

COMMENTS ON THE NRG COMPANIES ON THE CAISO'S SECOND DRAFT OF THE CAPACITY PROCUREMENT MECHANISM TARIFF

NRG has attached proposed changes to Section 43.2.6, regarding the ability of the ISO procure capacity from units in danger of retiring. Put simply, the mechanism currently proposed by the ISO is unworkable for a number of reasons and should be modified. The overarching theme of these comments is that generator owners need a level of certainty before making critical decisions as to whether to shutter an existing power plant. The 2nd Modified Tariff Language does not provide a generator owner the information that it requires to make a reasoned and supportable decision as to whether to seek a CPM designation under Section 43.2.6. Given the likely increase in the need for flexible gas fired generation as renewable penetration increases, and the fact that such resource attributes are not currently compensated under the CAISO or CPUC market structures, this is a very real problem. The problem becomes even more acute as we consider the environmental capital expenditures that are likely to be imposed on existing gas-fired generation resources, including 316(b) "Once-Through Cooling" compliance costs.

Major problems include:

➤ **Public Notification of Financial Distress Makes the Proposal Unworkable.**

The proposal to make public that a particular plant is considering retirement prior to issuing a CPM designation is a fatal flaw. A proposal that would require plant employees to hear that his or her employer is considering retiring the plant from the ISO via a market notice is untenable. Moreover, publically notifying contractors, power off-takers, natural gas suppliers, or other entities with which the plant has a commercial

relationship, that the plant is facing imminent shutdown risks potential termination of existing contracts, massively increased collateral costs, and other undesirable side effects.

It is not necessary to require a generation owner to gamble in this manner. Instead, NRG proposes an alternative timeline in the attached redline that would (i) allow the ISO to determine whether the plant is needed for reliability in advance of making any public announcement or binding declaration; (ii) provide LSEs an opportunity to provide the affected facility with an RA designation immediately after the issuance of CPM designation under Section 43.2.6; and (iii) provide for the confidential treatment such resources require. All of these goals can be accomplished while ensuring that only units able to demonstrate their lack of financial viability are able to receive CPM designations under Section 43.2.6.

➤ **Binding Commitments to Retire the Facility if it is not Provided a CPM Designation are Unworkable.**

It is not in the best interests of generators, load serving entities or the CAISO to require a generator to make a binding commitment to retire without understanding the compensation options open to it. To avoid this problem, the NRG proposed tariff language would permit a generator to seek a determination from the ISO as to whether the unit would qualify for a CPM designation through 43.2.6 *prior* to making the final decision to retire. Once the ISO has made such a determination, the generator can then make an educated decision as to whether to continue operating the unit, or seek to retire it and accept a CPM designation. Under NRG's proposal, the generation owner would still have to demonstrate, to the reasonable satisfaction of the ISO and DMM that the facility is not economically tenable without the additional compensation. Because of the "all or

nothing” nature of the current proposal, it is unlikely any responsible generator owner would be able to take advantage of the system as it is currently proposed.

➤ **Issuing a CPM Designation “Subject to Refund” is Unworkable.**

Section 43.2.6.1 is also unworkable because it exposes the generator to continued uncertainty and risk with no end date. Indeed, under the proposal, a unit could be kept waiting until the day before the end of the compensation period to find out whether the additional revenues it is counting on will have to be repaid. This level of uncertainty is also unnecessary. The alternative tariff language submitted by NRG avoids this problem entirely by allowing the CAISO to reach its decision on whether to issue a CPM designation ahead of time.

➤ **A 180-Day Notice Requirement, Combined with a Same-Year-Only RA Designation, Leaves no Time for a Unit to Earn Revenues.**

As NRG understand the current proposal, a unit is only eligible for an RA designation for the remainder of the current RA compliance year. Given that RA designations are typically provided in October/November of the year preceding the RA compliance year, a 180 day notice provision means that a unit could only receive a CPM designation under 43.2.6 for approximately 6 months before the end of the compliance year. Such a program is unlikely to achieve the desired effect. Instead, NRG proposes allowing a unit to pre-determine whether it is needed for reliability purposes, and also proposes extending the period of the CPM designation for a total of 24 months after the CPM designation is approved.

LSE concerns that such a program would require it to incur additional costs not contemplated by the CPUC program are misguided. The relevant LSE would be free to designate the resource as an RA resource for the remainder of the current compliance

year, and would then have the *option* of procuring the unit's capacity attributes as part of its next year's compliance program. The LSE would not be required to do so, but would be free to.

