153 FERC ¶ 61,001
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

California Independent System Operator Corporation — Docket No. ER15-1783-000

ORDER ON TARIFF REVISIONS

(Issued October 1, 2015)

1. On May 26, 2015, the California Independent System Operator Corporation (CAISO) filed under section 205 of the Federal Power Act (FPA)[1] tariff revisions to amend its existing capacity procurement mechanism (CPM) tariff authority to, among other things, implement a competitive solicitation process to procure backstop capacity. In this order, we accept CAISO's proposed CPM revisions for filing, with certain tariff revisions to become effective January 16, 2016, and the remainder to become effective March 1, 2016, as requested.

I. Background

2. The CPM is a voluntary backstop mechanism that authorizes CAISO to procure capacity to address a deficiency or supplement resource adequacy procurement by load-serving entities, as needed, to maintain grid reliability. The evolution of the CPM has been described at length in previous Commission orders[2] and, thus, only the relevant background details are described briefly here.

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[1] 16 U.S.C. § 824d (2012).

[2] *See, e.g.*, *Cal. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,211, at P 10 (2011) (March 2011 CPM Order) ; *Cal. Indep. Sys. Operator Corp.*, 125 FERC ¶ 61,053 (2008), *order on reh'g*, 134 FERC ¶ 61,132 (2011); *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,150 (2009), *order on reh'g*, 129 FERC ¶ 61,144 (2009).

3. The Public Utilities Commission of the State of California (CPUC) and other local California regulatory authorities have established resource adequacy programs to ensure that CAISO has sufficient resources offered into its market to maintain reliable grid operations. There may be circumstances, however, when resource adequacy capacity is insufficient to meet CAISO's operational needs. To meet these needs, CAISO relies upon the backstop procurement authority in the CPM and exceptional dispatch provisions of its tariff.[3] Exceptional dispatch is an out-of-market tool used by CAISO to manually commit or dispatch resources that are not cleared through market software to maintain reliable grid operations under unusual and infrequent circumstances. Exceptional dispatch is also subject to certain market power mitigation measures under CAISO's tariff.[4]

4. In the March 2011 CPM Order, the Commission conditionally accepted and suspended for a nominal period CAISO's proposed CPM compensation methodology subject to refund.[5] The Commission found that CAISO had failed to justify the proposed $55/kW-year price, which was based on the going-forward costs of a reference unit plus a 10 percent adder, and found that further assessment of the use of going-forward costs as a basis for CPM compensation was necessary.[6] Specifically, the Commission found that CAISO's proposal may "create the potential for distorted pricing signals and deny resources a reasonable opportunity to recover fixed costs."[7] Further, the Commission expressed concern that "the continuation of a fixed going-forward cost has not been shown to be just and reasonable because of the likelihood that market conditions, which can affect the price of capacity, will fluctuate over time."[8] Thus, the Commission directed staff to convene a technical conference to consider, among other things, how to structure CPM compensation to account for changing market conditions, and how to

[3] CAISO, eTariff §§ 34.11, *et. seq.*

[4] *See* March 2011 CPM Order, 134 FERC ¶ 61,211 at P 6-9 (citing *Cal. Indep. Sys. Operator Corp.* 126 FERC ¶ 61,150 (2009)).

[5] March 2011 CPM Order, 134 FERC ¶ 61,211 at P 10.

[6] *Id.* at PP 55-59.

[7] *Id.* at P 57.

[8] *Id.* at P 58.

ensure that non-resource adequacy resources receive appropriate compensation.[9] The technical conference was held on April 28, 2011.

5. Subsequently, on December 23, 2011, CAISO filed an Offer of Settlement (2011 CPM Settlement) proposing tariff revisions intended to resolve all issues raised in the March 2011 CPM Order and at the technical conference. As part of the 2011 CPM Settlement, CAISO proposed a revised CPM capacity price of $67.50/kW-year for the first two years and $70.88/kW-year for the remaining two years. On February 16, 2012, the Commission issued an order approving CAISO's 2011 CPM Settlement effective as of that date.[10] Pursuant to the 2011 CPM Settlement, CAISO's existing CPM expires on February 16, 2016.[11]

6. The existing CPM enables CAISO to procure capacity to maintain grid reliability or supplement resource adequacy procurement by load-serving entities under certain circumstances.[12] CAISO states that the term of a CPM designation varies from one month to one year, depending on the category of designation, underlying circumstances, and the duration of the deficiency or reliability problem. Once a CPM triggering event

[9] *See id.* at P 2, Ordering Paragraph (A).

