

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

CXA La Paloma, LLC)	
)	
v.)	Docket No. EL18-177-000
)	
California Independent System Operator Corporation)	
)	

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO
COMMENTS**

The California Independent System Operator Corporation (“CAISO”)¹ answers certain comments submitted in response to the complaint filed in this proceeding by CXA La Paloma, LLC (“La Paloma”) on June 20, 2018 (the “Complaint”). The majority of parties filing comments or protests ask the Commission to dismiss or reject the Complaint.² A handful of commenters support the Complaint in whole or in part.³ The CAISO files this Answer to respond to certain inaccurate factual and legal claims in the comments

¹ Capitalized terms not otherwise defined herein have the meanings set forth in appendix A to the CAISO tariff.

² The following entities filed protests or comments opposing the Complaint: the American Public Power Association (“APPA”); Arizona Electric Power Cooperative, Inc. (“AEPCO”); the California Department of Water Resources State Water Project (“SWP”); the California Municipal Utilities Association (“CMUA”); the Public Utilities Commission of the State of California (“CPUC”); the Imperial Irrigation District (“IID”); the National Rural Electric Cooperative Association (“NRECA”); the Northern California Power Agency (“NCPA”); Pacific Gas and Electric Company (“PG&E”); Public Citizen, Inc.; the City of Santa Clara, California, doing business as Silicon Valley Power, and the M-S-R Public Power Agency (collectively “SVP/M-S-R”); the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, the “Six Cities”) and the Union of Concerned Scientists, Sierra Club, Communities for a Better Environment, Natural Resources Defense Council, and the Sustainable FERC Project (collectively, “Public Interest Organizations”)

³ The following entities filed comments supporting portions of the Complaint: Calpine Corporation (“Calpine”); Cogentrix Energy Power Management, LLC (“Cogentrix”); the Electric Power Supply Association (“EPSA”); NRG Power Marketing LLC (“NRG”); Powerex Corp. (“Powerex”); and the Western Power Trading Forum (“WPTF”).

supporting the Complaint.

None of these comments provide a record that supports the claim that a resource adequacy (“RA”) framework based on bilateral procurement by load serving entities (“LSEs”) is unduly discriminatory and unable to secure the resources needed to maintain reliability. No commenter demonstrates that a reliability problem exists or that a dramatic change to the CAISO market design is required to promote the development of needed new resources. Many commenters point to the CAISO’s recent Significant Event designations under its capacity procurement mechanism (“CPM”) authority. As explained below, these designations relate to a load forecast error which is no less likely to occur if a centralized capacity market were in place instead of the existing bilateral procurement framework. As such, these designations provide no support for the relief sought in the Complaint.

Nothing in the comments filed supports the disruptive step of grafting onto the CAISO tariff a mandatory centralized capacity market that is incompatible with circumstances in the CAISO region and the state’s resource procurement policies. Notably, the vast majority of commenters, including a number of suppliers, oppose (or do not support) a mandatory centralized capacity market.

The Commission should disregard issues raised by commenters that go far beyond the scope of the Complaint, including, inter alia, arguments about the CAISO’s approach for allocating maximum import capability (MIC) on interties, claims as to whether energy market prices reflect the volatility of intra-day natural gas prices, arguments that the CAISO should incorporate a retirement obligation

into the reliability must-run (“RMR”) agreement, and claims that some RA resources are not making themselves available to the CAISO markets by offering their energy at excessively high prices.

Many of the issues raised by commenters regard expected future challenges in the region. The CAISO acknowledges that the CAISO grid is transforming and that this transformation will require enhancements to the RA program and to the backstop capacity procurement provisions of the CAISO tariff. The CAISO already is seeking modifications to the RA program through an ongoing California Public Utilities Commission (“CPUC”) proceeding – the CPUC RA Refinement Proceeding – directed at addressing the changing needs and characteristics of the power system. Soon the CAISO will start a stakeholder process – the RA Enhancements Initiative – focused on CAISO tariff enhancements complementary to, and supportive of, the CPUC’s efforts. These RA modifications are expected to minimize the need for the CAISO to engage in backstop procurement, among other things. The CAISO also has an ongoing stakeholder initiative to develop improvements to its RMR and CPM mechanisms, consistent with the Commission’s guidance provided earlier this year. The CAISO already is submitting quarterly status reports to the Commission on the RMR/CPM initiative.

In light of these existing processes and commitments, as well as the evidence that the CAISO has maintained reliability under existing tariff provisions, there is no justification for the remedies or additional processes proposed in this proceeding. The Commission should reject the Complaint in its

entirety and terminate this proceeding without condition.⁴

I. MOTION FOR LEAVE TO FILE ANSWER

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,⁵ the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to the extent necessary to permit it to answer comments filed in the proceeding. Good cause for the waiver exists because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help ensure a complete and accurate record in the case.⁶

II. ANSWER

A. The Commission Should Not Consider Issues That Go Beyond the Scope of the Complaint

A number of commenters raise issues that are far beyond the scope of La Paloma's Complaint. For example, Powerex objects to the existing Commission-approved framework for allocating MIC on the CAISO's interties.⁷ Powerex also raises issues regarding the alleged non-availability and high bids of certain

⁴ The CAISO files this answer pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213. For the reasons explained below, the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer certain comments filed in the proceeding.

⁵ 18 C.F.R. §§ 385.212, 385.213.

⁶ See, e.g., *Duncan's Point Lot Owners Ass'n, Inc. v. Union Elec. Co.*, 111 FERC ¶ 61,190 at P 8 (2005); *Cent. Iowa Power Coop. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 110 FERC ¶ 61,093 at P 27 (2005); *NSTAR Elec. & Gas Corp. v. New Eng. Power Pool*, 102 FERC ¶ 61,107 at P 13 (2003).

⁷ Powerex Comments at 31-36. Powerex concedes that the new issues it raises in its comments will not be addressed by the "specific and narrowly-focused relief sought by the Complainant." *Id.* at 37-38. See Section II.G of this Answer for a discussion of the substantive flaws in Powerex's arguments.

resources in the CAISO's energy markets.⁸ NRG raises whether energy market bid rules allow gas-fired resources to address the volatility of natural gas costs driven by the impairment of Aliso Canyon.⁹ Calpine argues that the existing CAISO RMR agreement should be "modernized,"¹⁰ and Cogentrix argues that the RMR agreement should include a mandatory retirement provision.¹¹ Powerex and Cogentrix object to using the effective load carrying capability ("ELCC") methodology for counting wind and solar resources.¹² Calpine requests a series of technical conferences to discuss their preferred changes to the CAISO's backstop procurement mechanisms.¹³

La Paloma's Complaint included none of these allegations, and these requests differ from the remedy La Paloma seeks. In assessing whether to intervene in response to the La Paloma Complaint, stakeholders would not have had proper notice that these issues would be addressed in this complaint proceeding. The CAISO also notes that several of these matters can be raised and addressed either in the CPUC's ongoing RA Refinement Proceeding or in ongoing or upcoming CAISO stakeholder processes.

Consistent with precedent, the Commission should not consider these or any other issues that are outside the scope of the Complaint. Instead, the Commission should follow the approach it took when it considered and rejected

⁸ *Id.* at 27-30.

⁹ NRG Comments at 4.

¹⁰ Calpine at 3, 25.

¹¹ Cogentrix Comments at 4.

¹² *Id.* at 5; Powerex Comments at 25.

¹³ Calpine Comments at 19.

an earlier Federal Power Act section 206 complaint filed by La Paloma seeking an RMR contract. The Commission concluded that it should not address comments that went beyond the scope of that complaint, including comments requesting a technical conference on backstop procurement and generation cost recovery issues.¹⁴

B. The Region Does Not Support a Centralized Capacity Market

As discussed in the CAISO's answer to the Complaint, Commission precedent makes it clear that there is no "one-size-fits-all" approach to resource adequacy in organized wholesale electricity markets.¹⁵ The Commission has never required all independent system operators ("ISOs") and regional transmission organizations ("RTOs") to have mandatory centralized capacity markets.

Even assuming, *arguendo*, that the Commission could find in this proceeding that some aspect of the CAISO tariff is unjust and unreasonable or unduly discriminatory or preferential, the Commission should not mandate adoption of a centralized capacity market as the remedy. A centralized capacity market would be incompatible with both the CAISO's existing market design and the circumstances that exist in the CAISO balancing authority area.¹⁶ This

¹⁴ *La Paloma Generating Co., LLC v. Cal. Indep. Sys. Operator, Corp.*, 157 FERC ¶ 61,002 at P 32 (2016) (*La Paloma*); see also *Champion Energy Mktg. v. PJM Interconnection, L.L.C. and PJM Settlement, Inc.*, 153 FERC ¶ 61,059 at P 21 n.28 (2015) (finding that a comment addressing potential reforms to the PJM capacity market was beyond the scope of a section 206 proceeding concerning balancing operating reserve charges in the PJM energy market).

