

## Stakeholder Comments Template

### Subject: Capacity Procurement Mechanism and Compensation and Bid Mitigation for Exceptional Dispatch

Submitted by	Company	Date Submitted
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Proposal Element	Generally Support	Do not Support
1. <b>File CPM and Exceptional Dispatch tariff provisions with no sunset date.</b>	PG&E supports a durable CPM with an automatic mechanism for updating the CPM compensation.	
2. <b>Provide that ICPM procurement with a term that extends beyond March 31, 2011 can be carried forward into CPM and paid at CPM rate after March 31 without doing a new CPM procurement.</b>	PG&E supports the CAISO's proposal. This transition is necessary given the ICPM expiration date of March 31, 2011.	
3. <b>Pro-rate the compensation paid to CPM capacity that later goes out on planned outage after being procured under CPM.</b>	PG&E agrees with the CAISO that it is inappropriate to pay a resource for 30 days of capacity if it goes on a planned outage.  PG&E supports the CAISO's proposal that such a resource be paid the CPM compensation for 30-days minus the number of days within the 30-day period that the resource is on its planned outage.	
4. <b>Improve current criteria for selecting eligible capacity for CPM by adding a criterion to establish:</b> <ul style="list-style-type: none"> <li>• <b>A preference for non-use-limited resources</b></li> <li>• <b>Ability to select</b></li> </ul>	PG&E is not opposed to the CAISO modifying the criteria used to select resources that will receive CPM designation, as long as the duration of the contract remains 30 days.	

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operational characteristics.	PG&E believes it is reasonable for the CAISO to choose the more flexible or operationally desirable resource. This will ultimately allow more value to be derived from the backstop capacity payment.	
<p>5. Procure capacity to allow:</p> <ul style="list-style-type: none"> <li>• Certain transmission or generation maintenance to occur.</li> <li>• When the output of intermittent Resource Adequacy resources is significantly lower than their RA values.</li> </ul>	<p>While PG&amp;E generally supports this element of the proposal, we have concerns about the CAISO's broad authority to procure backstop capacity for these two types of events.</p> <p>PG&amp;E will be monitoring the level of backstop procurement and may request the CAISO take action if it begins to procure significant amounts of backstop capacity related to planned outages or output from intermittent resources.</p>	
6. Procure capacity that is needed for reliability but is at risk of retirement.		PG&E is strongly opposed to this element of the CAISO's proposal. See the "Other Comments" section for a more detailed explanation of our position.
7. Base compensation paid for CPM on "going-forward fixed costs" plus a 10% adder (\$55/kW-year per CEC report), or higher price filed/approved at FERC.	<p>PG&amp;E strongly supports the CAISO's proposal to continue backstop capacity pricing based on going-forward fixed cost.</p> <p>The updated CPM rate of \$55/kW-year is reasonable based on the CEC study. The 10% adder and no deduction for energy rents should provide sufficient recovery of the fixed going-forward costs for almost all units.<sup>1</sup></p>	

<sup>1</sup> Additionally, if a resource that believes CPM price is insufficient, it has the opportunity to file at FERC for a higher price.

Proposal Element	Generally Support	Do not Support
	See PG&E's September 3 comments for a more detailed discussion of our position.	
<b>8. Compensate Exceptional Dispatch at same rate as compensation paid under CPM, or supplemental revenues option.</b>	PG&E does not see a need to change the current payment structure for Exceptional Dispatches. <sup>2</sup>	
<b>9. Mitigate bids for Exceptional Dispatches: (i) to mitigate congestion on non-competitive paths, and (ii) made under "Delta Dispatch" procedures.</b>	PG&E strongly supports the continued mitigation to address these two circumstances because they deter uneconomic bidding during times when a resource is capable of exercising market power.	

### Other Comments

**PG&E opposes the CAISO's proposal to procure capacity that is needed for reliability but is at risk of retirement**

**A. CPUC General Order 167 is specifically designed to address the reliability concerns created by a possible unit retirement.**

The CAISO has put forward a proposal to offer one year of backstop capacity payments to resources at risk of retirement which it deems could be critical in the future (as indicated by a CAISO technical study). It is PG&E's position that such a payment is unnecessary because there is current program in place at the CPUC to address this risk, and there is no reason to create a duplicative California program.