[10] *Cal. Indep. Sys. Operator. Corp.* 138 FERC ¶ 61,112 (2012) (February 2012 Settlement Order). On April 2, 2012, the Commission accepted CAISO's revised CPM tariff provisions, as directed in the February 2012 Settlement Order, in a delegated letter order. *Cal. Indep. Sys. Operator Corp.*, Docket No. ER11-2256-003 (April 2, 2012) (delegated letter order).

[11] *See* February 2012 Settlement Order, 138 FERC ¶ 61,112 at P 10.

[12] These circumstances include: (1) deficiency in local capacity area resources in a load-serving entity's resource adequacy plan; (2) insufficient resource adequacy resources in a load-serving entity's annual or monthly resource adequacy plan; (3) collective deficiency in a local capacity area after accounting for all procured resource adequacy resources; (4) a significant event occurs that threatens reliability and there are insufficient resource adequacy resources available to address the problem; (5) reliability or operational need requires the CAISO to exceptionally dispatch non-resource adequacy capacity; (6) capacity is at risk of retiring in the current resource adequacy compliance year and will be needed for reliability by the end to the calendar year following the current resource adequacy compliance year; and (7) cumulative deficiency in the total flexible resource adequacy capacity in the annual or monthly flexible resource adequacy capacity plans or in a flexible capacity category in the monthly resource adequacy plans of load-serving entities. CAISO Transmittal Letter at 5.

occurs, CAISO's tariff provides six criteria for CAISO to evaluate in determining which capacity it will designate.[13] In applying the selection criteria, CAISO states that its objective is to designate lower-cost resources that are effective at addressing the particular reliability need before designating the higher-cost resources. If two or more resources are deemed equally effective under these criteria, CAISO explains that it uses a random selection method to choose the capacity to which the CPM designation is offered.[14]

7. CAISO explains that, under the existing CPM process, compensation for CPM capacity is based on an administrative price, which is currently $70.88/kW-year. CAISO states that the annual rate is pro-rated to a monthly payment and is further shaped by availability considerations for both maintenance and forced outages.[15] If the scheduling coordinator for eligible capacity believes that the fixed administrative price will not compensate the resource for its going-forward costs, CAISO asserts that the scheduling coordinator may make a resource-specific filing with the Commission requesting higher compensation.[16] CAISO notes that it has rarely exercised its CPM authority, and has only made 12 designations since the CPM process became effective on April 1, 2011, most of which were for significant event or exceptional dispatch designations. CAISO states that it has never issued a CPM designation because of a resource adequacy deficiency or failure to replace at risk of retirement capacity.[17]

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[13] These criteria include: (1) effectiveness at meeting designation criteria; (2) capacity costs associated with eligible capacity; (3) quantity of a resources eligible capacity relative to the amount of capacity needed; (4)operating characteristics of the resource providing the capacity; (5) whether the resource providing the capacity is a use-limited resource; and (6) where a load-serving entity fails to show adequate capacity in a resource adequacy plan, the effectiveness of the eligible capacity in meeting system constraints or other CAISO system needs. *Id*. at 6-7 (citing CAISO tariff § 43.4).

[14] CAISO does not apply these selection criteria to a potential risk of retirement designation. Instead, the resource owner must provide CAISO with an affidavit that it will retire in the absence of a risk of retirement CPM designation, after which CAISO will determine if the resource is needed for reliability purposes. *Id.* at 7.

[15] *Id*.

[16] CAISO notes that, to date, no scheduling coordinator has made a resource-specific cost filing with the Commission. *Id*. at 8.

[17] *Id.*

II. CAISO Filing

8. In the instant filing, CAISO proposes to revise its current process for selecting the capacity to receive CPM designations and the method for compensating such capacity. CAISO proposes to implement a competitive solicitation process and pay designated resources their bid price, rather than paying an administratively set price, subject to a soft offer cap. Under the proposal, CAISO will convene a stakeholder process to update the soft offer cap every four years. CAISO argues that these proposed tariff revisions result in a more durable CPM product, without a continued sunset provision, which, according to CAISO, both responds to the Commission's prior guidance to provide enhanced fixed cost recovery opportunities to CPM resources and implement a mechanism that reflects changing market conditions.

