CALIFORNIA ISO
CAPACITY PROCUREMENT MECHANISM AND COMPENSATION AND BID MITIGATION FOR EXCEPTIONAL DISPATCH

COMMENTS OF THE STAFF OF THE

CALIFORNIA PUBLIC UTILITIES COMMISSION

Capacity Procurement Mechanism Revised Draft Tariff Language

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November 16, 2010

The Staff of the California Public Utilities Commission ("CPUC Staff") submits the following comments on the modified draft tariff language for the Capacity Procurement Mechanism (CPM) published on November 9, 2010. In their prior comments on this initiative submitted on June 24, July 30, September 3 and 29, and October 29, 2010, CPUC Staff indicated their lack of support for certain aspects of the initiative. Those comments will not be repeated here, and the following are in response to the modifications published on November 9, 2010:

- The CAISO's modifications to the proposed tariff language continue to lack sufficient clarity.
- In Section 43.2.6, , the minimum review and comment period for the CAISO's report has been shortened to 7 days from 30 days. This creates a barrier to meaningful comment, particularly given that the resource must give the CAISO 180 days notice of its planned retirement and request for a CPM designation. The comment period must allow a reasonable time for analysis and discovery regarding the CAISO's determination of need and the selection of a particular unit for CPM designation over other available units.
- The CPUC Staff previously expressed concerns regarding the lack of standards and the ability of DMM to perform due diligence regarding the economic claims of resources leaving the market. These concerns have not been adequately addressed by the changes to the proposed tariff language in section 43.2.6. It remains unclear how the CAISO will determine that the decision to retire is

definite and the financial claims of the resource are reasonable and supported by fact.

- The changes to the proposed tariff language in 43.2.6 do not eliminate or sufficiently reduce the gaming opportunity for a plant seeking to leverage a CPM designation through a threat of retirement of the unit.[1] A generator may be able to predict its importance to the grid based on past history, its location in a Local Area or Subarea, or information from the various planning processes. A generator could then threaten to retire in order to receive a CPM designation at a price higher than the current market for capacity. In the present market, some generators are currently willing to enter in Resource Adequacy (RA) contracts with LSEs below the current $41/kw-yr backstop price, let alone the $55/kw-yr proposed for CPM. The CAISO's Market Surveillance Committee has acknowledged that a 12-month designation can create an incentive for units to threaten to retire and the "CPM payment can influence RA prices."[2]
    - In addition, many generating resources, particularly older and less efficient ones in Local Areas, are typically part of a fleet of resources owned by affiliated companies. Affiliated companies could assign ownership of an individual resource to a particular entity to support a claim for economic subsidy, regardless of the overall profitability of other resources owned or operated by affiliated entities.
- The language changes regarding the timing of the CPM designation relative to future need are not sufficiently clear to ensure that the CAISO can accurately predict what capacity will be needed for the next RA compliance year to justify up to a 12-month CPM designation without relying on data from the year's Local Capacity Technical Analysis (LCR) study, which is typically performed in April and finalized in May of the previous RA compliance year, and thus may not be available at the time the CAISO makes the determination of whether to offer a CPM designation. The LCR study provides the basis for single-year Local RA obligations for the next compliance year (starting in October.)
- In the prior section 43.2.6(6), the CAISO was required to consider any analysis performed by DMM before issuing its report regarding the need for a CPM designation. That requirement has been eliminated in section 43.2.6.1.
- The CAISO should not remove the language in section 39.10 that provides for mitigation measures.
- With the revisions to section 34.9, the CAISO appears to be removing the obligation to utilize exceptional dispatch efficiently if the dispatch does not

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[1] *See also* the Opinion on the Capacity Procurement Mechanism and Compensation and Bid Mitigation for Exceptional Dispatch, F. Wolak, J. Bushnell, B. Hobbs, CAISO Market Surveillance Committee (October 18, 2010) p. 4.

[2] Market Surveillance Committee Opinion, *supra*, (Oct. 18, 2010), pp. 3-4.

require CPM payments. Regardless of any CPM designation associated with Exceptional Dispatch, the CAISO should continue to utilize Exceptional Dispatch in a cost effective manner.

The CPUC Staff again emphasizes that the CAISO's proposal goes beyond the conventional understanding of the purpose and function of the backstop, by allowing up to a 12-month CPM designation contract for generation units that the CAISO believes are needed for reliability, but may shut down due to insufficient revenues. This conflicts with State and federal law directing that California's long-term procurement and resource adequacy requirements are established by State laws and policies. The CPUC has established and operated a successful RA program that has resulted in drastic reductions in CAISO out-of-market procurement. The CPM should be used only for incremental or unanticipated reliability needs that are not fulfilled through the CPUC's RA procurement process.

For the above reasons, the CPUC continues to respectfully requests that the CAISO withdraw sections 43.2.6, 43.3.7, and 43.8.7 of its Draft Tariff Language before submitting to FERC for approval.

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