¹⁵ See, e.g., CAISO Answer to La Paloma Complaint at 93-100.

¹⁶ See CAISO Answer to La Paloma Complaint at 114-122.

incompatibility is widely recognized by commenters in this proceeding, the vast majority of whom oppose adopting a centralized capacity market in the region. This is true even of some supplier commenters who support some aspects of the Complaint. For example, Calpine states that mandating an “Eastern-style centralized capacity market” would not be realistic for the region.¹⁷ Calpine goes on to observe that a centralized capacity market “might not co-exist easily with the State’s resource policies and would likely be difficult to design.”¹⁸ Powerex takes no position on the relief sought in the Complaint and proposes alternative revisions to the resource adequacy provisions of the CAISO tariff.¹⁹

Other commenters highlight the pragmatic considerations which weigh against mandating a centralized capacity market for the CAISO. PG&E indicates that it “shares La Paloma’s concern about the continued availability of generating resources needed for the safe and reliable operation of California’s transmission system,” but opposes the Complaint for a number of reasons and concludes that, based on the experiences of other ISOs and RTOs, “the process of developing a centralized capacity market for the CAISO is likely to take years, not months.”²⁰ The APPA documents that the experience of eastern ISOs and RTOs with centralized capacity markets “are far from proven success stories, as they have been plagued by endless disputes and design changes, especially in PJM and

¹⁷ Calpine Comments at 2.

¹⁸ *Id.* at 17.

¹⁹ Powerex Comments at 37-38.

²⁰ PG&E Comments at 2, 4-5.

ISO-NE.”²¹

NRG suggests that California state policies can be accommodated under a centralized capacity market by holding separate auctions for different resource types.²² Such an approach is unnecessary and sub-optimal. The CAISO’s existing bilateral procurement resource adequacy framework already allows LSEs to satisfy capacity requirements in a manner that accommodates state policy initiatives. The Commission recently rejected a Midcontinent Independent Transmission System Operator (“MISO”) proposal to have separate capacity auctions to accommodate retail access and non-retail access states.²³ There is no reason why a centralized capacity approach with similarly flawed bifurcated auctions should be mandated in this proceeding, particularly where there is no justification for abandoning the existing bilateral procurement framework.

C. The Increased Role of Community Choice Aggregators Does Not Support the Complaint.

A couple of commenters suggest that the migration of some load from traditional utilities to Community Choice Aggregators (“CCAs”) affects the reasonableness of the region’s resource adequacy framework. For example, NRG argues that a move to a centralized capacity market is justified by the transition to a retail market where California customers are allowed to shop for competitive retail supply, such as by joining a CCA.²⁴ These arguments are

²¹ APPA Comments at 11-14.

²² NRG Comments at 11.

²³ *Midcontinent Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,128 at PP 7-8 (2017).

²⁴ NRG Comments at 11. NRG’s comments also reference the potential for future legislative or regulatory changes in California expanding direct access. *Id.* The potential for such

without merit for a number of reasons.

First, CCAs are not a new concept. Sections 331.1 and 366.2 of the California Public Utilities Code, added by AB 117 enacted in 2002, allow local governments to form CCAs by aggregating retail customers.²⁵ The Commission-approved CAISO tariff already addresses compliance of CCAs with resource adequacy requirements. CCAs are included in the CAISO tariff definition of “CPUC Load Serving Entity” and are subject to the same resource adequacy requirements applicable to all CPUC Load Serving Entities (“LSEs”).²⁶ The Commission has made it clear that all LSEs in the CAISO balancing authority area must satisfy resource adequacy requirements.²⁷

Although it is true that there has been growth in the number of CCAs in recent years, commenters provide no evidence that this growth has rendered the general resource adequacy framework unjust and unreasonable. As the CAISO indicated in its answer to the La Paloma Complaint, the CPUC oversees CCAs’

future changes cannot be a valid basis for finding that the CAISO tariff is unjust and unreasonable today.

²⁵ Cal. Pub. Util. Code §§ 331.1, 366.2 (West 2018) (originally added by Cal. Stats. 2002, c. 838 (A.B. 117)).

²⁶ Appendix A to the CAISO tariff defines “CPUC Load Serving Entity” as “Any entity serving retail Load in the CAISO Balancing Authority Area under the jurisdiction of the CPUC, including an electrical corporation under section 218 of the California Public Utilities Code, an electric service provider under section 218.3 of the California Public Utilities Code, and a community choice aggregator under section 331.1 of the California Public Utilities Code.”

²⁷ *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 at P 1137 (2006) (“We find that Western [Area Power Administration], the [United States] Bureau of Reclamation, the [California Department of Water Resources] State Water Project, MSSs [metered subsystems], and GSW [Golden State Water Company] must comply with RA requirements like all other entities with loads in the CAISO Control Area, as a condition for participating in CAISO market. We further find that all LSEs that serve load in the CAISO Control Area must satisfy the RA requirements under [the Market Redesign and Technology Upgrade].”)

resource adequacy procurement.²⁸ The CAISO also has the same authority to address any resource adequacy deficiency for CCAs that it has to address resource adequacy deficiencies for any other LSE.

CCAs represent a form of retail choice. The Commission has repeatedly rejected requests to impose a mandatory centralized capacity market on the MISO, notwithstanding the fact that MISO encompasses more states than the CAISO, MISO LSEs are subject to the RA oversight of more state commissions, and more than one MISO state has retail choice.²⁹ Just this year, suppliers argued that a centralized capacity market framework would “promote long-term resource adequacy for competitive retail demand” in MISO, and the Commission again rejected the concept of a mandatory centralized capacity market.³⁰ Calpine suggests that the proliferation of CCAs has “fragmented” resource adequacy procurement.³¹ Again, there is no reason to conclude that the increased role of CCAs will prevent a resource adequacy framework based on bilateral procurement by LSEs from remaining just and reasonable. For August 2018, there are 90 LSEs, most of them small, subject to the CAISO’s RA

²⁸ CAISO Answer to La Paloma Complaint at 98.

²⁹ See, e.g., *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,060 at P 39 (2008) (“We reject arguments that a mandatory auction or a mandatory centralized capacity market is necessary to ensure resource adequacy. Well-structured financial settlement provisions can create appropriate incentives for LSEs to invest in and contract for sufficient capacity to meet their resource adequacy needs. Therefore, we will not require the Midwest ISO to adopt a capacity market with a downward-sloping demand curve in the mold of PJM and the New York ISO.”); see also *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,199, at P 43 (2012), *order on reh’g*, 153 FERC ¶ 61,229, at PP 3, 50 (2015) (“We are not persuaded that a mandatory centralized capacity auction construct is necessary to ensure resource adequacy in the MISO region. Such assertions are unsupported given that utilities in MISO have historically procured sufficient capacity to meet their needs.”).

³⁰ *Midcontinent Indep. Sys. Operator, Inc.*, 162 FERC ¶ 61,176 at P 29. 56-57, 73 (2018).

³¹ Calpine Comments at 5, 13.

requirements. A single state regulator, the CPUC, oversees RA procurement by CCAs and the majority of other LSEs subject to CAISO resource adequacy requirements. The transition of load from investor-owned LSEs to CCAs or even energy service providers (“ESPs”) will not change this fact.

As discussed elsewhere herein, in its ongoing RA Refinement Proceeding, the CPUC is exploring potential RA modifications recognizing, among other things, the growth in CCAs. The Commission should also recognize that any changes to the resource adequacy programs generally are vetted through two stakeholder processes – one for the CPUC program and another for any related changes to the CAISO resource adequacy provisions.

D. The CAISO’s Recent Backstop Procurement Does Not Indicate the Need for A Complete Overhaul of the RA Procurement Framework

Calpine suggests that the CAISO’s recent use of RMR contracts “is a likely portent of how the CAISO will manage local reliability in the future”³² and that the CAISO’s “burgeoning reliance” on RMR contracts and CPM to manage local reliability necessitates the Commission undertake a remedy proceeding to “attain meaningful reform to redress the unjust and unreasonable resource adequacy conditions.”³³ NRG suggests there has been a “proliferation” of RMR agreements and that “systematic and frequent use of out-of-market procurement is a hallmark of a failing market design.”³⁴

³² Calpine Comments at 16.

³³ *Id.* at 21.

³⁴ NRG Comments at 5, 7.

