UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System	**)**	**Docket No. ER20-1075-000**
Operator Corporation	**)**	

MOTION FOR LEAVE TO SUBMIT ANSWER TO PROTESTS AND ANSWER TO PROTESTS AND COMMENTS OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

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The California Independent System Operator Corporation (CAISO) respectfully submits this motion for leave to answer and answers[1] the protest and comments submitted in this proceeding.[2]

I. SUMMARY OF TARIFF AMENDMENT FILING

On February 25, 2020, the CAISO submitted three targeted tariff revisions to enhance certain aspects of its Capacity Procurement Mechanism (CPM). The tariff revisions in the February 25 Filing reflect the culmination of two CAISO stakeholder processes conducted in recent years to review the CPM and RMR programs – the RMR and CPM Enhancements Initiative and the CPM Soft Offer Cap Initiative. Although several stakeholders seek to inject other, unrelated proposals to change the CPM in this proceeding, the three tariff changes are the only changes to CPM the CAISO proposes under Section 205 of the Federal Power Act (FPA) as a result of these stakeholder

[1] The CAISO submits this filing pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213. Capitalized terms not otherwise defined herein have the meanings set forth in Appendix A to the CAISO tariff. References to section numbers are references to sections of the CAISO tariff as revised by the tariff amendment filed in this proceeding, unless otherwise specified.

[2] Calpine Corporation (Calpine) filed a protest. The following parties submitted comments: Southern California Edison Company (SCE); the CAISO Department of Market Monitoring (DMM); the California Public Utilities Commission (CPUC); Powerex Corporation (Powerex), and Pacific Gas & Electric Company (PG&E).

initiatives. Commenters' unrelated proposals are beyond the scope of this proceeding and must be rejected.

First, the CAISO has proposed to revise tariff section 43A.4.1.1 regarding compensation for CPM resources with offers above the CPM soft offer cap. Today such resources must cost justify a resource specific price based on the methodology for determining the Annual Fixed Cost Revenue Requirement (AFFR) of a Reliability Must-Run (RMR) unit as set forth in Schedule F of the *pro forma* RMR Contract. The AFFR methodology compensates a resource based on its full annual cost of service. As directed by the CAISO Board of Governors, in the February 25 Filing the CAISO proposed two mutually exclusive alternatives for offers above the CPM soft offer cap and requested that the Commission address them in sequential order such that the Commission should consider the CAISO's preferred approach first and only consider the alternative approach if it rejects the preferred approach.

The CAISO's preferred approach – referred to as Option A – allows a resource owner seeking a price above the CPM soft offer cap to file at the Commission based on the resource's going forward fixed costs using the same cost categories (*i.e.*, *ad valorem* taxes, insurance, and fixed operation and maintenance (O&M) costs) and same cost adder (20%) used to establish the existing CPM soft-offer cap. Under the alternative approach, – referred to as Option B – resources with above-cap offers would file at the Commission based on their unit-specific going forward fixed costs using the same specified cost categories (*i.e.*, *ad valorem* taxes, insurance, and fixed operation and maintenance costs), but they would not receive any adder. Under both proposals, the CAISO does not propose to change the longstanding, separate tariff provision allowing all CPM resources, both those paid below and above the soft-offer cap, to keep all market rents earned.[3]

The CAISO also proposed two separate and unrelated clarifications of the CPM tariff provisions. First, the CAISO clarified that the Resource Adequacy Availability Incentive Mechanism (RAAIM) tariff provisions in CAISO tariff section 40.9 applicable to resource adequacy resources apply to CPM resources. This revision mimics the provision the Commission approved for RMR resources in 2019.[4] Second, the CAISO clarified the deadline by which it would post certain CPM designation reports.

II. SUMMARY OF RESPONSE TO PROTEST AND COMMENTS

The CPUC, PG&E, SCE, and DMM filed comments on the CAISO's filing. Calpine filed a protest. All of the commenters support eliminating the existing formula for pricing offers above the CPM soft offer cap in CAISO tariff section 43A.4.1.1.1. Only Calpine objects because it erroneously believes that CPM resources with above-cap offers are not permitted to retain their market revenues.

The CPUC, PG&E, and DMM all agree with the CAISO that the existing formula for pricing offers above the CPM soft offer cap should be changed because it can guarantee certain resources recovery of their entire annual cost of service and still allow them to retain all market revenues they earn. The CPUC and PG&E support the CAISO's Option B. DMM supports the options filed by the CAISO as incremental enhancements to the current tariff provisions, but suggests a different approach for pricing resources with above-cap offers who are receiving whole-unit, 12-month CPM designations arising from the annual competitive solicitation process.

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3 CAISO tariff section 43A.7.3.

4 *Cal. Indep. Sys. Operator Corp.,* 168 FERC ¶ 61,199 (2019) (2019 RMR Order).

The CPUC and PG&E oppose Option A claiming that the 20 percent adder might not reflect the actual costs of upgrades and long term maintenance resources incur, and they believe the payment is excessive because resources are also permitted to retain all market revenues. The CAISO believes both Option A and Option B are just and reasonable approaches to pricing above-cap offers for a **voluntary** backstop procurement mechanism. The CAISO proposed Option A as its preferred approach because it aligns with the formula for determining the existing CPM soft offer cap and more closely heeds the Commission's guidance in prior CPM orders that recovery of mere going forward costs is insufficient for CPM pricing, and that CPM pricing should provide for some contribution toward fixed cost recovery. The Commission previously rejected a CAISO proposal to price CPM offers above a fixed administrative price based on going forward costs plus 10 percent. That the adder may not reflect actual costs in every instance does not require its rejection. The Commission has approved using adders in multiple situations, including CPM and its predecessors, recognizing that such adders can provide for just and reasonable compensation in addition to shown costs. Option A also better promotes cost recovery in a paradigm where most CPM designations are for partial units and for one or two month terms.

Instead of Option A or B, DMM recommends compensating units with above-cap offers that receive annual, whole-unit CPM designations based on the unit's specific going forward costs plus the actual costs the unit incurs for environmental upgrades and long-term maintenance. Because DMM's recommendation constitutes a material modification to the CAISO's proposal, the Commission must reject it under the limitations of what may be modified in a Federal Power Act (FPA) Section 205 proceeding established in *NRG*.[5] There are other reasons why the Commission should not adopt DMM's proposal. DMM is essentially seeking to turn CPM into RMR-light (without any of RMR's) ratepayer protections, which is contrary to the Commission's approval of the CAISO's efforts to distinguish voluntary, market-based CPM from mandatory, full cost-of-service RMR. In particular, DMM's suggested approach will permit unit owners to recover actual upgrade costs without any of the anti-toggling protections contained in the RMR contract. This contravenes several Commission orders. Because CPM is voluntary, there is nothing to preclude units from inappropriately toggling back-and-forth between guaranteed recovery of upgrade costs through cost-based rates and market-based compensation. DMM's recommendation to create separate CPM pricing schemes for annual, whole unit designations and for all other designations (where none currently exist) is an unjustified departure from the current approach of applying the same pricing method to all CPM designations. This would add unnecessary complexity (and leaves unanswered questions) to a backstop procurement mechanism that is intended to be administratively efficient. In particular, it will result in increased litigation as parties will have to litigate a unit's environmental upgrades and long-term maintenance costs, a burden that does not exist today.

Calpine argues that the above-cap pricing formula should not change based on its erroneous belief that resources with above-cap offers that recover their full annual cost of service are not currently permitted to retain all market revenues. This claim contravenes the clear wording of the CAISO tariff, which expressly provides that all CPM resources, including those with above-cap offers and Commission-approved

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5 *NRG Power Mktg., LLC v, FERC,* 862 F.3d 108 (D.C. Cir. 2017) (*NRG*).

resource-specific rates, retain their market revenues. There are no clawback provisions in the tariff. Also, Calpine's view is contrary to prior CAISO and stakeholder public representations in Commission proceedings and stakeholder initiatives and how the CAISO settlements system are actually configured to implement CPM. Thus, under the existing above-cap pricing formula, CPM resources with 12-month designations not only are guaranteed recovery of their full annual cost of service, they can earn more because they retain their market revenues. Indeed, they can recover costs in excess of what the Commission has authorized cost-based RMR resources to recover, even though RMR resources always must be needed to ensure compliance with reliability criteria; whereas, CPM resources receiving annual designations are merely filling resource adequacy deficiencies and may not be needed for reliability.

Calpine also claims that the CAISO's proposal is unjust and unreasonable because it imposes a hard cap that prevents CPM resources from having the opportunity for cost recovery because CPM resources retain all market revenues. Calpine ignores longstanding Commission precedent that suppliers in competitive wholesale markets are not guaranteed full cost recovery, but only the opportunity to recover their costs.[6] Further, if a unit is no longer competitive and believes it is unable to recover its costs through the market and is no longer viable, it can – and should – either seek cost recovery through a contract in the bilateral market or seek an RMR contract through the CAISO's mothballing and retirement process, which the CAISO will grant if the unit is necessary to ensure compliance with applicable reliability criteria.

