CMUA appreciates the opportunity to submit comments on the proposed modification to the CAISO ADR procedures, as reflected in the CAISO’s ADR Administration Issue Paper (April 14, 2010), and the ADR Amendment Blackline of the same date.

In order for the ADR process to fulfill its purpose, it must be perceived as an impartial venue to resolve disputes between or among the CAISO and market participants, short of litigation. While CMUA recognizes that bylaw changes require some modifications to the current ADR process, it is essential that market participants perceive that the CAISO ADR process is impartial. Certain proposed modifications would help the CAISO buttress that perception.

CMUA is specifically concerned about how the qualified list of mediators and arbitrators is maintained, and the level of control over that list of the proposed CAISO ADR Coordinator. Section 13.2.3 provides that the selection of the qualified list of mediators is governed by the CAISO ADR Coordinator, as he or she deems appropriate given the nature of the dispute. CAISO further states that it is patterning this process in part on the processes of other RTOs. It is CMUA’s understanding that the PJM process allows market participants to designate names of arbitrators and mediators to be placed on the qualified list at any time, and the PJM ADR Coordinator updates this list annually. While the CAISO, to its credit, has proposed amendments to its tariff that would ensure that the American Arbitration Association (“AAA”) will provide the list of arbitrators, allowing either the AAA to also do the same for mediators, or otherwise allowing the CAISO Market Participants to designate names to the list of mediators would improve the CAISO's process.

CMUA recommends that these modifications be reflected in the Tariff changes considered by the CAISO and tendered for filing at the Federal Energy Regulatory Commission.