These comments are at best hyperbole. For 2018, the CAISO's total local capacity allocated for LSE procurement³⁵ was 24,599 MW.³⁶ Total RMR procured by the CAISO for 2018 was 853.36 MW, and total CPM procurement to meet local capacity needs was 1,055 MW. For 2019, the CAISO's total local capacity allocated for LSE procurement is 24,604 MW,³⁷ and the CAISO expects that, at most, there will be approximately 1,088 MW of RMR and potentially as little as approximately 259.4 MW. In that regard, on September 4, 2018, Southern California Edison Company filed an Advice Letter with the CPUC seeking approval of RA contracts for the Ellwood Peaker and Ormond Beach Unit 2.³⁸ If the CPUC approves these RA agreements, 829 MW that the CAISO earlier this year had conditionally designated as RMR for 2019 will be RA, not RMR. Expected RMR designations for 2019 would then be 259.4 MW.

As discussed above herein, new transmission solutions will render the 2018 Metcalf RMR agreement referred to by many commenters unnecessary for 2019. The RA program historically has procured, and will continue to procure, the overwhelming percentage of capacity required to meet local reliability. This was the first year the CAISO designated CPM capacity for an RA deficiency or Collective Local Deficiency. That hardly constitutes a "trend" or "burgeoning

³⁵ The local capacity requirement is the amount of RA capacity that is needed within a Local Capacity Area to reliably serve load within the area.

³⁶ CAISO 2019 Local Capacity Technical Analysis Final Report and Study Results, p. 2 (May 15, 2018) (2019 LCR Study), available at <http://www.caiso.com/Documents/Final2019LocalCapacityTechnicalReport.pdf>.

³⁷ *Id.* at 22.

³⁸ Southern California Edison Company, Advice 3854-E (U 338-E) (Sept. 4, 2018).

reliance.”

In its Answer to the Complaint, the CAISO described in detail the circumstances surrounding the local backstop procurement for 2018 and explained how such backstop procurement did not reflect some systemic failure requiring a mandatory centralized capacity market.³⁹ The CAISO will not repeat that discussion here, but will expand on a couple of key points to rebut claims in certain comments. First, NRG is unjustified in pointing to the CAISO’s transitional, short-term CPM procurement of Encina as “underscore[ing] the severe flaws in the California RA mechanism.”⁴⁰ San Diego Gas & Electric Company (SDG&E) was unable to procure the 545 MW of NRG’s Encina generating facility for 2018 because of a prior CPUC decision precluding the procurement of once-through cooling resources whose original dates to comply with California’s once-through cooling policy had passed.⁴¹ This one circumstance supporting an RMR designation hardly constitutes a systemic flaw in the RA program. Further, this circumstance will not be ongoing. NRG’s Carlsbad Energy Center, which is replacing Encina and has been tolled to SDG&E, is expected to be in service later this year.

Second, as discussed in the Answer, most of the RMR designations “front ran” the RA process, *i.e.*, the CAISO issued conditional RMR designations to Calpine (for 2018) and NRG (for 2019) prior to the RA showing deadline at the

³⁹ CAISO Answer to La Paloma Complaint at 53-68.

⁴⁰ Affidavit of Robert B. Stoddard on Behalf of The NRG Companies, P. 9.

⁴¹ CAISO Answer to La Paloma Complaint at 65-66.

end of October.⁴² Calpine affirmatively requested an early CAISO determination of need and NRG filed notices of retirement that automatically triggered the standard CAISO review process to assess the need for retiring units. This sequence of events undermine Calpine and NRG's attempt to blame the RA process for failing to procure these resources, especially considering that all of the resources were RA at the time of the CAISO's assessment. Calpine and NRG both benefitted from these early assessments and now seek to use them to claim the RA process is deeply flawed.

Third, there are replacement solutions for all RMR resources, making all RMR designations transitional and short-term.⁴³

Finally, to address situations like the Moss Landing CPM designation, in the ongoing RA Refinement Proceeding at the CPUC, the CAISO and others (including CPUC Energy Division staff, NRG, and Calpine)⁴⁴ are supporting more granular local RA capacity procurement requirements, and the CAISO intends to identify any specific resources that are essential for reliability to inform RA procurement.⁴⁵ This tweak in the RA program will address any concerns about the CAISO's backstop procurement of local capacity and serve to reduce (or eliminate) any such procurement. The CPUC has expressed its goal to modify

⁴² *Id.* at 57-63.

⁴³ CAISO Answer to La Paloma Complaint at 53-66.

⁴⁴ See, e.g., Testimony of Matthew Barmack on Behalf of Calpine Corporation, p. A-3, CPUC Rulemaking 17-09-20 (July 10, 2018); Prepared Testimony of Brian D. Theaker on behalf of NRG Energy, Inc., p.8, CPUC Rulemaking 17-09-20 (Aug. 8, 2018).

⁴⁵ CAISO Answer to La Paloma Complaint at 66-68; 109-10.

the RA program to reduce CAISO backstop procurement.⁴⁶ Thus, suggesting that the Commission needs to intervene immediately and significantly overhaul the RA program because of the CAISO's limited backstop procurement is a gross overreaction based on past events and likely future changes to the RA program.

NRG argues that some CAISO Exceptional Dispatch CPMs are evidence of a failing RA program.⁴⁷ These examples do not support NRG's claim. NRG admits that many of these exceptional dispatches were for *force majeure* events, including multi-contingency events.⁴⁸ These events are beyond what grid operators normally plan for in the transmission and RA planning processes. NRG also notes that a few of the designations resulted from high loads and unit outages.⁴⁹ This is nothing remarkable. On any given day, weather conditions can produce load forecasts that exceed planned and available resources. This can occur in regions with centralized capacity markets, regions with bilateral RA procurement frameworks, and regions without any organized markets. Balancing authorities typically do not plan for one-in-twenty year and unusual conditions. Nonetheless, operators have tools to address such unusual circumstances. That is why all grid operators and transmission providers have backstop procurement mechanisms, reserve sharing arrangements, and/or emergency assistance

⁴⁶ Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, p.6, *Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local and Flexible Procurement Obligations for the 2019 and 2020 Compliance Years*, Rulemaking 17-09-020 (Jan. 18, 2018) (RA Refinement Proceeding Scoping Memo). <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M205/K706/205706239.PDF>.

⁴⁷ NRG Comments at 5-6.

⁴⁸ *Id.* at 6.

⁴⁹ *Id.*

agreements in place. Having and utilizing such mechanisms does not mean transmission planning and RA frameworks have failed or are significantly flawed. They simply reflect good utility practice to “keep the lights on.”

Citing to the CAISO’s 2019 Local Capacity Technical Study, EPSA notes that some local capacity areas are deficient (e.g., Sierra, Stockton), but fails to acknowledge that that projects approved many years ago and in progress will eliminate all local capacity area deficiencies. The CAISO’s 10-year forward Local Capacity Technical Analysis shows no local area deficiencies.⁵⁰

E. The CAISO’s Sensitivity Study in the Transmission Planning Process Does Not Indicate a Major Reliability Problem

Calpine attempts to make much of the fact that the CAISO’s most recent annual transmission plan included a special study which concluded that in the near term “capacity sufficiency issues start to emerge between 1,000 to 2,800 MW of retirement, considering some uncertainties in forecasts.”⁵¹ As an initial matter, the CAISO’s study was not “near term.” As the CAISO indicated in its Answer to the La Paloma Complaint, the CAISO’s study looked out 10-plus years.⁵²

Calpine also ignores that the special study it cites was a sensitivity study; the CAISO’s base case study shows that “capacity insufficiency start[s] to emerge with between 4,000-6,000 MW of retirement.”⁵³ Importantly, both

⁵⁰ The analysis is available at http://www.aiso.com/Documents/AppendixD_Board_Approved_2016-2017TransmissionPlan.pdf.

⁵¹ Calpine Comments at 10.

⁵² CAISO Answer to La Paloma Complaint at 49.

⁵³ *Id.* See also CAISO 2016-2017 Transmission Plan at 219 available at

forward-looking studies assume the retirement of all remaining once-through-cooling resources in 2020 and the retirement of the Diablo Canyon nuclear plant in 2024.⁵⁴ Also, the sensitivity study assumes that the state falls far short of meeting its 2030 energy efficiency goals.⁵⁵ Suggesting that this sensitivity study supports a major overhaul of the CAISO's market design ignores these details and the context of the study.