[6] *CXA La Paloma LLC v. Cal. Indep. Sys. Operator Corp.,* 169 FERC ¶ 61,045 at P 13 (2019).

Calpine also incorrectly claims that CPM is somehow mandatory, and thus requires full cost of service pricing, because units must respond to CAISO Exceptional Dispatch instructions. This ignores the fact that the Commission has recognized the voluntary nature of CPM procurement, even while recognizing the existence of Exceptional Dispatch. Also, Calpine neglects that there are six CPM designation types other than Exceptional Dispatch that it does not claim are mandatory. In any event, Calpine's argument constitutes a collateral attack on the CAISO's Exceptional Dispatch terms and pricing, not CPM, and thus is beyond the scope of this proceeding. Calpine made this exact claim in connection with a prior backstop procurement mechanism filing, and the Commission rejected Calpine's same argument finding it pertained to the design of the Exceptional Dispatch mechanism and thus was beyond the scope of the proceeding.[7] The Commission should make the same reasoned finding here. In any event, Exceptional Dispatch CPMs are not mandatory. Exceptionally dispatched resources voluntarily can reject an Exceptional Dispatch CPM designation and instead receive Supplemental Revenues, which means they are not CPM resources and instead can (1) bid at prices not subject to Exceptional Dispatch mitigation for the duration of what the term of the rejected CPM designation would have been, and (2) avoid the must-offer obligation that accompanies a CPM designation.

Finally, Calpine claims the CAISO's proposal regarding above-cap pricing will unduly suppress prices in the bilateral market. Calpine ignores that the CPM soft offer cap is already set at the high end of resource adequacy (RA) prices (and reflects the costs of a marginal resource), which the Commission has found should not create

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[7] *Cal. Indep. Sys. Operator Corp.,* 134 FERC ¶ 61,132 at P 38 (2011).

incentives for load serving entities (LSEs) to forego entering into bilateral capacity contracts in favor of leaning on the CAISO's CPM, which is a backstop procurement mechanism.[8] Calpine provides no evidence – nor is there any – that LSEs are leaning on CPM or that CPM is unduly suppressing prices. Indeed, in the La Paloma complaint proceeding in Docket No. EL18-177, the Commission rejected arguments that the CPM was suppressing prices.[9] Calpine's similarly unsupported arguments should likewise be rejected. If the CPM soft offer cap is not suppressing bilateral contract prices, a price higher than the cap cannot unduly suppress such bilateral capacity prices.

Several interveners propose changes to existing tariff provisions that go well beyond the scope of the FPA Section 205 proceeding on this tariff amendment. They seek to change existing tariff provisions that the CAISO herein does not seek to change and that are unrelated to the targeted changes the CAISO proposes. Many of these proposed changes are far-reaching. Consistent with Commission precedent, the Commission should reject all such proposals as being beyond the scope of this proceeding. Interveners must pursue such actions under FPA Section 206, not in connection with an unrelated Section 205 filing. Complaints cannot be hidden among protests and comments regarding unchanged tariff provisions.

The CPUC, DMM, and PG&E suggest that the level of the existing CPM soft offer cap in tariff section 43A.4.1.1 is too high. They express a willingness to continue to work with the CAISO to address issues regarding the level of the soft offer cap, and the CPUC requests the Commission to direct the CAISO to revisit these issues in two years. In addition to being beyond scope, these requests to significantly lower the

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8 *Cal. Indep. Sys. Operator Corp.*, 153 FERC ¶ 61,001 at P 29 (2015) (2015 CPM Order).

9 *CXA La Paloma LLC v. Cal. Indep. Sys. Operator Corp.,* 169 FERC ¶ 61,045 at P 18.

existing CPM soft offer cap are unsustainable and imprudent given the tightening capacity market in the west and the changing type of new capacity in California. These interveners suggest that the level of the costs included in the fixed O&M cost component, as reflected in the California Energy Commission (CEC) cost of generation study, are too high and seek to lower the soft offer cap by $35/kW-year (or more) to a level closer to the mid-point of RA prices as shown in the CPUC's 2018 RA report.[10] This would be significantly lower than the marginal RA capacity price as reflected in the CPUC's RA report and would contravene prior Commission orders that the cap must be set high enough to discourage load serving entities from foregoing bilateral RA procurement and instead rely on CPM. Such a reduction in the cap could create the concern Calpine raises, *i.e.*, load serving entities being more likely to defer their resource adequacy procurement to the CAISO, making the CAISO's backstop procurement the de-facto front stop procurement mechanism and suppressing bilateral capacity prices. The Commission found the existing soft offer cap, which is set at the higher end of RA prices, to be just and reasonable because it will not create the wrong incentive where LSEs rely on the CAISO's backstop CPM as their preferred, low cost procurement mechanism. No LSE leaning on CPM is occurring now, and the cap is within the range of RA prices. There is no reason to change it at this time.

DMM argues that the cap should be lowered because studies elsewhere suggest that fixed O&M costs are lower than the levels the CEC determined in its generation cost study. The studies DMM relies on are not California-specific; several are resource

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[10] CPUC 2018 Resource Adequacy Report at 31. Available at https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy/Energy_Programs/Electric_Power_Procurement_and_Generation/Procurement_and_RA/RA/2018%20RA%20Report%20rev.pdf

planning studies conducted for individual utilities in other western states, not California. DMM provides no detail regarding any of these studies, but merely lists them. The CEC has expressly cited flaws in these other studies because they fail to reflect the higher costs associated with generation in California. The CEC studies are based in part on data actually collected from units operating in California, which reflect California-specific merchant plant costs; the others do not.

Also, the studies DMM cites are designed to examine and compare the varied costs associated with different technology types, but do not consider actual substation, tie line, environmental equipment, and environmental monitoring costs that actual units in California face. DMM further ignores that the CAISO tariff expressly contemplates that the CAISO will use the CEC cost study as the basis to establish the soft offer cap, and all CPM (and its predecessors') prices approved by the Commission have been set based on the CEC's cost studies.[11] The CAISO has not proposed to change this tariff provision.

DMM suggests, without providing any specific evidence, that the CEC study may wrongly include variable O&M costs in the fixed O&M cost category. A review of the CEC's studies show that they separately calculated fixed O&M and variable O&M costs, and the CEC's express statements of what costs are included in each category is consistent with standard definitions of cost each category and Commission precedent. Further, the CEC cost data aligns with the most recent RA data available to the CAISO, and there has been minimal backstop procurement under the current soft offer cap, except for a few unique circumstances.

[11] The CEC's role includes the siting and permitting of generation, so they are uniquely situated to evaluate the costs of generation in California.

DMM and PG&E rely on data regarding CPM designations and pricing, and tight conditions in certain local capacity areas, to support their position that the competitive solicitation process is not keeping CPM prices in check. PG&E points to the prices of all CPM designations, which it claims show an exceedingly high percentage of CPM at or near the cap. PG&E's data is deeply flawed as it relies on 18 CPM designations that occurred before the CAISO's competitive solicitation process was even implemented, and all of those CPM designations occurred at a fixed administrative price. PG&E also overstates the 2018 Encina designations both with regard to the price paid and the amount of capacity procured. PG&E's data also shows that the vast majority of CPM designations were for partial units (down to 1.25 MW) and for one to two month terms. If anything, PG&E's list of CPM designations shows that the competitive solicitation process has benefitted ratepayers by producing prices below the level they would have been had the CAISO retained the fixed price regime that existed before 2016.

Importantly, PG&E's and DMM's efforts to drastically lower the CPM soft offer cap ignore the Commission's guidance that CPM prices should rise and fall with changing market conditions and capacity prices. Their proposal would instead inappropriately suppress prices under all market conditions, including periods of shortage and high capacity prices. The CAISO notes that the CPUC has ordered 3,300 MW of new procurement because capacity is growing tighter. A suppressed soft offer cap price would not account for changed market conditions such as the incremental capacity procured because of this CPUC directive.

SCE requests that the Commission require the CAISO to implement a three-pivotal supplier test for the annual designation competitive solicitation process. SCE's request is based solely on its claim that annual CPM designations are increasing and thus greater mitigation is needed beyond the soft offer cap. SCE points to the 2018 Encina and Moss Landing annual designations as the sole support for its case. Reliance on these designations is misplaced. The Encina designation occurred because San Diego Gas & Electric Company was precluded from procuring Encina due to a prior CPUC order. The CAISO also designated the Moss Landing capacity to address a specific sub-area need in the Greater Bay Area in circumstances where the vast majority of LSEs met their local RA requirements, but the CAISO still needed another unit in this area. It is notable that 2018 is the only year in the history of its backstop procurement mechanism (CPM and its predecessors) that the CAISO had to issue annual CPM designations for a resource adequacy deficiency, and it has not happened since then. Indeed, the Commission found these two designations to be unique and transitory. These limited and non-systemic annual designations do not support the Commission imposing a new three-pivotal supplier test for CPM. CPM is not a centralized capacity market with a market clearing price. CPM and its predecessors have never had mitigation other than the CPM soft offer cap, and imposing such mitigation on a backstop procurement mechanism should not occur in connection with a Section 205 proceeding on unrelated issues. SCE's proposal would also inappropriately suppress prices and not allow CPM prices to rise and fall with market conditions, as Commission's CPM orders have prescribed.

