<sup>60</sup> In addition, the CAISO plans to examine whether it should enhance MRTU in the future by making Start-Up and Minimum Load Costs daily bid components that are subject to a process that is comparable to the MPM-RRD. For the present, however, resources will receive adequate compensation for their Start-Up and Minimum Load Costs as described above.

Reliant argues that the Commission should require the CAISO to accept invoices from a resource that receives an Exceptional Dispatch instruction for verifiable costs above the variable-cost DEB. Reliant proposes that a resource would submit such invoices for reimbursement if the CAISO and the resource do not agree on a negotiated DEB and/or if the MRTU market software does not allow for the submission of Start-Up and minimum generation costs less than or

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<sup>58</sup> See *California Independent System Operator Corp.*, 123 FERC ¶ 61,288, at P 23 (2008); MRTU Tariff, § 39.6.1.6.

<sup>59</sup> MRTU Tariff, § 30.4.

<sup>60</sup> *Id.*

equal to the DEB parameters.<sup>61</sup> The Commission should reject this proposal. As Reliant itself recognizes, “the submission of invoices [is] not a feature of organized power markets.”<sup>62</sup> Moreover, as explained above, the negotiated DEB option and the Start Up and Minimum Load options are flexible enough to ensure that a resource receives sufficient compensation.

WPTF argues that it is unreasonable to apply the CAISO’s proposed monthly cap to the supplemental revenues earned when a resource is paid its LMP, on the ground that if the resource merely earned the LMP at its location because it was dispatched in the market rather than issued an Exceptional Dispatch instruction, there would be no cap on those margins. WPTF asserts that the MRTU Tariff should be amended so that only the supplemental revenues that are earned when the resource is subject to Exceptional Dispatch and is paid its Energy Bid price count towards the proposed 30-day revenue cap.<sup>63</sup> The Commission should reject WPTF’s suggested amendment. First, the CAISO notes that, just like a resource dispatched through the market, a resource subject to Exceptional Dispatch can retain all of its LMP revenues. The revenue cap applies only to supplemental revenues. Even after the supplemental revenue cap starts to apply under the mitigation provisions, a resource then subject to mitigation would face no cap on LMP revenues. Under WPTF’s suggested amendment, a resource that is subject to Exceptional Dispatch could accrue

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<sup>61</sup> Reliant at 9-10.

<sup>62</sup> *Id.* at 6.

<sup>63</sup> WPTF at 20.

large amounts of revenues due to high LMPs and then obtain supplemental revenues if LMPs drop. The CAISO's proposed monthly cap avoids such potential over-payment of resources because it counts any revenues accrued pursuant to initially high LMPs as contributing toward revenues above the DEB that could be considered contributions towards fixed costs, *i.e.*, supplemental revenues.<sup>64</sup> The CAISO's monthly cap does not hinder accrual of LMP revenues but only seeks to reasonably limit the opportunity to accrue additional supplemental revenues when LMPs are low and a resource submits high Bids.

**G. The Commission Should Accept the CAISO's Proposed Termination Date for the Exceptional Dispatch Mitigation Provisions.**

SCE asserts that the Exceptional Dispatch mitigation provisions should not terminate 24 months after MRTU-start up as described in proposed Section 39.10 but instead should be a permanent feature of MRTU, because Market Participants should not be allowed to exercise market power simply because there are issues with the MRTU market software.<sup>65</sup> The CAISO believes it is premature to decide, at this early date, that the Exceptional Dispatch mitigation provisions should remain in effect indefinitely. As explained in the Amendment, if at the end of the 24-month period actual experience indicates that market power issues associated with Exceptional Dispatch are still frequent enough to warrant maintaining the provisions, then the CAISO will file either an extension of the

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<sup>64</sup> See proposed Sections 39.10.1.4 and 39.10.2.4.