F. CPM Significant Event Designations to Account for a CEC Load Forecast Change Do Not Necessitate Eliminating an RA Framework Based on Bilateral Procurement

Some interveners note that recently the California Energy Commission ("CEC") announced a change in its load forecasting estimates by approximately 1,250 MW for September and 4,400 MW for October, and such change will result in Significant Event CPM procurement by the CAISO.⁵⁶ They suggest that this backstop procurement further supports the need for centralized, market-based procurement.

These parties ignore that the CAISO already uses a market-based, competitive solicitation process to select capacity for Significant Event CPM designations.⁵⁷ These parties also fail to appreciate that the Significant Event

http://www.aiso.com/Documents/Board-Approved_2016-2017TransmissionPlan.pdf; and see CAISO 2017-2018 Transmission Plan at 285, available at <http://www.aiso.com/planning/Pages/TransmissionPlanning/2017-2018TransmissionPlanningProcess.aspx>.

⁵⁴ CAISO 2016-2017 Transmission Plan at 206, 286.

⁵⁵ *Id.* at 285.

⁵⁶ NRG Comments at 6; EPSA Comments at 5; Calpine Comments at 9. Because LSE's showed more capacity in their September monthly RA showings, the CAISO only had to procure 624 MW of Significant Event CPM capacity for September. The CAISO is evaluating RA showings and assessing potential backstop procurement for October.

⁵⁷ CAISO tariff section 43A.4.2.6. A CPM Significant Event is "[a] substantial event, or a combination of events, that is determined by the CAISO to either result in a material difference

procurement resulted from a forecast change.⁵⁸ Such a change can occur in a centralized capacity market regime or a bilateral procurement regime. It can occur in connection with day-ahead planning and years-ahead planning. It can occur in connection with daily, monthly, annual, and/or multi-year-ahead procurement. In short, the CEC changing its forecast does not indicate that an RA framework based on bilateral procurement is flawed and that centralized, market-based procurement is necessary. At most, it highlights the need to explore improving the RA forecast. This is an issue that the CAISO is working with the CEC and CPUC to address.

G. Powerex’s Claims Do Not Support a Centralized Capacity Market

Powerex perceives the La Paloma Complaint as an opportunity to allege a potpourri of import and market-related “shortcomings” it believes the Commission should also address. Many of these purported “shortcomings” were not raised in the La Paloma Complaint, and the requests differ greatly from the specific remedy sought in the Complaint. Such issues are beyond the scope of the Complaint. Further, such alleged “shortcomings” would not be addressed by

from what was assumed in the resource adequacy program for purposes of determining the Resource Adequacy Capacity requirements, or produce a material change in system conditions or in CAISO Controlled Grid operations, that causes, or threatens to cause, a failure to meet Reliability Criteria absent the recurring use of a non-Resource Adequacy Resource(s) on a prospective basis.”

⁵⁸ In its tariff amendment filings seeking Significant Event backstop procurement authority, the CAISO expressly noted that it might need to use such authority to address errors, forecast changes, bad data, and incorrect assumptions. CAISO Interim Capacity Procurement Mechanism Tariff Amendment, p.24, Docket No ER08-556, p.24 (Feb. 8, 2008); CAISO Transitional Capacity Procurement Mechanism Tariff Amendment, Docket No. ER08-760, p. 29(March 28, 2008). These types of issues are not dependent on the specific type of RA procurement framework used by a region. The changes La Paloma and others propose would not change the risk of these types of issues occurring.

implementing a centralized capacity market. Powerex seemingly admits as much when it states it “takes no position on the specific and narrowly-focused relief sought by the Complainant, except to note that such relief does not fully address the existing deficiencies in the RA framework.”⁵⁹ The CAISO addresses Powerex’s concerns below, and emphasizes that none would be remedied by implementing a centralized capacity market.

1. Powerex’s “Leaning” Claims Conflate Energy and Capacity Markets

Powerex claims that the CAISO is “leaning” on short-term market purchases from external regions during peak load periods to compensate for inadequacies in the current RA program.⁶⁰ Powerex bases this claim on data showing high import quantities during certain high load events on the CAISO system.

This critique of the RA program inappropriately conflates capacity procurement and energy markets. The RA program procures capacity in advance of the RA compliance year and RA month through bilateral contracts. The CAISO markets procure energy and ancillary services in the day-ahead and real-time operating timeframes based on an economic optimization of market bids. That on some high load days import resources that voluntarily bid into the CAISO energy markets were more economic than other resources bidding in on a given day does not mean those external resources were providing capacity services that require capacity payments.

⁵⁹ Powerex Comments at 37-38.

⁶⁰ *Id.* at 5.

Powerex cites the CAISO's September 1, 2017, peak load event as an example of CAISO "leaning" on imports and suggests that the RA program is flawed because more imports are not procured as RA. Imports are and always have been a material component of LSEs' RA procurement. For September 2017, approximately 13% of the roughly 46,000 MW of total generic RA capacity shown by LSEs was comprised of imports. That non-RA import resources were available on one specific day (or a few days) out of the year and were committed by the CAISO markets because they submitted lower cost energy bids does not equate the resource to an RA capacity resource and does not mean that such resources would have been willing, or able, to provide RA capacity service for an entire year or month.

In the Western Electricity Coordinating Council region, most resources located outside of the CAISO footprint are utility/federal power authority/muni-owned and dedicated first to serving native load. Resource owners without stable and consistent excess capacity may be unable to sell RA for an entire year or even for a single month, but they may be able to bid excess energy into the CAISO markets on a given day. Some resource owners with excess capacity may prefer the optionality to make short-term sales to any number of potential buyers in the west and prefer not to make longer-term RA commitments. In any event, imports are able to compete – and do compete – to provide RA service.

The Commission has previously rejected similar claims that a non-RA unit committed through the CAISO's day-ahead or real-time market processes is providing RA-like service and should receive a backstop capacity designation. In

the proceeding regarding the CAISO's Interim Capacity Procurement Mechanism tariff amendment, certain generators argued that a commitment under the CAISO's residual unit commitment (RUC) warranted a capacity procurement mechanism designation. The Commission rejected this argument finding that RUC is a voluntary process that allows non-RA resources to specify the price at which they will provide their services.⁶¹ Subsequently, the Commission rejected claims that a unit dispatched to provide energy to maintain reliability at a particular operating level is providing capacity services at that operating level.⁶²

These prior Commission decisions establish a clear principle that resources voluntarily bidding into the CAISO energy markets on a given day are not providing capacity services and have no claim to receive CAISO-backstop capacity payments. There is a compelling logic to this principle. The CAISO's energy and ancillary services markets are voluntary processes that allow resources to specify the prices at which they are willing to provide service on a given day. Because resources are able to specify a price, if the market accepts their offer and they receive their bid price, they have received the benefit of their bargain and should not be entitled to receive additional, unspecified capacity payments that were not taken into account by the market.

Based on these principles, it is clear that the CAISO's acceptance of bids in its energy market from non-RA resources does not speak in any way towards

⁶¹ *Cal. Indep. Sys. Operator Corp.*, 125 FERC ¶ 61,053, P 121 (2008).

⁶² *Calif. Indep. Sys. Operator, Inc.*, 126 FERC ¶ 61,150 at 181-82 and 191 (2008) (rejecting arguments that capacity voluntarily bid into the market or self-scheduled should receive an interim capacity procurement mechanism ("ICPM") designation).

whether the units dispatched for energy are providing RA-like services.

Accordingly, Powerex's focus on a particular event in September 2017 provide no support for its core claims as to the purported weaknesses of the RA program.

2. System RA Procurement Requirements Are Properly Set Based on Established Planning Criteria

The existing RA program, like any RA program, whether implemented through a centralized capacity market or bilateral procurement, sets minimum planning criteria that balances service risk and cost. These criteria are quantified through either a planning reserve margin or the acceptable level of loss of load probability. Once these criteria are established, it is possible to experience actual operational conditions that fall outside of these criteria. When actual conditions fall outside of these criteria, the CAISO will, among other things, take measures to minimize the risk of having to interrupt firm load. These measures include: (1) economically dispatching supply voluntarily offered regardless of having an RA capacity obligation; (2) triggering voluntary demand response programs; (3) issuing alerts (flex alerts) to secure additional voluntary load reductions; and (4) using additional out-of-market mechanisms, including exceptional dispatch or emergency assistance, to obtain energy. If these measures ultimately do not provide sufficient energy to meet the CAISO demand, the CAISO will take measures including interruption of CAISO demand or exports to maintain balance of supply and demand in addition to reserves. This sequencing of measures is not unique to the CAISO; it is what any balancing authority must be prepared to do when actual conditions fall outside of established planning criteria.