In any event, SCE ignores that CPM is not a centralized capacity market, or other type of clearing market, that employs market power mitigation measures such as a three-pivotal supplier test. CPM employs a "pay-as-bid" approach and a soft offer cap based on the going forward costs of a mid-cost reference resource – a 550 MW combined cycle unit, not the cost of new entry. Centralized capacity market features cannot simply be glommed onto a different pricing mechanism like CPM.

The CPUC and SCE desire the CAISO to provide resource adequacy credits to load serving entities for the effective flexible capacity of CPM resources even if when such resources are designated only to meet system or local capacity needs. Powerex seeks to completely overhaul the CPM framework by arguing (1) CPM designations should have a minimum term of six months, (2) the CAISO should adopt deficiency charges for load serving entities that fail to meet their resource adequacy requirements, (3) CPM pricing should go up to the cost of new entry (CONE), and (4) CPM procurement should be forward and possibly multi-year. These stakeholders' proposals would require new tariff sections or significant changes to existing tariff sections that the CAISO does not propose to change in this filing, and are beyond the scope of the tariff changes the CAISO proposes.

Finally, regarding the CPUC's comments about commencing another CPM initiative in the next two years to examine the soft offer cap and providing flexible capacity credits for CPM designations, the CAISO notes that under its tariff, the CAISO already is required to commence the next CPM initiative in 2023. The CAISO currently is involved in two initiatives that may result in significant changes to the resource adequacy program in California—the CAISO's RA Enhancements Initiative and the CPUC's ongoing proceeding to examine possible reforms to the CPUC's resource adequacy program. Following the successful completion of these efforts, the CAISO would be willing to undertake a new CPM initiative, which possibly could commence some time in 2022. This would allow CPM to be evaluated comprehensively taking into account the important and fundamental changes contemplated for the RA paradigm in California, the additional 3,300 MW of procurement ordered by the CPUC, and the rapidly changing resource mix. The CAISO also commits to addressing CPM pricing issues sooner if a significant and systemic surge in annual CPM procurement were to occur. But for now, CPM is not broken, and does not require any enhancements beyond the targeted revisions proposed in this tariff amendment.

III. MOTION FOR LEAVE TO ANSWER PROTESTS

The CAISO respectfully requests authorization to respond to the protests filed in this proceeding.[12] Notwithstanding Rule 213(a)(2),[13] the Commission has accepted answers to protests that assist the Commission's understanding and resolution of the issues raised in the protest,[14] clarify matters under consideration,[15] or materially aid the Commission's disposition of a matter.[16] The CAISO's answer will clarify matters under consideration, aid the Commission's understanding and resolution of the issues, and help the Commission to achieve a more accurate and complete record.[17] The CAISO's answer will also point out protesters' statements that mischaracterize the CAISO's proposal.

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[12] No authorization is required to respond to the comments filed in this proceeding, because Rule 213 (18 C.F.R. § 385.213) "permits answers to comments and other types of pleadings not specifically prohibited" by the rule. *Gulf S. Pipeline Co.*, 155 FERC ¶ 61,287, at P 41 n.43 (2016).

[13] 18 C.F.R. § 385.213(a)(2).

[14] *Sw. Power Pool, Inc.*, 89 FERC ¶ 61,284, at 61,888 (1999).

[15] *Ariz. Pub. Serv. Co*., 82 FERC ¶ 61,132 (1998); *Tenn. Gas Pipeline Co*., 82 FERC ¶ 61,045 (1998).

[16] *El Paso Natural Gas Co*., 82 FERC ¶ 61,052 (1998).

[17] *N. Border Pipeline Co.*, 81 FERC ¶ 61,402 (1997); *Hopkinton LNG Corp*., 81 FERC ¶ 61,291 (1997).

IV. CAISO ANSWER

A. Above-Cap CPM Capacity Pricing Based on Going Forward Costs Plus a 20 Percent Cost Adder is Just and Reasonable and Preferable to a Capacity Price Based Solely on Resources' Going Forward Costs

The CPUC, DMM, SCE, PG&E, and even Calpine agree it is inappropriate to pay a CPM resource submitting a bid above the soft offer cap its full annual cost of service and also allow it to retain all market revenues it earns.[18] Some interveners argue that the Commission should reject the CAISO's Option A proposal for determining a resource's compensation above the CPM soft offer cap, with one party – Calpine -- suggesting that the 20 percent adder may not result in a meaningful contribution to fixed costs for some resources. Other commenters claim that the 20 percent adder in Option A could unreasonably allow resources to be compensated for costs they did not incur, and can result in disparate amounts of money provided to different resources toward fixed cost recovery.[19] DMM supports the concept of a cost adder, but suggests that the proposed 20 percent adder may not necessarily cover the types of fixed costs discussed in the Commission's 2011 CPM order.[20] The Commission should reject these arguments.

The Option A approach updates the CAISO tariff to provide for just and reasonable compensation for CPM resources with offers above the CPM soft offer cap in a manner that is consistent with Commission precedent and guidance on the CPM and aligns with the formula for determining the soft offer cap. The 20 percent adder is

[18] *See, e.g.,* CPUC Comments at 4-6; DMM Comments at 2-3; PG&E Comments at 15; Calpine Protest at 9-10.

[19] *See* CPUC Comments at 7-9.

[20] DMM Comments at 3-7, citing *Cal. Indep. Sys. Operator Corp.,* 134 FERC ¶ 61,211 (2011) (2011 CPM Order).

supported by Commission orders on CPM. In its 2015 CPM Order, the Commission approved the use of going-forward costs for a reference resource and a 20 percent adder in determining the CPM soft offer cap, finding that this "should allow sufficient recovery of fixed costs plus return on capital to facilitate incremental upgrades and improvements by resources."[21] The Commission also stated this soft offer cap reflecting the 20 percent adder coupled with an opportunity to cost justify compensation for offers above the cap "should facilitate adequate cost recovery," in contrast with the different compensation methodology contained in the CAISO's 2011 CPM proposal.[22] The Commission rejected that earlier proposed compensation methodology based on going forward costs, plus a 10 percent adder, in relevant part because it "create[d] the potential for . . . deny[ing] resources a reasonable opportunity to recover fixed costs."[23] The CAISO's preferred Option A aligns CPM pricing above the cap with the existing approach used for establishing the cap.

Using the 20 percent adder in the CAISO's Option A approach similarly affords an opportunity for recovery of some fixed costs by a CPM resource in addition to recovery of going-forward fixed costs (fixed operation and maintenance costs, *ad valorem* taxes, and insurance). Consistent with the direction provided in the 2011 CPM

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[21] 2015 CPM Order at PP 13, 29.

[22] *Id.* The 2011 compensation proposed by the CAISO was based on going forward costs, plus a ten percent adder.

[23] *Id.* at P 4 (quoting 2011 CPM Order, 134 FERC ¶ 61,211, at P 57. In its December 1, 2010 Tariff Amendment Filing in Docket No. ER11-2256, the CAISO proposed (1) a single fixed CPM priced based on the going forward costs of reference resource, plus a ten percent adder, and (2) resource-specific compensation above the fixed price level based on the specific resource's going forward costs plus ten percent. In other word, the CAISO proposed a ten percent adder both for the fixed CPM price and any cost-justified price above that level. The Commission thus found both to be unjust and unreasonable. The parties eventually settled on a 20 percent adder for both, and the Commission approved the settlement.

Order, the adder under the Option A approach is set at a level that will allow resources a "meaningful opportunity for CPM resources to recover fixed costs,"[24] and resources will continue to retain market revenues.

Arguments that the CAISO must provide detailed analyses in support of the 20 percent adder or precisely calibrate any adder as part of its formula for compensation above the CPM soft offer cap are without merit. Rather,

> The "courts and th[e] Commission have recognized that there is not a single just and reasonable rate. Instead, we evaluate [proposals under Federal Power Act section 205] to determine whether they fall into a zone of reasonableness. So long as the end result is just and reasonable, the [proposal] will satisfy the statutory standard."[25]

Assuming the formula for compensation above the CPM soft offer cap should provide some meaningful opportunity to "recover additional fixed costs" without guaranteeing full fixed cost recovery, an adder-based method is a reasonable approach for providing this opportunity which reflects the Commission's approved use of an adder in determining the soft offer cap itself.