<sup>65</sup> SCE at 4-5.

provisions or revised provisions that reflect the CAISO's initial experience with Exceptional Dispatch under MRTU.<sup>66</sup>

WPTF argues that, if the Commission should accept the Exceptional Dispatch mitigation provisions, such mitigation should terminate 12 months (rather than 24 months) after MRTU start-up, because the CAISO will implement a number of market improvements within that time and also because 12 months is purportedly a sufficient amount of time for the CAISO to uncover and address any constraints not incorporated into the FNM and the MRTU market software.<sup>67</sup> The Commission should reject WPTF's proposal. The market improvements that WPTF mentions are not guaranteed to fully eliminate the need for the Exceptional Dispatch mitigation provisions. Further, there is no basis for WPTF's unsupported assertion that 12 months after MRTU start-up is a sufficient amount of time to resolve any constraints not incorporated into the FNM and the MRTU market software. Given the complexity of the MRTU market and the changes that will be made to that market after start-up, the CAISO believes it is prudent to maintain the Exceptional Dispatch mitigation provisions for the first 24 months and then to evaluate whether the mitigation provisions should be extended, revised, or terminated.<sup>68</sup>

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<sup>66</sup> Transmittal Letter for Amendment at 17.

<sup>67</sup> WPTF at 24-25.

<sup>68</sup> See Transmittal Letter for Amendment at 17.

## H. Other Issues

The Six Cities contend that, consistent with the CAISO's goal of issuing Exceptional Dispatch instructions to resources on a least-cost basis as stated in the revisions to Section 34.9 proposed in the Amendment, that tariff section should be modified to state that the CAISO will also consider the impact of the supplemental revenue payments when selecting resources for Exceptional Dispatch.<sup>69</sup> The Commission should not require the Six Cities' suggested tariff modification. The revisions to Section 34.9 already state that the CAISO will seek to issue Exceptional Dispatches on a least-cost basis, and therefore the revisions permit (but do not require) the CAISO to conduct least-cost Exceptional Dispatch while taking the impact of supplemental revenue payments into account. This flexibility is appropriate because Exceptional Dispatches will take place under different operating conditions and each least-cost determination will thus be made on the basis of various factors, such as the ability to access information about Bids from relevant prior market periods (IFM/HASP/RTM) in a timely fashion, the expected duration of the Exceptional Dispatch, the effectiveness of resources, and whether a prospective mitigated resource has reached its supplemental revenue cap or when it is due to reach the cap.

In this regard, it should be recognized that, unlike pricing rules that provide additional capacity payments after the fact (*e.g.*, under the TCPM), the pricing rules for Exceptional Dispatch require all payments to be made on the basis of Bids, *i.e.*, on the basis of either the Energy Bid price, the DEB price, or the

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<sup>69</sup> Six Cities at 4.

Resource-Specific Settlement Interval LMP. In some circumstances, if the CAISO grid operator cannot access information about Bids in a timely fashion during the available decision period in Real-Time, or if there is uncertainty about the duration of the Exceptional Dispatch and the ability of non-RA Resources to increase their prior Bids subsequently (*i.e.*, in the next hourly market), the grid operator may choose to dispatch RA Resources before non-RA Resources, since the Bids of the RA Resources will be known to be mitigated when appropriate. These factors could result, as a practical matter, in grid operators dispatching RA Resources before non-RA Resources, particularly during the early months of MRTU implementation while the grid operators gain experience. The CAISO believes, however, that it is appropriate to have the discretion to dispatch a non-RA Resource before an RA Resource when the non-RA Resource has a lower Bid and the grid operators are reasonably confident that the dispatch results in lower overall costs. Of course, the least-cost goal is a decisional guideline rather than a guarantee, and it should not require any resettlement of dispatch costs in the event that a lower-cost dispatch had been available.

WPTF requests the Commission to clarify that, under the proposals contained in the Amendment, RA, RMR, and ICPM resources that are subject to the Exceptional Dispatch mitigation provisions may earn the LMPs at their locations.<sup>70</sup> There is no need for the Commission to provide the clarification that WPTF requests. Pursuant to the Amendment, these three kinds of resources are automatically ineligible to receive supplemental revenues and therefore will

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<sup>70</sup> WPTF at 18-20.

receive Exceptional Dispatch mitigation payments under proposed Section 11.5.6.7.2, which provides for payment of the higher of the DEB price or the Resource-Specific Settlement Interval LMP.<sup>71</sup> Thus, on its face, the Amendment always permits RA, RMR, and ICPM resources that are subject to the Exceptional Dispatch mitigation provisions to earn the LMPs at their locations (or the DEB prices if such prices are higher than the LMPs).<sup>72</sup>