Again, Powerex points to the CAISO's September 1, 2017 peak load event to argue that the current RA procurement falls short of actual system needs.⁶³ On September 1, 2017, the CAISO service area experienced extremely hot temperatures and system peak loads over 50,000 MW. This heat wave constituted a 1-in-19-plus year weather event,⁶⁴ well above the established planning criteria. Neither the CPUC RA program nor the CAISO default planning processes require procurement of RA resources to address such extreme weather events.

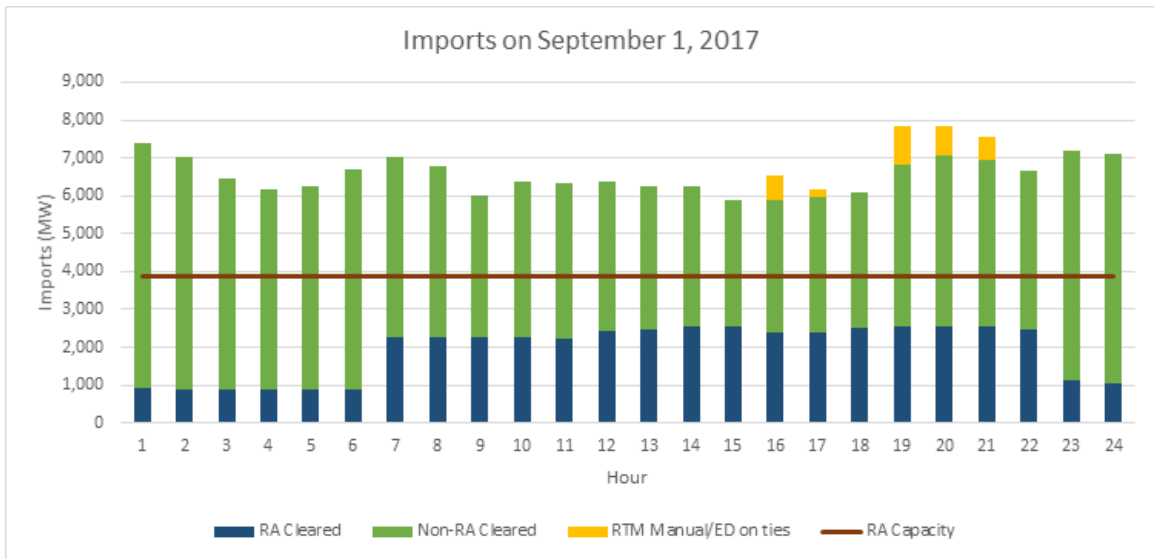
On September 1, 2017, two-thirds of available RA import capacity cleared the CAISO's markets across the peak load hours. Non-RA imports also cleared the market across the peak hours based on their economic bids. Across Hours Ending (HE) 16-17 as well as the net peak hours of HE19-21, the CAISO also relied on manual/exceptional dispatch to secure a small portion of additional imports. Figure 1 below, entitled *Imports on September 1, 2017*, reflects the result of the market clearing process and operator commitments. As indicated in Figure 1, the CAISO had excess RA import capacity during the September 1, 2017 peak load hours, but non-RA import resources were economically dispatched to meet system needs. Given the conditions the CAISO region faced, nothing about the use of RA imports or non-RA imports or even operator

⁶³ Powerex Comments at 20.

⁶⁴ CAISO 2018 Summer Loads and Resources Assessment, p. 12, <http://www.caiso.com/Documents/2018SummerLoadsandResourcesAssessment.pdf>. The CAISO used daily maximum temperature analysis based on a weighted average of the 24 weather stations across the CAISO service territory to determine that the September 1, 2017 event constituted a 1-in-19 heat wave. Historical CAISO records dates back to 1995, the first year all 24 weather stations reported Relative Humidity data. Relative Humidity data is used to calculate Heat Index, a significant input for the CAISO's load forecasting models.

commitments to meet demand signals a problem with the RA program or merits the extreme remedy of imposing a centralized capacity market on the CAISO region.

Figure 1



As the CAISO’s resource mix changes and factors affecting load evolve, the underlying RA program must also adapt to ensure that load forecasts used to set procurement requirements are accurate, and resource counting rules do not undermine the adopted planning criteria. The CAISO, the CPUC, and the CEC are working to develop more granular load forecasts and RA requirements that properly reflect resources’ overall reliability contributions. In addition, in the CPUC’s RA Refinement Proceeding the CAISO has proposed (1) setting system RA procurement requirements for certain shoulder months with highly variable demand based on a higher demand forecast; (2) refining the CPUC’s ELCC methodology to better reflect resources’ actual impact on loss of load expectation; and (3) considering availability limitations (such as maximum

runtime and call events) in meeting local capacity needs. La Paloma did not raise these specific issues or seek remedies for them, and they are beyond the scope of the Complaint. However, the CAISO and CPUC are currently addressing these issues. The RA program must evolve to changing system needs regardless of whether the RA framework is implemented through bilateral contracts, a centralized capacity market, or an integrated resource plan. Simply directing the CASIO to implement a centralized capacity market, however, would not address the aforementioned issues.

3. RA Bidding and Performance Are Not Relevant to the Complaint

Powerex asserts that some RA resources are not bidding into the CAISO's markets as required, thereby decreasing actual capacity available to meet demand.⁶⁵ Issues regarding resource bidding and performance in the CAISO's energy markets are outside the scope of the Complaint, which is focused on RA capacity procurement. Resource performance in the energy markets is separate and distinct from RA capacity procurement. Resource performance in the energy markets is not dependent on or affected by whether the RA procurement is conducted through bilateral contracting or a centralized capacity market.

In addition, Powerex inappropriately conflates RA capacity procurement with energy market bidding. RA contracts are for capacity and, unless the contract is bundled with energy procurement or specifies an energy price, the only obligation an RA resource has is to comply with the applicable CAISO must

⁶⁵ Powerex Comments, at 27.

offer obligation.

4. Maximum Import Capability Is Appropriately Allocated to Load Serving Entities that Fund Transmission

Powerex complains that the CAISO's MIC allocation framework "presents a barrier to competitive provision of System RA by resources located outside of the CAISO grid."⁶⁶ As noted above, the MIC allocation process is outside the scope of the Complaint, and is irrelevant to whether a centralized capacity market is necessary. The La Paloma complaint does not allege that the MIC process is unjust and unreasonable.

Nonetheless, the Commission has previously found the MIC allocation process to be just and reasonable because "it corresponds to the way that costs are contributed to the transmission grid while acknowledging historic usage."⁶⁷ Powerex claims that the MIC allocation process is inefficient based on underutilized transfer capacity and high prices for bilateral MIC transfers.⁶⁸ However, the Commission's order approving the MIC allocation process specifically found that "prices for sales of import capability for RA purposes must be sufficient to provide an economic incentive for LSEs to release unneeded import capability."⁶⁹ The Commission also rejected a proposal that would have prohibited LSEs from receiving compensation for transferring import capability.

⁶⁶ *Id.* at 35.

⁶⁷ *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,164 at P 29 (May 18, 2007).

⁶⁸ Powerex Comments, at 31-36.

⁶⁹ *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,164 at P 27.

Taken together, the Commission's findings approving the MIC allocation process recognized that LSEs, as the entities that bear the cost of transmission facilities that enable imports, receive the associated import capability benefits, and that load serving entities should have full control over whether to release import capability.

Although Powerex's comments provide no evidence that the MIC allocation process is unjust and unreasonable, the CAISO has separately identified MIC process improvements as a general matter it will examine in upcoming RA Enhancements Initiative. Powerex's concerns are best addressed in that forum rather than this Complaint proceeding where potential interveners have had no notice that MIC issues would be addressed.

5. Powerex Identifies No Basis to Usurp the CPUC's Prerogative to Determine Which Types of Resources LSEs Should Procure

Powerex urges the Commission to resist requests to exercise its traditional and customary deference to state decision making regarding the adequacy of resources because, in Powerex's view, it is "highly unlikely that state-level policy decisions will result in the necessary corrections to the flaws in the current RA framework."⁷⁰

Citing cases from other ISOs and RTOs with centralized capacity markets, Powerex identifies instances where the Commission declined to exercise such deference.⁷¹ Notably, however, these cases all involve circumstances where a

⁷⁰ Powerex Comments at 7.

⁷¹ *Id.* at 9, n.5.

state took action to subsidize resources and suppress capacity prices in the centralized capacity market. The CAISO does not have a centralized capacity market. None of the alleged flaws in the RA program Powerex alleges are analogous to the circumstances in these cases.