DMM states that the adder is unreasonable for whole-unit, 12-month designations because it may not reflect the actual upgrade and long-term maintenance costs that a unit incurs.[26] The CAISO addresses DMM's suggested alternative approach to pricing above-cap, annual whole unit CPM designations in Section IV.C. *infra*. But, DMM's basic premise ignores longstanding Commission precedent (1)

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24 *Id.* at P 59.

25 *Calpine Corp. v. Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,271, at P 41 (2009) (citations omitted). *See also Cal. Indep. Sys. Operator Corp.*, 143 FERC ¶ 61,100, at P 12 (2013) ("[A]s the Commission has often noted, rates need not be perfect, but must fall within the zone of reasonableness").

26 DMM Comments at 6.

finding that full cost recovery is not guaranteed in a market-pricing regime and, in particular, a voluntary backstop procurement mechanism, and (2) approving adders that do not reflect actual costs incurred.[27] Indeed, the Commission found the CAISO's Interim Capacity Procurement Mechanism (ICPM) proposal (CPM's predecessor), which provided for compensation above the fixed CPM administrative price based on a unit's specific going forward costs plus a 10 percent adder, to be just and reasonable.[28] The existing CPM soft offer cap also employs a 20 percent adder, which the Commission found "should allow sufficient recovery of fixed costs plus return on capital to facilitate incremental upgrades and improvements by resources."[29]

PG&E argues that an adder of 10 percent or less would be consistent with the directives in the 2011 CPM Order.[30] The CAISO disagrees. In the 2011 CPM Order, the Commission rejected the CAISO's tariff amendment on the grounds the CAISO failed to demonstrate its CPM pricing proposal provided "just and reasonable compensation for the capacity procured to maintain reliable operations."[31] As indicated above, the CAISO proposal applied a ten percent adder for purposes of both

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[27] *See, e.g.,Midcontinent Indep. Sys. Operator Corp.,* 161 FERC ¶ 61,155 at P 32 (2017) (10 percent adder to account for fuel cost uncertainty as part of cost verification process*); PJM Interconnection LLC,* 161 FERC ¶ 61,153 at P 21 (2017)(10 percent adder to account for fuel cost uncertainty); *PJM Interconnection LLC,* 142 FERC ¶ 61,092 (2013)(10 percent adder to avoidable cost to account for cost uncertainty); *Nevada Energy Co, et al*., 153 FERC ¶ 61.206 at P 53 (2015)(adder to account for hard to quantify costs); *Cal. Indep. Sys. Operator Corp.,* 116 FERC ¶ 61,274 at P 1045 (2006)(adder to account for incidental costs not reflected in other cost components); *Pub. Serv. Co. of New Mexico,* 95 FERC ¶ 1,481 (2001)(incremental costs plus a 10 percent adder for the cost of obtaining energy to resolve the imbalance); *Niagara Mohawk Power Corp.,* 86 FERC ¶ 61,009 (1999)(10 percent adder to out-of-pocket costs to recover difficult to quantify costs).

[28] CAISO Tariff Amendment Filing, Docket No. ER08-55, Attachment A, Section 43.6.2.1, and Attachment B, Section 43.6.2.1, approved in *Cal. Indep. Sys. Operator Corp.*, 125 FERC ¶ 61,053 (2008)(ICPM Order).

[29] 2015 CPM Order at P 29.

[30] PG&E Comments at 16.

[31] 2011 CPM Order at P 55.

determining the fixed CPM price and any resource-specific, cost justified price above the fixed price. Thus, the Commission necessarily specified the 10 percent adder as part of the reason the proposed CPM would not provide just and reasonable compensation for CPM capacity. For the reasons explained above, using the 20 percent adder for purposes of above-cap compensation is consistent with the Commission's acceptance of the 20 percent adder in setting the soft offer cap. Those opposing the 20 percent adder provide no evidence that circumstances have changed since the Commission accepted the 20 percent adder in the 2015 CPM Order.[32]

Once the Commission finds Option A – the CAISO's preferred approach – to be just and reasonable under FPA Section 205, there is no reason to consider any alternative approaches.[33] As the Commission has explained, "[u]pon finding that CAISO's Proposal is just and reasonable, [the Commission] need not consider the merits of alternative proposals."[34]

B. The CAISO's Proposed Option B is Just and Reasonable if the Commission Does Not Accept Option A

Only if the Commission does not accept the CAISO's preferred Option A approach, then the CAISO asks that the Commission accept as just and reasonable the

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[32] Suggestions that the CAISO cannot rely on Commission precedent accepting the 20 percent adder because it was part of a settlement should be rejected. *See* DMM Comments at 4. The 2015 CPM Order is clear that it accepted the CAISO's soft offer cap proposal under Section 205 of the FPA and only considered the accompanying Offer of Settlement as evidence supporting the CAISO's 205 filing, not as an offer of settlement under Commission Rule 602. 2015 CPM Order at PP 1, 28, n.53.

[33] 16 U.S.C. § 824d. Under section 15 of the CAISO tariff, the CAISO is the entity authorized to submit filings for Commission approval pursuant to Section 205 of the FPA.

[34] *Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,135, at P 44 (2012). *See also City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) (pursuant to Section 205 of the FPA, the Commission limits its evaluation of a utility's proposed tariff revisions to an inquiry into "whether the rates proposed by [the] utility are reasonable – and not to extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs").

CAISO's proposed alternative Option B approach for calculating the compensation for a CPM resource whose price offer exceeds the CPM soft offer cap.[35] The two approaches are identical except that the Option B approach is limited to recovery of unit-specific going forward costs (fixed operation and maintenance costs, *ad valorem* taxes, and insurance) and does not include any cost adder.[36] The Option B approach is consistent with Commission precedent indicating that voluntary backstop procurement mechanisms should, at a minimum, provide for recovery of a resource's going-forward costs.[37] If the Commission approves Option B, CPM resources will continue to retain all market revenues under a separate tariff provision that the CAISO does not propose to change in this proceeding.

PG&E argues that the Commission should approve Option B rather than Option A based on hypothetical examples provided by PG&E that purportedly show how costs and revenues differ for a sample of existing natural gas-fired plants in California.[38] However, PG&E admits that these "are estimates, and not actual empirical data."[39] If the Commission adopts Option B, it should do so based on the reasoning explained

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[35] The Option B approach is supported by the CPUC and PG&E. CPUC Comments at 7-9; PG&E Comments at 13-17.

[36] Transmittal letter for CPM tariff amendment at 18; attachment B-2 to CPM tariff amendment, revised tariff section 43A.4.1.1.1. Again, the CAISO is retaining an existing, separate tariff provision that allows all CPM resources to keep all market revenues they earn. Transmittal letter for CPM tariff amendment at 18.

[37] *See, e.g.*, *N.Y. Indep. Sys. Operator Corp.*, 150 FERC ¶ 61,116, at P 17 (2015) ("[S]hould NYISO choose an exclusively voluntary RMR regime, . . . compensation to an RMR generator must at a minimum allow for the recovery of the generator's going-forward costs . . . Alternatively, should NYISO choose an exclusively mandatory RMR regime, . . . NYISO's proposal should provide for compensation at a full cost-of-service rate.").

[38] PG&E Comments at 13-17. PG&E also seems to suggest that accounting for the unit-specific costs net of unit-specific market revenues would be an even better methodology, but nevertheless supports Option B and agrees that it "meets FERC's standard of providing a reasonable opportunity of recovering fixed costs." *Id.* at 1617. As explained above, once the Commission finds that a particular rate design proposal is just and reasonable, there is no need to consider the merits of alternative proposals.

[39] PG&E Comments at 14.

above and in the CAISO's February 25 filing, not on PG&E's hypothetical examples. PG&E provided no empirical data to support this rational for adopting Option B.

C. The Commission Should Not Require the CAISO to Adopt DMM's Alternative Above-Cap Compensation Approach for Annual CPM Designations

DMM supports the options filed by the CAISO in this proceeding as incremental enhancements but believes further changes are needed.[40] Specifically, DMM now agrees that monthly CPMs and partial unit CPM designations should continue to be compensated with an administratively streamlined approach.[41] However, DMM recommends a customized, resource-specific approach to compensating CPM resources receiving 12-month, whole-unit CPM designations arising from the annual competitive solicitation process that submit offers above the soft cap.[42] Specifically, instead of Option A or Option B proposed by the CAISO, DMM proposes to pay CPM resources with annual whole unit designations and with above-cap offers their actual going forward costs, plus their actual costs of "long term maintenance and environmental upgrades."[43] Thus, CPM's more streamlined approach would not apply to annual, whole unit designations under DMM's proposal.

Under FPA Section 205, the Commission reviews a proposal filed by a public utility to determine whether it is just and reasonable. There may be more than one just and reasonable approach instead of the one proposed by the public utility.[44] Although the Commission may approve minor modifications if the utility consents to the

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[40] DMM Comments at 1.
[41] *Id.* at 5.
[42] *Id.* at 3-7.
[43] *Id.* at 4.
[44] *NRG Power Mktg, LLC v. FERC,* 862 F.3d 108, 115 (D.C. Cir. 2017) (*NRG*).

modification,[45] the Commission may not impose an entirely different scheme.[46] DMM's proposal constitutes a material modification to the CAISO's proposal and an entirely different scheme. Accordingly, the Commission must reject it.