➤ **The Term “Resource” Does Not Appear in Appendix A.**

Because “resource” is not defined in the definitions section, NRG proposed substituting the defined term “Generating Unit” instead.

Conclusion:

The NRG Companies appreciate the CAISO's consideration of its comments. Please contact Abe Silverman (abe.silverman@nrgenergy.com) at 609-524-4696 with any questions.

43.2.6 Capacity At Risk Of Retirement Needed For Reliability

The CAISO shall have the authority to designate CPM Capacity to keep a Generating Unit resource in operation that is at risk of retirement during the current RA Compliance Year but and that will be needed for reliability during the subsequent by by issuing such Generating Unit a CPM designation under the circumstances set forth below. the end of the calendar year following the current RA Compliance Year. The CAISO may issue a this-risk of retirement CPM designation for up to 24 months if in the event that all of the following circumstances apply:

- (1) a portion the of the Generating Unit resource was not contracted as RA Capacity, nor listed as RA Capacity in any LSE's annual Resource Adequacy Plan during the current RA Compliance Year;
- (2) the CAISO did not identify any deficiency, individual or collective, in an LSE's annual Resource Adequacy Plan for the current RA Compliance Year that resulted in a CPM designation for the resource-Generating Unit in the current RA Compliance Year;
- (3) the CAISO technical assessments projects in its sole discretion that the resource Generating Unit is reasonably likely to will be needed in the subsequent RA Compliance Year for reliability purposes, either for its locational or operational characteristics, at any point between when the designation is issued and a twenty-four month period by the end of the calendar year following the current RA Compliance Year.;
- (4) no new generation willis projected by the ISO to be in operation by the start of the subsequent RA Compliance Year that will meet the identified reliability need:

In order to seek a risk of retirement CPM designation, (5) the resource-Generating Unit -owner must submit to the CAISO and DMM, at least 180 days prior to termination of terminating the resource's PGA or removing the resource from PGA Schedule 1, a request for a determination that a CPM designation under this Section 43.2 would be offered if the Generating Unit elects to retire. Such response shall include 6 and the an affidavit of an executive officer of the company

~~who has the legal authority to bind such entity attesting it is expected to be , with the supporting financial information and documentation discussed in the BPM for Reliability Requirements, that attests that it will be uneconomic for the resource to remain in service will not be commercially viable during in the current or next RA Compliance Year and is likely that a the decision on whether to to retire the Generating Unit is pending is definite;~~

~~(6) Within 30 days, the CAISO shall reviews the affidavit and supporting financial information and documentation submitted by the resource owner pursuant to Section 43.2.6(5) and determines whether the unit is needed, as described in 43.2.6(3) above. If the CAISO determines that the Generating Unit is likely to be needed for reliability, then the Generating Unit owner will be required to submit, under oath, a statement that (i) the that the expectation of losses and decision to retire the resource are Generating Unit reasonable is unlikely to be economic and (ii) would likely be retired absent additional sources of revenue. and supported by fact. and performs due diligence to assess the resource's financial circumstances, and which as part of its review shall consider the results of any analysis performed by the CAISO's DMM of the affidavit and supporting financial information and documentation to assess the accuracy of the information submitted, the reasonableness of the representations and conclusions contained in the submission, and the appropriateness of the resource's conduct and efforts to sell Capacity in the bilateral market; and~~

~~(7) the CAISO determines that the expectation of losses and likely retirement of the resource are reasonable and supported by fact.~~

~~Thirty days after receiving such statement, the CAISO shall issue the Generating Unit a Prior to issuing the CPM designation. LSEs shall then have the right to procure Capacity from the Generating Unit under comparable terms, and the CPM designation provided under this section will immediately cease.~~

~~the CAISO shall prepare a report that explains the basis and need for the CPM designation. The CAISO shall post the report on the CAISO's Website and allow an opportunity of no less than 30seven (7) days for stakeholders to review and submit comments on the report and no less than thirty (30) days for an LSE to procure Capacity from the resource.~~

43.2.6.1 Risk Of Retirement CPM Designation Pending Review

The CAISO may issue a risk of retirement CPM designation pursuant to Section 43.2.6 prior to or during the pendency of any review by DMM of the affidavit and supporting financial information and documentation submitted by the resource owner or a referral of investigation to the Commission by DMM pursuant to Appendix P of the CAISO Tariff. Such CPM designation shall be subject to refund and shall remain in effect until it terminates under Section 43.3.7 or until otherwise ordered by the Commission.