In *Hughes v. Talen Energy Mktg., LLC*, the Supreme Court reaffirmed the notion that state decisions can be valid “even when their [decisions] incidentally affect areas within FERC's domain” but also clarified that such actions are impermissible when achieved “through regulatory means that intrude on FERC's authority over interstate wholesale rates”⁷² As the CAISO discussed in its Answer to the La Paloma Complaint, California’s Renewable Portfolio Standard (“RPS”) program does not suffer from the flaws the Supreme Court identified in *Hughes v. Talen*.⁷³

H. Further Proceedings Are Unnecessary

In its comments, Cogentrix argues the Commission should, at a minimum, facilitate a technical session, settlement proceeding, or alternate process to develop an alternative RA model.⁷⁴ Powerex asks the Commission to convene a technical conference or paper hearing to establish a record for identifying alternative RA approaches.⁷⁵ NRG suggests that the Commission should provide appropriate guidance, and the CAISO could convene a stakeholder

⁷² *Hughes v. Talen Energy Mktg., LLC*, 136 S. Ct. 1288, 1298.

⁷³ CAISO Answer to La Paloma Complaint at 88-90.

⁷⁴ Cogentrix Comments at 2.

⁷⁵ Powerex Comments at 38-39.

conference to develop an appropriate remedy.⁷⁶ EPSA asks the Commission to direct the CAISO to work with the CPUC and other stakeholders to develop a capacity market construct. WPTF suggests that the Commission articulate a baseline prospective RA program and then direct the CAISO to file a conforming RA program by a date certain or establish settlement judge proceedings.⁷⁷

WPTF argues that, if the record is insufficient, the Commission should convene a staff-led technical conference to comprehensively examine the RA framework and how it can be remedied.⁷⁸ As discussed in the next section, Calpine asks that the Commission convene a series of technical conferences to discuss reform of the CAISO's backstop procurement mechanisms.

There is no basis to find that an RA framework based on bilateral procurement is unjust and unreasonable. Further, there is no basis or need for the Commission to impose a mandatory, centralized market procurement regime. Undoing the bilateral procurement framework that has long existed in California and the West would be highly problematic, would significantly delay beneficial enhancements to the existing RA program, and would run counter to the balanced state-federal jurisdictional approach to RA the Commission has long espoused and adopted as a fundamental underpinning of RA in the CAISO footprint (and other regions).

Ordering settlement judge procedures would be unproductive and not add value. The opposition to centralized capacity markets and La Paloma's

⁷⁶ NRG Comments at 11.

⁷⁷ WPTF Comments at 17.

⁷⁸ *Id.*

unjustified transition payment proposal is unwavering; these are not issues that will be “settled.”

Almost all of the handful of parties supporting the La Paloma Complaint acknowledge that the CPUC is examining RA program modifications in its ongoing RA proceeding – the RA Refinement Proceeding – in view of emerging trends and recent CAISO backstop procurement.⁷⁹ Calpine, NRG, WPTF, and Cognetrix are participating in that proceeding. The issues being addressed in the RA Refinement Proceeding include most of the same issues these parties have raised in their comments supporting La Paloma: multi-year RA procurement; more granular local and sub-area RA procurement requirements; counting of renewable resources; centralized procurement or central buyer concepts; the timing of procurement; and revised procurement requirements for shoulder months.

The CAISO is actively involved in the RA Refinement proceeding. As discussed in its Answer to the La Paloma Complaint, the CAISO has proposed the following RA program enhancements in that proceeding: (1) a holistic three-year procurement framework for all capacity types (*i.e.*, local, system, and flexible) commencing with the 2020 RA compliance year that will enhance revenue certainty and support any necessary major maintenance;⁸⁰ (2)

⁷⁹ *E.g.*, Testimony of Matthew Barmack on Behalf of Calpine Corporation, CPUC Rulemaking 17-09-20 (July 10, 2018); Prepared Testimony of Brian D. Theaker on behalf of NRG Energy, Inc., CPUC Rulemaking 17-09-20 (Aug. 8, 2018).

⁸⁰ Corrected Chapter 2: Multi-Year Resource Adequacy Procurement Requirements, Rulemaking 17-09-020 Track 2 at 1 (filed July 10, 2018), available at http://www.aiso.com/Documents/Jul10_2018_RAProceedingTrack2Testimony-Chapter2-Multi-YearRAProcurementRequirements_ProposalNo1_R17-09-020.pdf.

disaggregated and more granular local procurement requirements such that LSEs must procure adequate capacity in each local capacity area, compared to the existing framework that allows them to meet local capacity requirements by procuring resources within any local capacity area in their Transmission Access Charge area;⁸¹ (3) RA timeline changes to facilitate procurement and planning and identification of essential reliability resources needed for reliability in a local area or sub-area, which in conjunction with recommendation #2 will facilitate RA procurement of local resources and minimize or eliminate CAISO backstop procurement;⁸² (4) an updated ELCC methodology to better reflect the reliability contributions of solar and wind resources,⁸³ (5) consideration of availability limitations (such as maximum runtime and call events) in meeting local capacity needs,⁸⁴ and (6) using a higher demand forecast to establish system RA requirements in months that exhibit greater peak demand variability.⁸⁵

⁸¹ CAISO Testimony, Chapter 1, Rulemaking 17-09-020 Track 2 (July 10, 2018), at 5-6 available at http://www.aiso.com/Documents/Jul10_2018_RAProceedingTrack2Testimony-Chapter1-Introduction_Background_R17-09-020.pdf; CAISO Reply Comments, Rulemaking 17-09-020, p. 5 (Aug. 8, 2018), available at http://www.aiso.com/Documents/Aug8_2018_ReplyComments_Track2_RAProgram_R17-09-020.pdf.

⁸² CAISO Testimony, Chapter 3: Resource Adequacy Compliance Timeline and Central Buyer, Rulemaking 17-09-020, Track 2 at 6-7, available at http://www.aiso.com/Documents/Jul10_2018_RAProceedingTrack2Testimony-Chapter3-RAComplianceTimeline_CentralBuyer_ProposalNo2_R17-09-020.pdf.

⁸³ CAISO Testimony, Chapter 5: Effective Load Carrying Capacity, Rulemaking 17-09-020 Track 2 (filed July 10, 2018), available at http://www.aiso.com/Documents/Jul10_2018_RAProceedingTrack2Testimony-Chapter5-ELCC_ProposalNo4_R17-09-020.pdf.

⁸⁴ CAISO Testimony, Corrected Chapter 6: Availability Limited Resources, Rulemaking 17-09-020 Track 2 (filed July 10, 2018), available at http://www.aiso.com/Documents/Jul10_2018_RAProceedingTrack2Testimon-Chapter6-AvailabilityLimitedResources_ProposalNo5_R17-09-020.pdf.

⁸⁵ CAISO Testimony, Corrected Chapter 4: System Resource Adequacy Demand Forecasts, Rulemaking 17-09-020 Track 2 (filed July 10, 2018), available at http://www.aiso.com/Documents/Jul10_2018_RAProceedingTrack2Testimony-Chapter4-SystemRADemandForecasts_ProposalNo3_R17-09-020.pdf.

As the CAISO explained in its Answer to the La Paloma Complaint, the CPUC has already indicated its intent to adopt in Track 2 of its RA Refinement Proceeding multi-year procurement requirements for local capacity starting with the 2020 RA compliance.⁸⁶ The CPUC has also stated that it “believe[s] that a central buyer system – for at least some portion of local RA – is the solution most likely to provide cost efficiency, market certainty, reliability, administrative efficiency, and customer protection” and that it might consider a similar concept for system and flexible capacity in future years.⁸⁷ The CPUC indicated that it would consider central buyer concepts in Track 2 of the RA Refinement Proceeding.⁸⁸ The CPUC has also stated that adopting enhancements to minimize CAISO backstop procurement is a “top priority.”⁸⁹ Other modifications the CPUC has specifically identified for consideration in the RA Refinement Proceeding include: (1) necessary updates to the ELCC methodology; (2) revisions to flexible capacity obligations to better allow for participation of out-of-state resources that can be dispatched to help meet flexibility needs; (3) allocation issues arising as the result of load migration (e.g., to community choice

⁸⁶ CPUC Decision D.18-06-030, *Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local and Flexible Procurement Obligations for the 2019 and 2020 Compliance Years*, Rulemaking 17-09-020, at 28 (June 21, 2018) (RA Refinement Proceeding Track 1 Decision), available at <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M216/K634/216634123.PDF>.

⁸⁷ *Id.* at 32.

⁸⁸ *Id.* at 33.