Unlike the existing CPM paradigm, DMM would create new, separate pricing regimes for above cap pricing regime for CPM offers, one for annual, full-unit CPM designations and another for all other CPM designations, *i.e.*, shorter-term and partial unit designations. DMM's clarification that its alternative approach would apply solely to 12-month CPM designations for a resource's full capacity[47] makes it no more tenable. The Commission-approved provisions governing compensation for CPM offers above the soft cap do not call for different approaches to monthly (and partial unit) and annual (and whole-unit) CPM designations. CPM and its predecessors have never had such separate compensation schemes. DMM points to no evidence that would require such disparate CPM compensation now. Most CPM designations are for one- or two-month terms and/or only for a portion of the capacity of a resource.[48] In contrast, the CAISO has procured CPM capacity for a 12-month term only for 2018,[49] and the Commission recognized these annual CPM designations were "unique and

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45 *Id.*

46 *Id.* at 114.

47 Resources designated as CPM to fill an annual resource adequacy deficiency or collective deficiency can have a term of up to 12 months depending on the term of the overall shortage (though the term cannot extend into the next resource adequacy compliance year). Tariff sections 43A.3.1, 43A.3.3, and 43A.3.4. Resources designated as CPM for other purposes have terms that can range from one to three months. Tariff sections 43A.3.2 and 43A.3.6.

48 Transmittal letter for CPM tariff amendment at 21.

49 This happened in December 2017, when the CAISO procured CPM capacity from three different resources to cure a year-ahead annual resource adequacy showing deficiency for 2018. Memorandum from Keith Casey, Vice President, Market & Infrastructure Development, to CAISO Board of Governors on RMR and CPM enhancements proposal, at 10 & n.5 (Mar. 20, 2019), available at http://www.caiso.com/Documents/Decision-ReliabilityMust-Run-CapacityProcurementMechanismEnhancementsProposal-Memo-Mar2019.pdf.

transitory in nature."[50] There were no annual CPM designations for 2019 and 2020. There is no justification to adopt a different and precision-driven, RMR-like resource-specific cost approach as DMM proposes to address the rare use of 12-month backstop CPM designations. CPM has never had different pricing for different designation terms, and this is not a change that should be effectuated in a Section 205 proceeding where it has not been proposed.

There is no basis for the Commission to require the CAISO to adopt the DMM proposal for compensating CPM resources with annual designations. The CAISO explained in detail in the February 25 Filing several reasons why the Commission should not adopt DMM's alternative proposal. DMM''s proposal would essentially convert annual CPM designations into a type of "RMR-light" proposal that would guarantee fixed cost recovery for certain costs the CPM resource incurs, a fact that DMM acknowledges in its comments.[51] DMM's proposal blurs the important distinctions between RMR and CPM. This "RMR-light" runs counter to the Commission-recognized and CAISO-intended distinction between the voluntary CPM framework and the mandatory RMR framework.[52] It would inject RMR cost-of-service recovery principles into CPM; whereas CPM cost recovery is primarily intended to occur through the competitive solicitation process and the CASO markets. Also, RMR designations are only for purposes of ensuring reliance with reliability criteria; whereas, CPM annual

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[50] *CXA La Paloma, LLC v. Cal. Indep. Sys. Operator Corp.,* 165 FERC ¶ 61,148 at P 75 (2018).

[51] DMM Comments at 4-5 (stating that under DMM's alternative approach, "CPM provisions could provide for recovery of such costs in a manner similar to provisions already allowed for RMR under the CAISO tariff").

[52] *See* 2019 RMR Order at P 32.

designations are to fill RA deficiencies and may not be necessary to address reliability needs.

The CAISO explained in the February 25 Filing why the mandatory RMR mechanism is much better suited than voluntary CPM to address recovery of the actual costs for long-term maintenance and environmental upgrades described under DMM's proposed alternative, and that allowing recovery of only those costs seems inconsistent with the Commission's prior orders.[53] DMM fails to address or even acknowledge these points.

Importantly, a voluntary CPM framework and DMM's proposal have no protections comparable to those afforded by RMR contracts to prevent toggling between CPM procurement and market procurement.[54] CPM resources do not execute a contract like RMR resources. Thus, they are not subject to the robust anti-toggling provisions contained in the RMR contract. Because CPM is voluntary, this would allow needed resources to recover all of their actual upgrade or long-term maintenance costs through a CPM designation, toggle-back to the market when the CPM designation ends, and then return to CPM again when it needs it upgrades or long-term maintenance paid for again. The Commission has previously expressed concern with resources recovering their actual upgrade and/or repair costs via a cost-based backstop procurement mechanism and then switching back to market-based cost recovery

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[53] Transmittal letter for CPM tariff amendment at 19-22.
[54] *Id.* at 20.

without consequence.[55] The DMM comments appear to miss this important point and does not address these important anti-toggling concerns.

Also, under the RMR contract, planned and unplanned upgrades are handled in separate provisions outside of the Appendix F rate provisions.[56] These provisions allow the CAISO and the unit owner to review proposed upgrades/repairs, assess their need, review cost estimates, and agree on cost recovery. Under DMM''s proposal, these issues would now go to a litigated proceeding at the Commission whenever the resource owner seeks its resource-specific CPM rate, thus undermining the administratively streamlined nature of CPM. Unlike RMR which resolves this issue up front, DMM's proposal could discourage resource owners from pursuing any upgrades or long-term maintenance until the Commission rules on their rate filing because they will not know for certain if, and how much of, the costs will be recoverable. This could adversely affect their overall availability, potentially threatening reliability.

In connection with its proposal for a resource-specific approach for annual CPM designations, DMM argues that the reasonableness of an adder above going-forward fixed costs should take into account the net market revenues retained by CPM resources.[57] DMM ignores the fact that CPM and its Commission-approved predecessor mechanisms have always allowed designated resources to retain the market revenues they earn.[58] DMM provides no evidence of changed circumstances or

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55 2019 RMR Order at P 54; *N.Y. Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,116, at P 19, *order on compliance*, 155 FERC ¶ 61,076, at PP 122-28 (2016); *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267, at P 208 (2019).

56 CAISO tariff, Appendix G, *Pro Forma* Reliability Must Run Contract, Section 7.4-7,6.

57 DMM Comments at 6-7.

58 *See* 2011 CPM Order at P 16 ("CAISO proposes to carry over the existing ICPM compensation methodology, as approved in the ICPM Order, to the CPM. . . CAISO states that CPM resources will continue to keep all of the revenues they earn in energy and ancillary services markets."); *CXA La*

any other reason why the Commission should require a deviation from that existing and longstanding practice that the CAISO does not propose to change in this proceeding.

Finally, from an administrative perspective, DMM's proposal would unnecessarily complicate the annual competitive solicitation process. The CAISO would have to accommodate consideration of separate upgrade and long-term maintenance costs for bidders in addition to the standard capacity bid price in determining the lowest cost. Would a resource owner be eligible for "actual" cost recovery if its capacity bid is below the soft offer cap but its "upgrade" or "long-term" maintenance costs result in total costs above the cap level or only if its capacity bid exceeds the soft offer cap? The former would increase the number of Section 205 cost justification filings at FERC. Also, bidders may not know their actual upgrade or long-term maintenance costs for the upcoming year when they submit their bids into the competitive solicitation, but the CAISO would have to hold them to their bid amount or less; otherwise, the bidding process could be easily gamed. CPM was intended to be a more administratively streamlined approach to backstop procurement. The Commission should reject DMM's proposal, which inappropriately turns CPM into an overly complex and burdensome backstop procurement tool that was never intended.

D. The Commission Should Reject Calpine's Arguments that Full Cost of Service Pricing is Required for CPM

Calpine is the only intervenor to oppose updating the method for compensating CPM resources with offers above the CPM soft offer cap. Calpine provides several reasons why, in its view, the CAISO's proposal is unjust and unreasonable. First,

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Paloma, LLC v. Cal. Indep. Sys. Operator Corp., 165 FERC ¶ 61,148, at P 4 (2018) (stating that "resources receiving CPM designations . . . retain all revenues they earn in the CAISO markets").

Calpine claims the CAISO proposal is deficient because it did not demonstrate that a unit-specific CPM price set at going-forward fixed costs plus a 20 percent adder would provide sufficient opportunities for fixed cost recovery. Second, Calpine argues that CPM designations effectively are mandatory because Exceptional Dispatches are mandatory; so, CPM compensation must follow the Commission's precedent of granting full fixed cost recovery for mandatory backstop designations. Third, Calpine states that the CAISO's concern about removing the potential for double recovery of costs through above-cap CPM compensation is a "red herring" because the Commission purportedly has never authorized above-cap CPM resources to retain market revenues in addition to receiving a CPM capacity payment based on the resource's full annual cost of service. Calpine also argues that the CAISO proposal is deficient for not addressing how unit-specific backstop compensation below full cost-of-service would distort primary RA procurement, particularly in light of changing capacity procurement issues in California.