WPTF argues that the Commission should direct that any Exceptional Dispatch of non-RA, non-RMR, and non-ICPM capacity that the CAISO requires “for reliability reasons that are equivalent to the designations that it may make pursuant to [its] ICPM designation authority” should trigger a one-month ICPM designation for the amount of non-RA, non-RMR, or non-ICPM capacity required. WPTF asserts that this modification is necessary due to its concerns about the relationship between the Exceptional Dispatch mitigation provisions and ICPM.<sup>73</sup> The Commission should reject WPTF’s proposal. As explained in Section I.A above, WPTF’s arguments regarding the relationship between the mitigation

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<sup>71</sup> Transmittal Letter for Amendment at 10-11; Amendment at Attachment B (proposed Section 11.5.6.7.2).

<sup>72</sup> Confusingly, WPTF argues that, “if a RA, RMR or ICPM resource that received a mitigated Exceptional Dispatch earned an LMP that is set by another unit’s market bid . . . the RA unit would be excluded from keeping the amount between its LMP and its Default Energy Bid, because that margin would be deemed to be so-called ‘supplemental revenues.’” WPTF at 19. This argument confuses matters because, as explained above, an RA Resource is precluded from earning *any* supplemental revenues pursuant to the Amendment. Under the CAISO’s proposal, a resource that *is* eligible to receive supplemental revenues may be paid an amount even greater than its LMP: for the first four months after MRTU start-up, an eligible mitigated resource will receive the greater of (a) the DEB price plus a \$24/MWh adder or (b) the Resource-Specific Settlement Interval LMP, and starting in the fifth month after MRTU start-up, such a resource will receive the greater of (a) the resource’s Energy Bid price or (b) the Resource-Specific Settlement Interval LMP. Amendment at Attachment B (proposed Sections 11.5.6.7.1 and 11.5.6.7.3).

<sup>73</sup> WPTF at 21-24. See *also* Calpine at 2; Dynegy at 2.

provisions and the ICPM are without merit. WPTF may contend that “it takes the CAISO three pages to unsuccessfully define [the] distinctions” between the mitigation provisions and the ICPM,<sup>74</sup> but the fact remains that those distinctions exist and provide support for the proposals in the Amendment.<sup>75</sup>

WPTF asserts that the Commission should condition any approval of the Amendment on the CAISO’s providing an explanation of its process for updating the FNM to include generator de-rates and transmission contingencies and why it may take more than 24 hours for the CAISO to complete such updates during the first 24 months after MRTU start-up.<sup>76</sup> The Commission should not condition its approval of the Amendment as WPTF requests. As explained in Section I.A above, the CAISO will make every effort to quickly address any issues with MRTU – for example, by updating the FNM – but the amount of time required to address and resolve any particular issue depends on the nature of the issue, and some may take longer than others to resolve. Therefore, the CAISO is unable to make generalized statements about what may be required to update the FNM, particularly given that MRTU is not yet in effect and thus the CAISO has no experience with any problems arising under the FNM.

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<sup>74</sup> WPTF at 22.

<sup>75</sup> In addition, as WPTF acknowledges, the CAISO uses Exceptional Dispatch for a variety of purposes that have no connection to the ICPM whatsoever. *Id.* For example, the CAISO uses Exceptional Dispatch to perform Ancillary Services testing (see MRTU Tariff, § 34.9.2), but this type of Exceptional Dispatch should obviously not require the payment of supplemental revenues, be paid as-bid, or require a monthly ICPM Capacity Payment. Exceptional Dispatch to perform Ancillary Services testing is conducted for operational purposes in case of a very transient event lasting for only a few days at most; this type of Exceptional Dispatch does not serve the same kind of day-in and day-out reliability function that RA, RMR, and ICPM resources provide. Therefore, this and similar types of Exceptional Dispatch are plainly unconnected to the ICPM.

<sup>76</sup> WPTF at 25.

## II. CONCLUSION

For the reasons explained above, the Commission should accept the Amendment without modification.

Respectfully submitted,

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Dated: August 5, 2008

## CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties listed on the official service list in the captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. this 5<sup>th</sup> day of August, 2008.

/s/ Bradley R. Miliauskas  
Bradley R. Miliauskas