⁸⁹ Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, p.6, *Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local and Flexible Procurement Obligations for the 2019 and 2020 Compliance Years*, Rulemaking 17-09-020 (Jan. 18, 2018) (RA Refinement Proceeding Scoping Memo), available at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M205/K706/205706239.PDF>.

aggregators); (4) aligning RA measurement hours with the CAISO availability assessment hours; (5) increased transparency regarding which resources are essential for local area and sub-area reliability; and (6) other issues identified by Energy Division staff and other parties.⁹⁰

Thus, the CPUC is addressing the issues raised by supporters of the La Paloma Complaint, and current indications are that the CPUC intends to make important enhancements to its RA procurement to minimize the potential for CAISO backstop procurement and provide a longer-term revenue stream to needed resources. Parties have submitted testimony and comments in the proceeding. The CPUC held a prehearing conference in Track 2 of its Resource Adequacy Refinement Proceeding on August 2, 2018 and a workshop on July 19, 2018. Parties are awaiting a further procedural schedule to resolve Track 2 issues. It makes no sense for the Commission to run a parallel process to explore revisions to California's RA framework at the same time the CPUC is undertaking this work. Track 2 of the CPUC's Resource Adequacy Refinement Proceeding is expected to conclude by the end of 2018.⁹¹

In Track 3 of its Resource Adequacy Refinement Proceeding, the CPUC will consider the 2020 program year requirements for system, local, and flexible RA as well as counting rules for weather sensitive and local demand responses resources.⁹² The CPUC has also stated it will consider other modifications or

⁹⁰ *Id.*

⁹¹ RA Refinement Proceeding Scoping Memo at 7.

⁹² RA Refinement Proceeding Scoping Memo at 8-9.

refinements proposed by Energy Division staff and other parties.⁹³ Track 3 of the CPUC's Resource Adequacy Refinement proceeding is expected to conclude by June 2019.⁹⁴

In October 2018, the CAISO will commence its RA Enhancements stakeholder initiative. The purpose of the initiative will be to review and update numerous aspects of the CAISO's RA rules. The CAISO's intent is also to take into account decisions from the CPUC's Track 2 and Track 3 proceedings. The CAISO's plans are to bifurcate the stakeholder process. The first track will target implementing modifications for the fall of 2019 regarding multi-year needs assessments and load forecasting and RA tools to support multi-year RA requirements beginning with the 2020 RA compliance year. The second track will consider several matters for fall 2020 implementation including, among other things, RA capacity valuation rules, multi-year CPM and RMR to align with multi-year RA procurement; reviewing the maximum import capability methodology and facilitate multi-year assessments. As the Commission is aware, the CAISO is already undertaking a holistic review of its RMR and CPM backstop procurement mechanisms in an ongoing stakeholder process. Further, the CAISO is in the midst of the Flexible Resource Adequacy Capacity and Must-Offer Obligation 2 (FRACMOO 2) stakeholder process where it is examining longer-term flexible capacity needs and resource requirements.

The CPUC's RA Refinement Proceeding and the stakeholder initiatives the

⁹³ *Id.*

⁹⁴ RA Refinement Proceeding Scoping Memo at 9.

CAISO is undertaking show that the CAISO and the CPUC recognize that the grid is transforming and are proactively preparing for the grid of the future. There is no reason – and certainly no imminent reliability problem - at this time for the Commission to intervene and schedule additional technical conferences or other proceedings to discuss RA issues, particularly given that modifications to the program are currently being developed. These issues are already being fully vetted in ongoing processes at the CPUC and the CAISO.

Consistent with its prior decisions, there is no basis for the Commission to find that RA procurement based on bilateral contracting is unjust and unreasonable or that centralized, market based procurement is the only just and reasonable approach to RA.

Accordingly, the CAISO asks that the Commission forbear from directing further procedures in this proceeding and reject the La Paloma Complaint. The Commission should not initiate additional proceedings and processes that may conflict with or delay resolution of the CPUC's RA Refinement Proceeding and the CAISO's stakeholder processes. The Commission can monitor the outcome of the CPUC's Track 2 and 3 proceedings and the CAISO stakeholder processes. These can inform any actions the Commission might want to take in the future.

I. There Is No Need for the Commission To Convene a Technical Conference and Provide Additional Guidance Regarding the CAISO's Backstop Procurement Mechanisms

Although La Paloma's complaint does not allege that specific provisions of the CAISO's backstop mechanisms are unjust and unreasonable, Calpine requests that the Commission convene a series of technical conferences to

consider how the CAISO's backstop capacity procurement mechanisms can be comprehensively reformed and to provide guidance to the CAISO regarding the appropriate terms and conditions of such mechanisms.⁹⁵ Calpine believes that the CAISO's backstop procurement mechanisms must be "holistically" fixed and the RMR agreement "modernized,"⁹⁶ and they must ensure resources can recover their cost of service, including return on new investment.⁹⁷ Calpine acknowledges the CAISO has an ongoing stakeholder initiative examining RMR and CPM reform consistent with a Commission order issued earlier this year, but it argues that the Commission should not wait for the outcome of that process because of the CAISO's "burgeoning reliance" on RMR and CPM.⁹⁸

Calpine seeks to "end run" the CAISO's ongoing RMR and CPM Enhancements stakeholder initiative and the Commission's April 12, 2018 order in Docket No. ER18-641.⁹⁹ The Commission recognized in the April 12 Order

⁹⁵ Calpine Comments at 2.

⁹⁶ Calpine provides no specific recommendations regarding how the RMR agreement should be modernized. General allegations should not drive a Commission technical conference especially when RMR reform is already being addressed in an ongoing CAISO stakeholder process, and the Commission is aware of that process and has required the CAISO to provide quarterly status reports until the initiative concludes.

⁹⁷ *Id.* at 2-3.

⁹⁸ *Id.* at 21. Cogentrix argues that the CAISO's failure to incorporate a retirement obligation into the RMR agreement undercuts the integrity of the market. This argument is beyond the scope of the complaint. La Paloma has not alleged that this aspect of the RMR agreement is unjust and unreasonable and seeks no remedy regarding this. Cogentrix can raise this issue in the CAISO's RMR and CPM Enhancements initiative. The CAISO notes that the Commission has previously provided guidance regarding its concerns of resources toggling between RMR compensation and market-based compensation and has approved provisions allowing resources to do so consistent with certain conditions. *New York Indep. Sys. Operator Corp.*, 150 FERC ¶61,116 at P 21 (2015) (*NYISO*), *order on compliance and reh'g*, 155 FERC ¶61,076 at PP 122-28 (2016), *order on compliance and reh'g*, 161 FERC ¶61,189 (2017).

⁹⁹ *Cal. Indep. Sys. Operator Corp.*, 163 FERC ¶ 61,023 (2018) ("April 12 Order"). The Commission previously rejected requests to convene a technical conference to address issues that were beyond the scope of a prior La Paloma complaint. *La Paloma*, 157 FERC ¶ 61,002 at P

that the “CAISO has initiated a stakeholder process to holistically examine both the RMR and CPM programs.”¹⁰⁰ The Commission “encourage[d] the CAISO to propose a package of more comprehensive reforms” and “expecte[d] that any proposal will recognize the need to balance appropriate compensation for resources with consideration of ratepayer concerns, as well as the need to strike a balance between CAISO’s backstop procurement authority and primary procurement of supply needed for resource adequacy purposes.”¹⁰¹ The Commission “strongly encourage[d] CAISO and stakeholders to make progress in the ongoing stakeholder process and to adopt a holistic, rather than piecemeal approach.”¹⁰² The Commission stated that the CAISO’s review should include: (1) revisiting the adequacy of CPM and RMR compensation; (2) evaluating whether both risk of retirement CPM and RMR need to be retained as separate mechanisms; (3) examining the timeline and eligibility requirements for issuing risk of retirement CPM designations and how those factors may impact bilateral RA procurement; and (4) evaluating measures that would trigger the review of its backstop procurement if it appears to be overused.¹⁰³ The Commission directed the CAISO to submit quarterly informational filings reporting on the status of the stakeholder process and discussing whether the process is adhering to proposed timelines, providing updates on changes to the scope of the process, and

32.

¹⁰⁰ April 12 Order at P 46.

¹⁰¹ *Id.*

¹⁰² *Id.* at P 48.