None of Calpine's arguments is supported by Commission precedent, reasoned analysis, or the facts. The arguments Calpine raises are fundamentally flawed and do not undermine the just and reasonable foundation upon which the CAISO proposal is built. Calpine's argument that above-cap CPM resources should no longer retain market revenues is beyond scope because it seeks to eliminate a longstanding tariff provision (and fundamental aspect of CPM) that the CAISO does not propose to change and contravenes *NRG* because it constitutes a material change to the CAISO's proposal. Accordingly the Commission must reject Calpine's protest.

As further discussed below, Calpine's protest is built on the following flaws:

- Calpine elides the distinction between voluntary CPM and mandatory RMR by, among other things, citing Commission orders on RMR tariff filings in support of its position, which misconstrue the CPM issues raised in this filing.

- Calpine ignores that CPM resources (above, below, and at the cap) retain (and always have retained) all market revenues.

- Calpine inappropriately inverts the accepted and established distinction between a "hard cap" and a "soft cap" to claim that the CAISO seeks to impose a hard cap on CPM compensation, whereas the CAISO merely seeks to alter pricing above its existing soft cap.

- The argument that CPM designations are not voluntary is based on a flawed understanding of the mechanics of the Exceptional Dispatch process and proceeds as if Exceptional Dispatch were the only type of CPM designation.

- Calpine's complaints about Exceptional Dispatch CPM designations are beyond the scope of this filing because they are a collateral attack on the Commission's prior approval of the CAISO's Exceptional Dispatch authority, not CPM, and the Commission has previously rejected the same Calpine arguments, in similar circumstances.

- Calpine misstates the nature of prior backstop capacity settlements the CAISO reached with its stakeholders and ignores unambiguous tariff provisions and prior representations of the CAISO and stakeholders in Commission proceedings that CPM resources with above-cap offers retain all market revenues and receive a capacity payment based on their full annual cost of service.

These numerous flaws require rejection of Calpine's proposal.

1. The CAISO's Revised Soft Cap Methodology Provides a Reasonable Opportunity for CPM Resources to Recover Fixed Costs

Calpine claims that the CAISO's filing is deficient because it did not demonstrate that a unit-specific CPM price set at going-forward fixed costs plus a 20 percent adder would have a reasonable opportunity to recover fixed costs. Per Calpine, it is unjust and unreasonable to deny CPM designations guaranteed full fixed cost recovery. Indeed, Calpine refers to this purported entitlement as "the *sine qua non* for just and reasonable capacity compensation."[59] Calpine argues that the CAISO proposal fails because it does not meet this entitlement, pointing out that the CAISO has not established that the 20 percent adder, combined with market revenue, constitutes a meaningful opportunity to recover units' full fixed costs. Calpine also argues that the CAISO proposal discriminates against newer resources because their going-forward fixed costs will provide a lower different percent of their total fixed costs as compared to more fully depreciated assets. Finally, Calpine claims that the CAISO's proposal eliminating full annual fixed cost recovery improperly changes a unified settlement agreement the CAISO reached with its stakeholders.

Calpine may believe CPM resources are entitled to guaranteed fixed cost recovery, market revenue is irrelevant, or that a settlement agreement that the Commission never approved (and that does not support Calpine's position in any event) should determine the justness and reasonableness of this simple tariff amendment. Commission precedent and the facts say otherwise. The Commission has been clear that "suppliers in wholesale market are not guaranteed full cost recovery, but only the opportunity to recover their costs."[60]

The Commission has rejected RMR-type cost of service pricing for the CAISO's voluntary, non-RMR backstop procurement. Indeed, Calpine previously proposed using "a traditional cost-of-service model, **as under reliability must run**, for calculating capacity compensation" for the CAISO's proposed Interim Capacity Procurement

59 Calpine Protest, at 3-4 ("The opportunity for a resource to recover full fixed cost compensation when it is needed for reliability and mandated to operate and to provide reliability services is the *sine qua non* for just and reasonable capacity compensation.")

60 *CXA La Paloma LLC v. Cal. Indep. Sys. Operator Corp.,* 169 FERC ¶ 61,045 at P 13 (2019).

Mechanism (ICPM) alleging that pricing based on going forward costs plus an adder (rather than full investment cost) would not allow resources to recover their full costs.[61] The Commission rejected this and other requests for increased compensation finding

> Because acceptance of ICPM designations is voluntary, resources are free to decline an ICPM designation and pursue other avenues of recovering fixed costs. Thus, we disagree with commenters that argue the ICPM fails to provide appropriate compensation.[62]

The Commission should similarly reject Calpine's proposal here.

Rather than requiring full fixed cost recovery for CPM resources, the Commission has held that compensation for resources that take part in the CPM need only provide for a meaningful contribution toward fixed cost recovery.[63] Including a 20 percent adder, as the CAISO proposes in Option A, provides a meaningful contribution toward a resource's fixed costs, particularly when coupled with the existing tariff provision allowing CPM resources to retain market revenues. It is greater than the formula the Commission accepted in connection with the ICPM, *i.e.*, resource-specific going forward costs plus a ten percent adder. If a resource wants more than this meaningful opportunity and seeks guaranteed full fixed cost (*i.e.*, cost-of-service) recovery, it has the ability to either (1) enter into a contract for such recovery through the bilateral market, or (2) submit a mothball or retirement notice and trigger potential RMR designation pursuant to the CAISO tariff if the resource is needed to ensure compliance with reliability criteria.

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61 ICPM Order at P 36 (emphasis added).
62 *Id.* at P 42.
63 2011 CPM Order at P 57; 2015 CPM Order at P 29.

a. The CAISO's Proposal Provides Appropriate Compensation for Voluntary Backstop Capacity Procurement

Calpine's position that CPM designations must carry with them guaranteed full fixed cost recovery cannot be squared with Commission precedent, including numerous cases where the Commission has not required full cost recovery for CPM resources or other voluntary backstop mechanisms. In support of its claim that CPM designations are owed full fixed cost compensation, Calpine cites a statement from the Commission's order on the CAISO's recent RMR tariff filing. In relevant part, that passage states

> the Commission has previously held that, under a mandatory RMR program, RMR resources should receive full cost-of-service compensation. Further, due to the mandatory nature of the RMR designation, we find no justification for requiring compensation based on going forward costs.[64]

As explained in detail in the CAISO's February 25 filing, RMR is not CPM. RMR is a mandatory backstop. CPM, as discussed in more detail below, is a wholly voluntary backstop procurement mechanism. Under the applicable Commission precedent, also discussed at length in the February 25 Filing, voluntary backstop capacity procurement does not require full cost-of-service compensation. To reiterate that background, last year the Commission found that full cost-of-service compensation is appropriate for RMR resources "due to the mandatory nature of the RMR designation," while indicating that "compensation based on going forward costs" would be appropriate for resources voluntarily providing backstop services.[65] These findings in the 2019 RMR Order are consistent with the Commission's general policy that full cost-of-service recovery is

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[64] *Cal. Indep. Sys. Operator Corp*., 168 FERC ¶ 61,199, P 84 (2019) (2019 RMR Order) (citations omitted).

[65] *Id.* at P 84.

required only when an ISO or RTO backstop procurement mechanism is mandatory, and that going forward cost compensation is permissible when the backstop procurement mechanism is voluntary.[66] Calpine's position flies in the face of this precedent and would turn voluntary CPM into RMR. That would be contrary to the well-established differences between CPM and RMR and would undermine one primary purpose of the RMR-related tariff revisions the Commission accepted in 2019, which was to further differentiate the RMR framework from CPM.[67]

If for some reason the gap between going forward fixed costs plus 20 percent and full fixed cost recovery cannot be bridged with market revenues, a resource faces a retirement decision. If a resource is no longer competitive and viable, but is needed to ensure compliance with reliability criteria, that resource can submit a notice of mothballing or retirement and receive a RMR contract. If the resource cannot bridge that gap and does not receive a RMR contract, then the market has provided a clear and appropriate retirement signal. That is the policy underlying the CAISO's backstop capacity procurement. Moreover, merely filling an RA showing deficiencies does not mean a unit is needed for reliability and thus entitled to guaranteed cost recovery via an RMR contract. As the CAISO indicated in the 2019 RMR proceeding, the CAISO will

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[66] *See, e.g.*, *N.Y. Indep. Sys. Operator Corp.*, 150 FERC ¶ 61,116, at P 17 (2015) ("[S]hould NYISO choose an exclusively voluntary RMR regime, . . . compensation to an RMR generator must at a minimum allow for the recovery of the generator's going-forward costs . . . Alternatively, should NYISO choose an exclusively mandatory RMR regime, . . . NYISO's proposal should provide for compensation at a full cost-of-service rate."); *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,057, at PP 84-85 (2014) ("[I]t is unjust and unreasonable not to allow SSRs [System Support Resource units, *i.e*., RMR units] to receive compensation for the fixed costs of existing plant given MISO's authority under its Tariff to unilaterally require a generator . . . to remain online in order to address reliability concerns. . . . [But w]hen a generator . . . is operating voluntarily in a competitive marketplace . . . the Commission need only provide the generator with the opportunity to recover its costs . . . via market-based rates.").

