Comments of Meridian Energy USA, Inc.
On FERC Order 764 Market Changes;
CAISO July 26, 2013, Intermittent Resource Protective Measures Straw Proposal

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Meridian Energy USA, Inc. ("Meridian") offers the following comments on the California Independent System Operator Corporation ("CAISO") staff's FERC Order 764 Market Changes; Intermittent Resource Protective Measures Straw Proposal ("Straw Proposal").

1. **The CAISO should modify the eligibility criteria to include intermittent resources that would be required to bear a substantial cost in order to become capable of responding timely to CAISO dispatch instructions or market price signals, irrespective of the vintage of the equipment used in the project.**

The Straw Proposal limits protective measures to projects with equipment that came on-line by 2005. While this "bright line" test may be simple to administer, it is overly simplistic to expect that all generation equipment installed after 2005 is capable of timely responding to CAISO dispatch instructions or market price signals, or that such equipment can become capable of such timely response without incurring unduly burdensome costs. The proposed CAISO Order 764 market design changes will require intermittent resources to have automated dispatch capability to effectively participate in the new market effectively. In many cases, this will require more than just new metering equipment. The cost of the new facilities required for the type of intermittent resource market participation contemplated by the CAISO Order 764 markets could be cost prohibitive.

In order to avoid the use of arbitrary "bright-line" tests or subjective determinations of what may constitute excessive upgrade costs, Meridian proposes that the "pre-2005" criterion be replaced with an objective cost-based criterion: if a resource can reasonably demonstrate that it would cost at least $10,000/MW to retrofit a resource's existing generation equipment to be capable of responding timely to CAISO dispatch instructions or market price signals, the resource should be eligible for protective measures.

2. **The CAISO should modify the eligibility criteria to include intermittent resources that are contractually prevented from responding to CAISO market price signals.**

The CAISO's Order 764 market changes seek to promote greater market responsiveness from renewable resources. However, if a renewable resource is contractually prevented from responding to CAISO dispatch instructions or market price signals under its existing, pre-Order 764 contract, then the CAISO's Order 764 market changes will not succeed in making such a resource more responsive to the market. Instead, the CAISO's Order 764-based market will provide an "incentive" for a particular response from the resource, which the resource will be entirely incapable of providing due to its contractual limitations, and then the resource will be penalized for failing to provide the response that it is not able to provide. In other words, projects whose contracts prohibit them from responding to CAISO dispatch instructions or market price signals are unable to provide the benefits the CAISO seeks through its Order 764 market design, but will bear the full brunt of the deviation risks associated with 15-minute or 5-minute market prices. Because these projects are unable to provide the responses that the CAISO Order 764 market design assumes will be used to manage imbalance risk, these projects should retain protections similar to those provided under the current PIRP to mitigate such risks.

Meridian expects that the number of projects that would meet this eligibility criterion will be small because only a few renewable resources with modern generating and control equipment (i.e., those whose eligibility for protective measures depends on their contract status) will meet the CAISO's proposed criterion that their contract also allocate deviation risk to the generator. While CAISO may prefer to allow the parties to the contract to address the issue, the resolution of the issue is not within the generator's exclusive control. In recognition of this limitation, the CAISO should not design the eligibility criteria in a manner that penalizes the generator simply because its utility counterparty was unwilling to negotiate an appropriate modification to the contract. Therefore, the proposed eligibility criteria should be modified to include resources that are contractually prevented from responding to CAISO market price signals.

3. **For resources under contracts pursuant to which the resources bear CAISO market energy deviation risk, protective measures should last for the term of the underlying contract.**

The Straw Proposal would limit the duration of protective measures for all eligible facilities to three years from the date of the FERC order adopting the CAISO's Order 764 market design changes. The limited three-year term makes no sense for projects that signed long-term contracts that obligate them to bear deviation risk for the full term of the contracts based on the monthly-netting feature of the current PIRP. While some of these contracts may require the parties to negotiate with each other in the event of material changes to PIRP, there is no assurance that all of these contracts allow for such negotiation. Moreover, as described above, even if the contract includes a clause requiring negotiation in this circumstance, there is no assurance that the issue will be resolved via negotiation because resolution of the issue is not within the generator's exclusive control. Indeed, by limiting the protective measures to only three years, the Straw Proposal effectively endows the utility-buyer with all of the negotiating leverage, even though it already holds a distinct negotiating advantage over the generator. Thus, the generators may receive only a three-year deferral of the issue that the protective measures are intended to address. Providing protective measures for the duration of the contracts, on the other hand, would help to level this playing field. Finally, Meridian reiterates that the amount of generation likely to meet this criterion appears to be a very small fraction of the total renewable generation in existence today, let alone that which is expected in the future.