9. CAISO proposes to conduct three separate competitive solicitation processes to cover potential CPM events: (1) one in the year-ahead time frame, conducted annually; (2) one in the month-ahead timeframe, conducted monthly; and (3) one on-going process that will run throughout the delivery month.[18] CAISO states that the competitive solicitation will be open to all non-resource adequacy, reliability must-run, and CPM resources and that resources must have participated in the competitive solicitation to be eligible for a risk of retirement designation. In addition to the price and designation information that CAISO's tariff already requires it to make public, CAISO states that it will post certain final bid information on a rolling basis with a five-quarter delay to improve transparency. CAISO states that it does not propose changes to the CPM product or categories already approved by the Commission and that the evaluation criteria it will rely upon in conducting the competitive solicitation are all set forth in its

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[18] CAISO states that it will conduct the competitive solicitation process for all of its CPM designation categories except for the risk of retirement category because this category is resource-specific and, therefore, is not compatible with a competitive solicitation process. Thus, CAISO will retain its existing process for granting risk of retirement CPM designations; however, CAISO proposes to add a requirement that resources must have bid into all competitive solicitations for the current resource adequacy year to be eligible for a risk of retirement CPM designation. CAISO Transmittal Letter at 10-11.

tariff.[19] Thus, CAISO argues that its proposal meets the Commission's competitive solicitation requirements, which it states are transparency, definition, evaluation, and oversight.[20]

10. CAISO proposes to conduct each competitive solicitation process in a two-step process based on the bids received. First, CAISO states that it will identify which resources that have bid into the competitive solicitation satisfy its minimum designation criteria by considering how a resource's characteristics and operational availability might impact the resource's ability to meet the CPM designation criteria.[21] CAISO notes that, if the total capacity from all bidding resources does not satisfy the minimum designation criteria, CAISO may offer the CPM designation to eligible capacity not offered to the competitive solicitation process.[22] Second, CAISO states that it will conduct an optimization process to consider the offer price and relevant characteristics of all units offering capacity.[23]

11. In the designation process, CAISO states that it considers known planned outages and days that a resource may be used as replacement or substitute resource adequacy capacity to determine a resource's available capacity. Using the applicable capacity costs, CAISO explains that it will next use the resource's available capacity after outages and days as replacement or substitute resource adequacy capacity, and the amount of capacity CAISO needs, to calculate a \$/kW-month comparable value.[24] CAISO states that this process also considers both bid price and operating characteristics to ensure that it minimizes overall costs, which may not occur if it designates capacity based on the

[19] *Id.* at 5-6 (citing CAISO, eTariff § 43.4).

[20] *Id.* at 11 (citing *Allegheny Energy Supply Co., LLC*, 108 FERC ¶ 61,082, at P 22 (2004)).

[21] *Id.* at 12.

[22] CAISO states that any such capacity so designated will be considered to have an offer price at the CPM soft offer cap. *Id*. at 13, n.37.

[23] The resource characteristics considered by CAISO may include "'the quantity of a resource's available eligible capacity, based on a resource's PMin, relative to the remaining amount of capacity needed; and the quantity of a resource's available eligible capacity, based on outages and replacement or substitute daily resource adequacy capacity.'" *Id.* (citing proposed tariff § 43A.4.2.2).

[24] *Id*. at 13.

lowest cost offer. In the event that two resources meet the cost minimization criteria on an equal basis, CAISO states that it will evaluate the relative effectiveness and operational characteristics of those resources. CAISO states that this procedure will allow it to select the capacity that best meets identified reliability needs and reduces potential future CPM designation costs.[25]

12. CAISO states that its proposed CPM process is transparent and open to all non-resource adequacy, reliability must-run, and CPM resources. Further, CAISO asserts that the CPM product and categories of CPM are clearly defined in previously approved tariff provisions. CAISO explains that the evaluation criteria upon which it relies on in designating CPM capacity is set forth in the tariff and applies to all bids and bidders. Finally, CAISO states that, as an independent entity, it will administer the competitive solicitation and evaluate bids to provide CPM capacity.[26]