[67] 2019 RMR Order at P 1.

not use RMR to backstop mere RA deficiencies because RA deficiencies alone do not constitute a reliability need.[68] Rather, the unit must file a retirement/mothball notification and affidavit, and a CAISO study must show that the unit is needed to ensure compliance with applicable reliability criteria, *i.e*., NERC, WECC, and CAISO standards. Calpine's proposal, on the other hand, could provide guaranteed full cost recovery for units that may fill an RA deficiency but are not needed to ensure compliance with reliability criteria. There is no requirement to guarantee full cost of service recovery in a voluntary backstop procurement regime for units not needed to ensure compliance with reliability criteria.

In advancing its arguments about insufficient cost recovery, Calpine repeatedly, and misleadingly, refers to the CAISO as attempting to establish a hard cap on CPM compensation.[69] The CAISO proposes no such thing. Under the Commission's well-established nomenclature, a hard offer cap or price cap identifies a specific number above which a market participant may not bid or be paid, respectively, regardless of their costs. A soft cap on the other hand permits a market participant to exceed the identified dollar threshold based on a specific showing of their costs.[70] The CPM offer cap has been, and will continue to be, a soft cap. The CAISO merely proposes to

68 *Id.* P 34.

69 Calpine Protest, at 3 ("Setting a *hard* cap on a resource's CPM compensation that is below the resource's full fixed costs, which is what the CAISO's proposal undeniably does, is not just and reasonable . . . .") (emphasis in original); Calpine Protest, at 5 ("resources needed for reliability and subject to Exceptional Dispatch are denied this [fixed cost recovery] opportunity by the hard cap on the resource specific showing."); Calpine Protest, at 12 (the "proposed hard cap on CPM offers in excess of the soft offer cap will be the only capacity payment contribution to fixed capital cost recovery").

70 *See, e.g., Order on Section 206 Investigation Into WECC-Wide Price Cap and the CAISO Ancillary Service Capacity Bid Cap*, 114 FERC ¶ 61,135, P2 n.3 (2006) ("A 'soft' cap is one where market participants may submit bids above the bid cap with adequate justification, but without setting the market clearing price. A 'hard' cap is one where market participants' bids are not permitted to exceed the cap, regardless of the seller's costs.").

change the nature of the costs that would be guaranteed recovery in cases where a generator seeks to exceed the soft cap. Changing that cost methodology does not turn a soft cap into a hard cap. Further, because CPM resources retain all market revenues, there clearly is no specified hard cap on the total revenues a unit may receive. CPM resources still have an opportunity to recover fixed costs through market revenues.

b. Concerns About Disparate Full Fixed Costs Recovery are Irrelevant and Unfounded

Calpine's concerns about disparate opportunities to recover full fixed costs suggests that any method for determining a resource's compensation above the CPM soft offer cap that does not guarantee every resource full fixed cost recovery would be unduly discriminatory to some resources. As discussed above, capacity procured under a voluntary backstop holds no such entitlement.

This argument too ignores the Commission's prior findings that voluntary backstop procurement mechanisms need only provide for the recovery of going forward costs, with the remaining revenues to be earned in the market. It also ignores that the Commission previously found it just and reasonable to compensate CAISO backstop resources with offers above the fixed backstop price based on their going forward costs plus ten percent.[71] If that was just, reasonable, and not unduly discriminatory, then merely changing the adder to 20 percent cannot be unduly discriminatory. Calpine further ignores the Commission's history, described *supra*, of approving adders to disparate underlying costs. The CAISO's proposal compensates all resources with

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[71] ICPM Order, 125 FERC ¶ 61,053 (resources can cost justify a resource-specific price above the fixed ICPM price based on their specific going forward costs plus a 10 percent adder).

above-cap offers based on the same formula. It is unclear how this is unduly discriminates against similarly situated customers.

Calpine's argument is also one dimensional because it focuses exclusively on CPM capacity compensation and takes no account of energy market rents. Calpine assumes that the difference between full fixed costs and going-forward fixed costs plus 20 percent is relatively larger for new resources that have undepreciated plants. That may be the case. But newer plants are just as likely to operate more efficiently than older plants, meaning a new plant would expect to have higher energy market rents. Thus, there is no obvious reason why the CAISO's proposal necessarily would disproportionately impact younger or older plants.

c. The Commission Did Not Approve the 2015 Offer of Settlement, and the Settlement Expressly Provided that the CAISO Retained its Section 205 Rights to Pursue Changes to the Tariff Provisions

Calpine finds the CAISO's removal of guaranteed full annual fixed cost recovery all the more troublesome because it represents a change to what Calpine refers to as one of the "integral provisions" or "core provisions" to a prior unified settlement agreement.[72] Calpine's concern is misplaced for several reasons: (1) the offer of settlement was never accepted by the Commission; (2) even if the Commission had accepted the settlement, the settlement expressly provided that the CAISO could seek to change any of the provisions under FPA Section 205 (and other parties could seek to change the settlement provisions under FPA Section 206); and (3) assuming the settlement were a binding agreement, Calpine does not properly recognize the standard of review in the document.

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72 Calpine Protest, at 14, n27.

Calpine refers repeatedly to the 2015 CPM settlement agreement as if it were a binding agreement that the Commission approved as a condition of the CAISO implementing its existing CPM tariff provisions. Yet only in a single footnote does Calpine acknowledge that the agreement reached among various stakeholders in 2015 is not a binding settlement agreement.[73] That is because the Commission found that the "Offer of Settlement is not a settlement filed pursuant to Rule 602" and instead is "record evidence in support of CAISO's section 205 filing."[74] In other words, the Commission did not approve the settlement under Rule 602. This treatment by the Commission is consistent with its established practice of treating offers of settlement in these circumstances as evidence in support of a section 205 filing.[75] Because the existing CPM compensation provisions were approved as a standard Section 205 filing, and the Commission did not accept the offer of settlement under Rule 602, the CAISO is not precluded from seeking changes to them under FPA Section 205 and holds no special or enhanced burden beyond merely showing that either its Option A or Option B proposal is just and reasonable standing on its own.

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[73] *Id.* at 2 n.2

[74] 2015 CPM Order at P 28 n.53.

[75] *Southwest Power Pool, Inc.*, 158 FERC ¶ 61,090 (2017), *order denying reh'g*, 160 FERC ¶ 61,068 at PP 4-5 & nn.12 & 14 (2017) ("[T]he proposals in the Settlement Offer sought to make unilateral changes to the terms originally proposed in the Initial Filing – which we note, had not yet been acted on by the Commission, but which were still pending before the Commission at the time of the Settlement Offer. Given these circumstances, the Commission properly reviewed the terms filed on November 30, 2016 under FPA section 205."); *Wisconsin Elec.*, 125 FERC ¶ 61,158 at n.2 (2008) ("While Wisconsin Electric filed these amendments as settlement agreements pursuant to Rule 602(b)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602(b)(2) (2008), it should have filed them as, and we are treating them as, filings under section 205 of the Federal Power Act."); *Devon Power LLC*, 114 FERC ¶ 61,094 at n.4 (2006) ("The Commission views the December 20 and 23, 2005 submittals as amendments to the underlying November 1, 2005 section 205 filing and not as a settlement under Rule 602.").

Assuming solely for the sake of argument that the 2015 filing process resulted in a binding agreement, it is important to note that Section 6.3 of the offer of settlement expressly provided that the CAISO retained its Section 205 rights, and other parties retained their Section 206 rights, to pursue future changes to the tariff provisions.[76] Thus, even if it were a Commission-approved settlement, the CAISO expressly retained the right under the offer settlement to pursue changes to the provisions under FPA Section 205.

Further, section 7.6 of the draft agreement states: "This Offer of Settlement will be subject to the just and reasonable standard of review."[77] Thus, even if there were a binding settlement agreement, Calpine's contention that the CAISO's current filing should not be accepted "absent a strong showing that there has been a substantial change in circumstances affecting the core provisions of the uncontested settlement" is inconsistent with the stipulated standard of review in the agreement.[78]

2. Mandatory Responses to Exceptional Dispatches do not Transmogrify CPM into a Mandatory Service

One of the CAISO's goals in the February 25 Filing was to sharpen the distinction between CPM and RMR pricing by ensuring that unit-specific CPM compensation would be based on going-forward fixed costs, whereas RMR compensation would continue to be based on full annual fixed costs.[79] The CAISO explained that this distinction was appropriate because CPM designations are voluntary and RMR designation are

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[76] CAISO Tariff Amendment Filing, Attachment C, Section 6.3, Docket No. ER15-1783, March 26, 2015.