¹⁰³ *Id.*

describing any challenges that may impede progress.¹⁰⁴

The CAISO either is currently considering most of the backstop procurement issues Calpine identifies in its comments, and will consider others in the RA Enhancements stakeholder process that it will initiate in the fourth quarter of 2018. In the RMR and CPM Enhancements stakeholder initiative, the CAISO, as directed by the Commission, is conducting a holistic review of the RMR and CPM mechanisms, including, *inter alia*, pricing, availability,¹⁰⁵ timing of need determinations, and updating the RMR agreement.¹⁰⁶ Calpine is actively participating both in the CAISO's RMR and CPM Enhancements stakeholder process and the CPUC's RA Refinement Proceeding. In the upcoming RA Enhancements initiative, the CAISO will consider multi-year needs and resource assessments and backstop procurement to align with multi-year RA procurement. Calpine seeks coordinated RA and backstop reforms.¹⁰⁷ The RA Enhancement stakeholder process will provide such coordination.

The Commission should permit these efforts to run their course. The CAISO is regularly advising the Commission of the status of the RMR and CPM Enhancements initiative, there is no evidence of reliability problems, and there is no urgent need for Commission intervention or further guidance at this time. The

¹⁰⁴ *Id.* at 49.

¹⁰⁵ CPM and RMR already contain availability and penalty requirements. The CAISO is considering in the Review RMR and CPM stakeholder process whether to change the RMR availability and penalty provisions to be more consistent with the requirements applicable to CPM and RA resources.

¹⁰⁶ The web page for the Review RMR and CPM initiative is available at http://www.aiso.com/informed/Pages/StakeholderProcesses/ReliabilityMust-Run_CapacityProcurementMechanismEnhancements.aspx.

¹⁰⁷ Calpine Comments at 4.

CAISO's goal is to make a tariff amendment filing in 2019. As discussed above, Calpine's claims that CAISO reliance on backstop procurement is "burgeoning" or that RMR procurement for 2019 "is a likely portent of how the CAISO will manage local reliability in the future" are misplaced. Further, in recent years, the Commission has issued several orders providing guidance and principles regarding RMR and backstop procurement by ISOs and RTOs. The CAISO is reviewing these orders and other relevant precedent.¹⁰⁸ Relevant to Calpine's specific comments, the Commission has made clear that compensation for any mandatory backstop designation must be based on a resource's full fixed cost of service, not its going forward fixed costs.¹⁰⁹

Calpine also argues that it is important that the CAISO perform resource-specific reliability assessments and determine whether any resource or transmission solutions are actually needed and sufficient to meet the CAISO's local and sub-area reliability requirements.¹¹⁰ To support its claim, Calpine notes that the CPUC has authorized PG&E to conduct a competitive solicitation for energy storage and preferred resources that would meet the CAISO's local and sub-area reliability requirements and displace the need for the Metcalf RMR contract.¹¹¹ Calpine objects that the CAISO was not called upon in the CPUC

¹⁰⁸ See, e.g., *NYISO*, 150 FERC ¶ 61,116 at P 21 (2015) (*NYISO*), *order on compliance and reh'g*, 155 FERC ¶ 61,61,076 at PP 122-28 (2016), *order on compliance and reh'g*, 161 FERC ¶ 61,189 (2017); *Midwest Indep. Sys. Operator Corp.*, 148 FERC ¶ 61,057 (2014) (*MISO*); *Midwest Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,237 (2012).

¹⁰⁹ *NYISO*, 150 FERC ¶ 61,116 at P 17; *MISO*, 148 FERC ¶ 61,057 at P 84.

¹¹⁰ Calpine Comments at 23.

¹¹¹ *Id.*

process to make a definitive assessment of the sufficiency of the solutions. The CAISO does not need to opine further on the sufficiency of the solutions. The CAISO has already approved transmission solutions for 2019 that will render the Metcalf RMR agreement unnecessary.¹¹² No batteries or preferred resources are necessary to meet the reliability need and displace the Metcalf RMR agreement. Calpine recognized this fact in a filing with the CPUC, noting that “PG&E’s transmission investment eliminates the sub-area deficiency that lead to the Metcalf Energy Center RMR destination” and that “what PG&E requests through the Advice Letter is procurement of 567 MW of *generic* battery storage... that solves no demonstrated local need.”¹¹³ At this time, the CPUC has not approved any specific contracts for the batteries and preferred resources Calpine mentions.

If Calpine is suggesting that the CPUC can displace RMR contracts by approving resource procurement that does not meet the CAISO’s reliability needs, that is incorrect. The CAISO conducts a Local Capacity Technical study annually to determine its capacity needs in each local area and the extent to which resources meet those needs. The CAISO must meet applicable NERC reliability criteria and the local capacity technical study criteria set forth in section 40 of the CAISO tariff. CPUC approval of resources that do not meet the CAISO’s reliability needs does not – and cannot – supplant CAISO RMR

¹¹² CAISO Answer to La Paloma Complaint at 60.

¹¹³ Protest of Calpine Corporation to PG&E Advice Letter No, 5322-E at 3-4. (July 19, 2018). Other parties made similar comments that PG&E’s procurement is not needed to meet the reliability need met by Metcalf because approved transmission solutions have met the need.

designations and will not preclude the CAISO from undertaking any necessary backstop procurement. At the end of the day, the CAISO is responsible for maintaining reliability on the system, and if approved resources do not meet all of the CAISO's reliability needs, the CAISO will engage in backstop procurement. In any event, the CAISO and CPUC coordinate closely in the RA, Integrated Resource Planning, and related processes to ensure that resources meet the CAISO's reliability needs. The CAISO already has criteria for local reliability assessments and is the ultimate determiner of whether resources are needed and sufficient to meet its reliability needs.

Calpine's comments appear to suggest that the CAISO's existing backstop procurement mechanisms do not provide for full cost of service recovery (including return on capital) and that changes need to be made in the stakeholder process to remedy this. That is incorrect. As the CAISO discussed in its Answer to the La Paloma Complaint, RMR agreements allow for the recovery of a resource's full annual cost of service (based on net plant in service), including a return on investment.¹¹⁴ The RMR agreement also includes provisions for recovery of major maintenance and repairs. The CAISO compensates resources receiving CPM designations based on their voluntary bids in the competitive solicitation process up to a soft offer cap. If a designated resource's bid exceeds that soft offer cap, the resource can justify its price in a filing with the Commission. The resource is entitled to recover its annual full fixed cost of service based on net plant investment consistent with Schedule F of the RMR

¹¹⁴ CAISO Answer to La Paloma Complaint at 25.

agreement (including a 12.25 percent return on investment). CPM resources also retain all market revenues. Acceptance of RMR designations is mandatory, while acceptance of CPM designations is voluntary.

Calpine argues that annual CPM designation occurs too late in the year to allow for reasonable resource planning for resources facing ongoing investment decisions and are at risk of retirement.¹¹⁵ As Calpine is aware, the CAISO recently presented this issue to the Commission, and the Commission has indicated that it should be addressed as part of the CAISO stakeholder initiative. In Docket No. ER18-641, the CAISO filed tariff revisions to address this issue by providing for any earlier window for resources to seek risk-of retirement CPM designations. The Commission rejected the proposal but “recognize[d] that the record contains some evidence that could suggest that certain resources could benefit from earlier notice of a potential risk of retirement CPM designation.”¹¹⁶ The Commission expressly referenced Calpine’s concerns, but directed the CAISO to address that issue in its ongoing Review of RMR and CPM stakeholder initiative and provided guidance to the CAISO.¹¹⁷ The Commission also expressed concerns about front running the RA process and recommended these issues be addressed holistically.¹¹⁸ The Commission has already provided its guidance on this subject, the CAISO is considering the issue(s), and there is no need at this time for Commission technical conferences on the subject.

¹¹⁵ Calpine Comments at 14.

¹¹⁶ April 12 Order at P 45.

¹¹⁷ *Id.* at PP 45-48.

¹¹⁸ *Id.* at PP 44-48.

III. CONCLUSION

For all the foregoing reasons and the reasons in the CAISO's Answer to the La Paloma Complaint, the Commission should deny La Paloma's complaint in its entirety and terminate this proceeding without condition or further procedures.

Respectfully submitted,

/s/ Anthony Ivancovich

Roger E. Collanton
General Counsel
Anthony J. Ivancovich
Deputy General Counsel, Regulatory;
Andrew Ulmer,
Director, Federal Regulatory Affairs
Jordan Pinjuv,
Senior Counsel
David Zlotlow
Senior Counsel
The California Independent
System Operator Corporation
250 Outcropping Way
Folsom, CA 95630
Tel: (916) 351-4400
Fax: (916) 608-7222
E-mail: aivancovich@caiso.com

Sean Atkins
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, D.C. 20004
Tel: (202) 239-3072
Fax: (202) 654-4872
E-mail: sean.atkins@alston.com

Counsel for the California Independent System
Operator Corporation

Dated: September 10, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-referenced proceeding, pursuant to the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California, this 10th day of September, 2018.

Grace Clark
Grace Clark