13. CAISO proposes to compensate CPM capacity based on a unit's as-bid price up to a CPM soft offer cap of $6.31/kW-month (or $75.68/kW-year), which CAISO states is based on the estimated levelized going-forward fixed costs of a reference resource,[27] as identified in a May 2014 report prepared by the California Energy Commission (CEC),[28] plus a 20 percent adder.[29] CAISO argues that a 20 percent adder will provide the meaningful opportunity necessary for CPM resources to recover additional fixed costs and investment incentives, consistent with the Commission's directives in the March 2011 CPM Order.[30] Further, since CAISO's reference resource is based on the CEC's mid-cost case, CAISO claims that the 20 percent adder will allow for resources with costs

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[25] *Id.* at 12-14.

[26] *Id.* at 11-12.

[27] CAISO proposes to use a mid-cost, merchant-constructed, 550 MW combined cycle unit with duct firing as the reference resource because, among other things, gas-fired resources are typically marginal resources in its markets and that these resources make up the largest percentage of non-resource adequacy resources that are eligible to receive CPM designations. *Id.* at 15-16.

[28] CAISO notes that it has relied on the CEC's generation cost studies, which examine the cost of new generation in California and ongoing-forward fixed costs, to establish its backstop capacity price under its previous CPM methodologies. *Id.*

[29] *Id.* at 15.

[30] *Id.* at 16 (citing March 2011 CPM Order, 134 FERC ¶ 61,211 at P 59).

higher than the mid-cost case to recover their fixed costs. CAISO also argues that the 20 percent adder establishes a CPM soft offer cap at the higher end of the range of resource adequacy prices, which will ensure that the CPM does not provide disincentives for load-serving entities to enter into bilateral resource adequacy contracts instead of relying on backstop CPM procurement. Finally, CAISO contends that the 20 percent adder will appropriately capture uncertain or difficult to quantify costs in addition to any margin of error in the CEC study.[31]

14. Under the proposal, the CPM soft offer cap will apply to all capacity types (system local, flexible) and all competitive solicitations processes (annual, monthly, intra-monthly). To the extent that the CPM soft offer cap does not provide a resource with the opportunity to recover its fixed costs, CAISO explains that resources will have the opportunity to make a filing with the Commission to cost-justify a higher rate using the formula for determining the annual fixed revenue requirement applicable to reliability must-run resources. CAISO states that its transition from administrative pricing to competitive pricing requires some form of market mitigation because there may be a limited pool of non-resource adequacy resources available to meet a given reliability need. Therefore, CAISO explains that the potential exists for resources to exercise market power and asserts that the soft offer cap will both ameliorate these concerns and provide necessary market mitigation.[32]

15. CAISO proposes to conduct a stakeholder process at least every four years to review the soft offer cap and evaluate whether it should be updated, during which parties may also propose changes to CAISO's formula for calculating the soft offer cap. Further, CAISO asserts that implementing a compensation scheme based on accepted offer prices reflects the Commission's prior guidance that CPM compensation reflects changing market conditions and its preference for using market-based, rather than out-of-market, solutions.[33] CAISO explains that a pay-as-bid approach, rather than a single clearing price, reflects the unique nature of the CPM, which is designed as a rarely used backstop procurement mechanism to address short-term transitory events. Moreover, CAISO states that the CPM is not intended to incentivize generation and will not function as a capacity-clearing market.[34]

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[31] *Id.* at 16-18.

[32] *Id*. at 19.

[33] *Id.* at 14 (citing March 2011 CPM Order, 134 FERC ¶ 61,211 at P 205).

[34] *Id.* at 15.

16. CAISO also proposes to institute a post day-ahead reliability assessment process for all partial resource adequacy resources that receive an exceptional dispatch CPM designation under the same principles applicable to the assessment it conducts for non-resource adequacy resources that receive an exceptional dispatch.[35] CAISO explains that the reliability assessment will ensure that it compensates exceptionally dispatched resources for the entire amount of capacity on which it relies regardless of the actual dispatch level in real-time. If the post day-ahead assessment shows that additional exceptionally dispatched CPM capacity is needed from the resource to address the reliability issue, CAISO states that it will designate the incremental quantity of CPM capacity as part of the resource's total CPM designation.

