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Comments of the Northern California Power Agency Regarding CAISO's Final Proposal and Draft Tariff Language: Central Counterparty Exception for Self-Supply From Generation Financed by Tax-Exempt Debt

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NCPA submit these initial comments on the CAISO's August 23, 2012 *Final Proposal and Draft Tariff Language: Central Counterparty Exception for Self-Supply from Generation Financed by Tax-Exempt Debt* (the "Proposal"). NCPA supports the Proposal.

NCPA appreciates the efforts of CAISO and its staff to address the problems related to private use restrictions on generation financed with tax-exempt municipal bonds. NCPA identified this problem during the Central Counterparty stakeholder process and again in its June 15th comments to FERC in Docket No. ER12-1856. As the Proposal correctly states, CAISO's Central Counterparty tariff revisions currently filed with FERC raises some concerns about the tax-exempt status of bonds that municipal agencies, such as NCPA, have used to finance generation projects. Federal tax law prohibits generators financed using tax-exempt bonds from devoting more than 10 percent of their power to private use. NCPA and other municipal entities remain concerned about the potential that the Central Counterparty tariff revisions could be construed in a way that might allow parties to allege violations of the private use restriction. The financial consequences to municipalities of the assertion of such a claim could be severe.

The Proposal creates a limited exception from the central counterparty mechanism that will effectively address this potential problem. By exempting self-supply schedules involving tax-exempt generation from the central counterparty provisions, the Proposal mitigates the risk of opening the door to allegations of private

use violations, while still protecting market participants (and the market itself) from the consequences of market participant defaults. As the Proposal itself indicates, this limited exception will not affect market operations, nor will it require any changes to CAISO's market rules or software. Also, the Proposal is very similar to (though narrower than) the FERC-approved provisions of MISO's central counterparty tariff provisions. For all these reasons, NCPA supports the Proposal.

Since the Proposal still achieves the goals of Order No. 741, and since it so similar to provisions already approved by FERC, NCPA believes that the Proposal is just and reasonable and that it should be uncontroversial. NCPA therefore requests that the CAISO consider requesting a waiver of the generally-applicable sixty-day advance notice provision when it files the tariff language in the proposal with the FERC.