Specifically, in D.04-12-049, the CPUC adopted General Order (GO) 167 which requires generators to notify the CPUC 90 days before they plan to shut down.<sup>3</sup> The CPUC can review the importance of retaining the unit to maintain system reliability. If it is deemed critical, the CPUC can require that an Investor Owned Utility (IOU) sign a contract with a sufficient capacity value to keep the plant online.

In its September 15 Revised Draft Final Proposal, the CAISO argued that, while GO 167 would provide a basis for preventing utility owned generation from retiring, it would not apply to non-utility owned

<sup>2</sup> Resources without a capacity contract have a month-to-month choice between 1) accepting an ICPM designation and 2) earning hourly, bid-based compensation pursuant to the MRTU Tariff. Resources that choose Option 2, which is referred "Supplemental Revenue" option, are paid similarly to unmitigated resources until it receives revenues up to the level of the ICPM payment.

<sup>3</sup> The operating standard requiring notice before plant retirements and/or mothballing are in General Order 167, Operating Standards (OS) 22-24. OS 24 says that there must be a mechanism in place to compensate the plant for remaining online.

generation.<sup>4</sup> The CAISO claims that Resources owned by merchant generators are under the jurisdictional authority of the FERC and not the CPUC.

PG&E disagrees with the CAISO's interpretation of GO 167 and notes that the CAISO's interpretation has been explicitly rejected by the CPUC. In D.06-06-069<sup>5</sup>, the CPUC rejected Mirant's assertion that various aspects of GO 167, Standards 22-24 exceed the Commission's authority under state law and are federally preempted<sup>6</sup>, stating that:

*Regarding federal preemption, as the Commission stated in D.06-01-047, FERC does not have jurisdiction over facilities for generation of electric energy. (16 U.S.C. § 824(b).) The standards imposed by the Commission relate to the operations and maintenance of electric generation facilities. The goal of both Public Utilities Code section 761.3 and the standards is to ensure that generating facilities located in California [sic] properly maintained and efficiently operated for the public health and safety of Californians. (D.06-01-047 at pp. 50-51.) In contrast, FERC has jurisdiction over interstate sales at wholesale and wholesale rates. (D.06-01-047 at pp. 50-53.) Therefore, we conclude that the operations standards are not preempted by federal law.*

Further, it should be noted that GO 167 has already been used to provide compensation for units needed for reliability. Specifically, on May 4, 2006, Mirant announced that it submitted to the CPUC a 90 day notice of its intent to shut down the Pittsburgh 7 and Contra Costa 6 units if it was unable to secure the contracts. The CPUC worked with PG&E to allow these units to continue operating.

It appears that CPUC General Order 167 is specifically designed to address the reliability concerns created by a possible unit retirement. PG&E anticipates the CAISO would be an active partner with the CPUC and provide input for the CPUC process whenever a California generating unit is retiring. Expansion of CPM backstop to address a retirement situation is duplicative of the CPUC's process and authority, and PG&E sees no need to expand the CPM to backstop capacity that is at risk of retirement.

#### **B. The CAISO's proposal could result in a gaming scenario.**

PG&E is concerned that a resource, who cannot secure a bilateral RA contract for more than \$55/kW-year, would have an incentive to announce its retirement to have access to the higher CPM compensation. The CAISO has declared that it has no intent to research the financial status of the resource, only that it would depend on the sworn statements by executives of the company attesting to financial condition of the resource. The accuracy of sworn statements claiming financial hardship would be hard to verify, and, even if true, might simply reflect the fact that the resource was unwilling to accept an RA contract. Given that that the CAISO will not rely on any specific metrics to determine financial viability, it is unclear from the proposal how it could prevent this scenario from evolving.

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<sup>4</sup> Specifically, the CAISO cites OS 24: "This standard is applicable only to the extent that the regulatory body with relevant ratemaking authority has instituted a mechanism to compensate the GAO (Generation Asset Owner) for readiness services provided."

<sup>5</sup> See link to the decision: [http://docs.cpuc.ca.gov/published/Final\\_decision/57759-02.htm](http://docs.cpuc.ca.gov/published/Final_decision/57759-02.htm)

<sup>6</sup> Mirant's application for rehearing of D.04-12-049 alleged that various aspects of Operations Standards 22, 23, and 24 exceed the Commission's authority under state law, and are federally preempted because they are duplicative of, and potentially in conflict with, standards imposed by the Federal Energy Regulatory Commission