17. In addition to the proposed tariff revisions included in the instant filing, CAISO provides an Offer of Settlement, which it states resolves all issues except for one targeted issue carved out for Commission consideration.[36] CAISO states that the Offer of Settlement explicitly excludes the issue of whether the non-contracted capacity of a resource committed by its market software to meet a minimum online commitment constraint[37] should receive a CPM designation. CAISO argues that a resource committed to meet a minimum online commitment constraint should not receive a CPM designation because that resource is not providing capacity, covering a resource adequacy deficiency, or being committed out-of-market. Further, CAISO contends that granting such resources CPM designations would undermine the resource adequacy program and contradict Commission policy on exceptional dispatch and similar issues. CAISO requests that the Commission approve its proposed tariff revisions and Offer of Settlement without revision as just and reasonable and separately address the issue of whether the non-contracted capacity of a resource committed by its market software to meet a minimum online commitment constraint should receive a CPM designation.[38]

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[35] *Id.* at 22.

[36] CAISO states that the Offer of Settlement explains each of the tariff revisions proposed in the instant filing for which no stakeholder has expressed opposition and discusses three issues not included in the proposed tariff revisions. CAISO argues that the Offer of Settlement provides for a just and reasonable resolution of the issues in this proceeding and is in the public interest. *Id.* at 9.

[37] CAISO explains that, in February 2010, it began incorporating minimum online commitment constraints into its Integrated Forward Market models to require a minimum quantity of online capacity in defined geographic areas to meet reliability requirements set forth in CAISO's operating procedures. *Id.* at 25-26.

[38] *Id.* at 3, 25-30.

18. Finally, CAISO proposes revisions to several additional tariff sections, including the eligibility criteria for and the cap on supplemental revenues. Specifically, CAISO proposes to limit supplemental revenues to resources that have not submitted a bid into the CPM competitive solicitation process and have declined an exceptional dispatch CPM designation. CAISO also proposes to limit the supplemental revenues to the revenue that the resource would have received had it accepted a CPM designation at the CPM soft offer cap.[39]

19. CAISO requests an effective date of January 16, 2016, for the revised CPM tariff provisions so that it can conduct competitive solicitations in advance of the March 2016 resource adequacy month and begin administering the CPM process on March 1, 2016.[40] CAISO also requests an effective date of March 1, 2016, for revisions to certain other tariff sections, which it states are conforming tariff changes needed to implement the new CPM competitive solicitation process.[41] Thus, CAISO requests waiver of section 35.3 of the Commission's regulations[42] to allow the proposed tariff revisions to go into effect more than 120 days after the submission of the instant filing. CAISO asserts that good cause exists to grant waiver of section 35.3 of the Commission's regulations concerning prior notice because it needs adequate time to design, develop, implement, and test these systems and processes, adding that additional time will also benefit market participants.[43]

III. Notice, Intervention, and Responsive Pleadings

20. Notice of CAISO's filing was published in the *Federal Register*, 80 Fed. Reg. 31,369 (2015), with interventions and protests due on or before June 16, 2015. The deadline for submitting interventions and protests was subsequently extended to June 26, 2015.[44] Timely motions to intervene were filed by the CPUC; the CPUC's Office of

[39] *Id.* at 24, n.63.

[40] This effective date corresponds to CAISO's proposed revisions to tariff sections 43.1 and 43A.

[41] This effective date corresponds to CAISO's proposed revisions to tariff sections 34.11, 39.10.3, 39.10.4, and 40.5.6.2, in addition to the eight revised definitions in Appendix A, Master Definition Supplement, and other revisions to Appendix F, Rate Schedules 6, CPM Schedules for CPM Designations Under Section 43.

[42] 18 C.F.R. §35.3 (2015).

[43] *Id.* at 30-31.

[44] *See* Notice of Extension of Time, Docket No. ER15-1783-000 (June 11, 2015).

Ratepayer Advocates; Alliance for Retail Energy Markets; California Municipal Utilities Association; San Diego Gas & Electric Company; the City of Santa Clara, California; Golden State Water Company; Modesto Irrigation District; and Powerex Corp. Timely motions to intervene and comments were filed by the Northern California Power Agency (NCPA); the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (Six Cities); Pacific Gas and Electric Company (PG&E); the California Department of Water Resource State Water Project (SWP); and Southern California Edison Company (SoCal Edison). A timely motion to intervene and protest was filed by NRG Power Marketing LLC and GenOn Energy Management, LLC (NRG). On July 9, 2015, and July 13, 2015, PG&E and CAISO each filed answers to NRG's protest, respectively. On July 30, 2015, NRG filed an answer to CAISO's answer. The protest and answers filed by PG&E, CAISO, and NRG relate solely to the issue of whether the non-contracted capacity of a resource committed by CAISO's market software to meet a minimum online commitment constraint should receive a CPM designation.

A. <u>Supportive Comments</u>

21. SoCal Edison, SWP, NCPA, Six Cities, and PG&E support CAISO's proposed tariff revisions and Offer of Settlement. SoCal Edison, SWP, and NCPA state that the Offer of Settlement reflects a resolution reached between CAISO and its stakeholders, and that the proposed tariff revisions produce an adequate replacement for the existing CPM.[45] SWP and NCPA assert that because the replacement CPM is a market-based mechanism that was designed in accordance with the Commission's guidance, CAISO's proposed revisions are just, reasonable, and in the public interest.[46] PG&E adds that the competitive solicitation process will incorporate market-based prices for backstop capacity while maintaining alignment with California's resource adequacy program.[47]

22. Six Cities and PG&E agree with CAISO that CPM designations should not be offered to resources committed through the market optimization software to address minimum online commitment constraints.[48] Six Cities argues that providing CPM

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[45] SoCal Edison June 26, 2015 Comments at 2; SWP June 26, 2016 Comments at 4 (SWP Comments); NCPA June 25, 2015 Comments at 3 (NCPA Comments).

[46] SWP Comments at 4; NCPA Comments at 3-4.

[47] PG&E June 26, 2015 Comments at 3 (PG&E Comments).

[48] Six Cities June 26, 2015 Comments at 4 (Six Cities Comments); PG&E Comments at 2, 4.

designations to these resources would result in an unwarranted expansion of the CPM program and risk opportunities for "gaming" tactics.[49]

B. NRG Protest

23. NRG argues that non-resource adequacy resources dispatched by CAISO to meet a minimum online commitment constraint should be eligible to receive a CPM designation. NRG explains that, in certain situations, CAISO may dispatch a non-resource adequacy resource to meet a minimum online commitment constraint to maintain system reliability. Thus, NRG argues that these resources should be paid for their capacity because they provide the same reliability service as resource adequacy resources.[50]

24. NRG raises numerous issues with CAISO's use of minimum online commitment constraints, arguing that CAISO's inability to distinguish between units committed to satisfy a minimum online commitment constraint from those committed through the unconstrained market raises transparency issues. In addition, NRG asserts that units dispatched at minimum load to satisfy minimum online commitment constraints are not "marginal," do not set the market-clearing price, and, thus, increase bid cost recovery payments and fails to send appropriate price signals. Further, NRG contends that prohibiting non-resource adequacy units from earning resource adequacy-like compensation creates the incentive for these resources to forego submitting energy bids into the CAISO market in hopes of being committed out-of-market. As a result, NRG states that CAISO will have to issue exceptional dispatches for these units, triggering CPM designations, which NRG contends is not conducive to ensuring a reliable and well-functioning market.[51]

25. To remedy these concerns, NRG proposes that CAISO conduct a reliability assessment each time that it dispatches a non-resource adequacy unit to determine if it relied on that unit's capacity to meet system reliability needs. If the assessment shows that CAISO did rely on that unit's capacity for system reliability, NRG argues that

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[49] Six Cities Comments at 4.

[50] For example, NRG explains that system conditions can change between the day-ahead and real-time market runs and, therefore, it is possible that CAISO may end up relying on non-resource adequacy capacity when there is no other resource adequacy capacity available to meet the reliability need. NRG June 26, 2016 Protest at 9.

[51] *Id.* at 10 (citing Tabors affidavit at P 18).

CAISO should provide that resource with a CPM designation and compensate the resource for its capacity accordingly.[52]

IV. <u>Discussion</u>

A. <u>Procedural Matters</u>

26. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding.

27. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept the answers filed by PG&E, CAISO, and NRG and will, therefore, reject them.

B. <u>Commission Determination</u>

28. We accept CAISO's proposed CPM revisions for filing, with the revisions to tariff sections 43.1 and 43A to become effective January 16, 2016, and the remaining tariff revisions and appendices to become effective March 1, 2016, as requested.[53] We find that CAISO's proposal to replace its administratively priced CPM with a competitive solicitation process is a just and reasonable approach to meeting CAISO's operational needs and providing appropriate compensation to needed resources.[54] We find that compensating CPM capacity based on the results of a competitive solicitation process will result in compensation driven by competitive factors and, therefore, will appropriately reflect both changing market conditions and corresponding fluctuations in capacity prices.

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[52] *Id.* at 9-10.

[53] We note that CAISO's Offer of Settlement is not a settlement filed pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 602 (2015). As such, we will treat the Offer of Settlement as record evidence in support of CAISO's section 205 filing.

[54] We find it unnecessary to evaluate CAISO's proposed CPM competitive solicitation process under the Commission's *Edgar* criteria for competitive solicitations because CAISO will not engage in any resultant affiliate transactions. *See Allegheny Energy Supply Company, LLC*, 108 FERC ¶ 61,082 at P 22 (2004).

29. In addition, we find that CAISO's proposal to implement a soft offer cap of $6.31/kW-month ($75.68/kW-year), plus a 20 percent adder should allow sufficient recovery of fixed costs plus return on capital to facilitate incremental upgrades and improvements by resources. Further, because the soft offer cap represents the high end of the range of current resource adequacy prices, it should not create incentives for load-serving entities to forego bilateral resource adequacy contracts and, instead, rely on CPM backstop procurement. In addition, we note that, under CAISO's proposal, resources have the opportunity to cost-justify a higher rate than allowed under the soft offer cap by making a filing with the Commission. Thus, unlike the compensation methodology proposed in the 2011 CPM proposal, we find that the methodology CAISO has proposed in the instant filing should facilitate adequate cost recovery. CAISO also proposes to conduct a stakeholder process every four years to consider updates to the CPM soft offer cap and evaluate whether the soft offer cap provides for adequate cost recovery. We also find the pay-as-bid approach is appropriate because it is a backstop procurement mechanism that is not utilized to clear load and supply through a market process; rather it is a backstop to respond to unexpected reliability needs. For these reasons, we find that CAISO's proposal to implement a competitive solicitation process for the CPM will help ensure that each resource providing backstop capacity receives adequate revenue to maintain reliable operations and is, thus, just and reasonable.

30. We decline to address whether non-contracted capacity that CAISO's day-ahead market software commits to meet a minimum online commitment constraint should receive a CPM designation. Because CAISO did not propose new tariff provisions or revisions to existing tariff provisions concerning minimum online commitment constraints or the categories under which it may issue a CPM designation in the instant section 205 filing, we find this issue to be outside the scope of this section 205 proceeding.[55] Furthermore, NRG's suggested modification is not necessary to make CAISO's proposal just and reasonable.

31. Finally, we find good cause to grant CAISO's requested waiver of section 35.3 of the Commission's regulations to allow CAISO's filing to take effect on more than 120 days' notice. As CAISO states, granting waiver will provide it with sufficient time to design, develop, implement, and test the requisite CPM market features in advance of the first planned competitive solicitation process on January 16, 2016.[56]

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[55] *See, e.g.*, *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,097 at n.58 (2015) (finding comments regarding PJM Interconnection, L.L.C.'s (PJM) proposed manual requirements for power management to be outside the scope of a section 205 proceeding where PJM had not proposed tariff provisions implementing those requirements).

[56] *See e.g., Cal. Indep. Sys. Operator Corp.*, 136 FERC ¶ 61,236 at P 13 (2011).

<u>The Commission orders</u>:

CAISO's filing is hereby accepted, with the revisions to tariff sections 43.1 and 43A to become effective January 16, 2016, and the remaining revisions and appendices to become effective March 1, 2016, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.