[77] Section 3.5 of the explanatory statement also stated: "The Offer of Settlement and modifications thereto are subject to the just and reasonable standard of review and not to the *Mobile Sierra* public interest standard."

[78] Calpine Protest at 14, n27.

[79] Transmittal Letter at 14.

mandatory. This distinction between mandatory and voluntary backstop is relevant because the Commission "has recognized that different pricing formulas can apply to backstop procurement depending on whether the procurement is mandatory or voluntary."[80]

Calpine's protest seemingly agrees that full cost recovery is not guaranteed for voluntary backstop capacity procurement, but argues that because generators must respond to Exceptional Dispatches regardless of RA status, "the CPM backstop is, inaptly, characterized as voluntary."[81] For that reason, Calpine claims the CAISO's revised soft-cap methodology is inappropriate under Commission precedent.

This argument constitutes a collateral attack on prior Commission decisions regarding CPM and Exceptional Dispatch. First, this is a collateral attack on the Commission's previous explicit statement that "CPM designations are voluntary."[82]

Second, this is a collateral attack on the CAISO's Exceptional Dispatch terms and pricing, and thus is beyond the scope of this proceeding. Calpine and others previously made similar claims regarding the purported involuntariness of CPM, and the Commission rejected them. In the 2011 CPM Order the Commission found that

> As the CPM is a voluntary procurement mechanism, resources may decline CPM designations and pursue other avenues to recover their fixed costs. IEP notes that the voluntary nature of CPM designations for resources that are exceptionally dispatched is different than the voluntary nature of the other CPM designations if an exceptionally dispatched

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[80] *Id.*

[81] Calpine Protest, at 4.

[82] 2019 RMR Order at P 32 (2019) (2019 RMR Order) ("We agree with CAISO that, because CPM designations are voluntary, CAISO's proposed mandatory RMR procurement authority is not redundant to its CPM authority."); 2011 CPM Order at P 190. Also, as discussed *supra*, the Commission rejected arguments that RMR-type compensation was required for the ICPM because ICPM designations were voluntary, and resources were free to decline ICPM designations and pursue other avenues for recovering fixed costs.

> resource desires a capacity payment for services it is required to perform. However, we do not find that the involuntary nature of exceptional dispatches justifies offering a longer minimum term of designation for exceptionally dispatched resources that choose to be designated as CPM.[83]

On rehearing of that decision, Calpine, just at it argues here, claimed that CPM was not voluntary because generators are obligated to respond to Exceptional Dispatches. The Commission rejected the argument finding it was beyond the scope of that Section 205 proceeding.[84] The Commission found that the specific concerns -- which Calpine raises again herein -- about how the ICPM interrelates with Exceptional Dispatch related exclusively to design of the Exceptional Dispatch, not CPM, and thus were beyond the scope of the proceeding.[85] The Commission should make the same findings here.

Calpine also fails to recognize that Exceptionally Dispatched resources voluntarily can reject an Exceptional Dispatch CPM designation and instead receive Supplemental Revenues, which (1) permits them to bid without being subject to Exceptional Dispatch mitigation for the duration of what the term of the alternative CPM designation would have been, and (2) allows them to avoid the must offer obligation that accompanies a CPM designation.[86]

Another glaring error in Calpine's argument that CPM is mandatory is that it proceeds as if Exceptional Dispatch CPM designations were the only category of CPM. Tariff section 43A.2 makes clear that there are seven categories of CPM designations, only one of which is for certain types of Exceptional Dispatches issued to non-RA capacity. Calpine makes no attempt to explain, nor can it explain, how these other

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83 2011 CPM Order at P 190.
84 *Cal. Indep. Sys. Operator Corp.,* 134 FERC ¶ 61,132 at P 38 (2011).
85 *Id.*
86 Transmittal Letter at 8, n.25.

categories are effectively mandatory, despite everything in the tariff providing that they are voluntary. Because Calpine does not acknowledge the existence of these other, unquestionably voluntary categories, it does not confront the implications this fact has on its argument. For example, does that mean Calpine does not object to the CAISO's proposed revision as applied to all CPM categories other than Exceptional Dispatch? If that is the case, then a 30-day exceptional dispatch CPM could receive above-cap compensation based on its full fixed costs; whereas, a "voluntary" annual designation for an RA deficiency would receive above-cap compensation based on some different formula. This sort of disparate compensation is the unavoidable inference from Calpine's protest.

Focusing specifically on Exceptional Dispatches, Calpine's protest is based on a flawed understanding of the Exceptional Dispatch process. Calpine makes several statements wrongly suggesting that the CAISO looks to issue an Exceptional Dispatch after the resource declines the CPM designation or that there is a connection between a resource declining an Exceptional Dispatch CPM designation and the CAISO targeting it for subsequent exception dispatch instruction.[87] That chain of events is simply wrong. Section 34.11 of the CAISO tariff limits the circumstances under which the CAISO can

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[87] For example, Calpine says that the CAISO uses "mandatory Exceptional Dispatch to compel the operation of a resource that declines a CPM designation . . . ." Calpine later states that "even if [a resources] declines, the CAISO may insert a bid on behalf of the non-offering resource and award it a CPM designation, if the CAISO determines that insufficient capacity has been bid into the CSP and that the non-offering resource is needed for reliability" and the resource "may nominally decline the CPM designation, but, even if it does so, the resource remains subject to mandatory operation under Exceptional Dispatch." Calpine also states that "an uncommitted resource needed for reliability that declines an ostensibly voluntary CPM designation will be exposed to, and will be required to comply with, mandatory Exceptional Dispatches." "The CAISO holds, through the Exceptional Dispatch provisions of the Tariff, a free call option to mandate operation of resources (and their response to reliability-based Exceptional Dispatches) that have rejected annual CPM designations (i.e., 12 months of compensation) such as those required by section 43A.2 of the Tariff." Calpine Protest at 7. .

issue an Exceptional Dispatch, and Exceptional Dispatches can only occur in the day-ahead or real-time if one of the requisite circumstances occurs. The CAISO cannot simply target a resource that has declined a CPM with an Exceptional Dispatch. Moreover, a day-ahead or real-time Exceptional Dispatch is hardly comparable to an annual or monthly CPM designation. Most Exceptional Dispatches are issued to RA capacity. In the rare cases where that instruction is given to non-RA capacity, the resource with that capacity has the option of accepting or rejecting a 30- or 60-day CPM designation depending on whether the CPM was needed to address a non-local or local reliability need respectively. If the resource accepts the designation, then it must meet the RA must-offer obligation for the CPM designation period and receives CPM compensation in exchange for taking on that must-offer obligation. If the resource declines the designation, then it receives no CPM designation and holds no RA must-offer obligation.

3. The CAISO's Double Recovery Concern Fully Justify Changes to the CAISO's Above-Cap Compensation

A key impetus for the CAISO's filing was the concern that allowing resources both to recover their full fixed costs through an above-cap price and retain market revenue can permit double recovery of costs.[88] Calpine refers to this rationale as a "red herring" that does not support the February 25 Filing because Calpine purports no "such double recovery has ever been approved by the Commission."[89]

To the best of the CAISO's understanding, Calpine's red herring argument is that the CAISO's concern in eliminating potential double recovery is misplaced because

[88] Transmittal Letter at 13.
[89] Calpine Protest at 9.

either: (a) the existing tariff does not permit double recovery; or (b) the Commission would step in and make sure that a generator that tried to seek such recovery would not receive it, the filed rate notwithstanding. Regardless of which stance Calpine is taking, the CAISO's double recovery concerns are fully supported by the existing tariff and provide a firm basis for the February 25 filing.

In support of the first potential reading, Calpine states:

> 2015 CPM Settlement was never intended to authorize a resource to receive CPM pricing based on full fixed costs and, at the same time, to keep its net market revenues during the period of CPM designation. Neither the CAISO's filing of the 2015 CPM Settlement nor the Commission's *2015 CPM Order* expressly or tacitly contemplated or accepted the potential for double recovery.[90]

Significantly, Calpine provides no citation either to the offer of settlement, tariff amendment filing, or the Commission's order to support its statement about the intent of the 2015 filing. The reason Calpine cannot provide such a citation is because such clawback of market revenues was never contemplated. Clawing back market revenues is a significant matter. It is implausible that the CAISO and its market participants agreed to a market revenue clawback but did not bother to document the details or memorialize that understanding either in the offer of settlement or in the tariff.

Contrary to Calpine's claims, the CAISO tariff clearly contemplates that all CPM resources, including resources with above cap offers, retain market revenues. Tariff section 43A.7.3 states:

> In addition to the CPM Capacity Payment identified in Section 43A.7, CPM resources, including Flexible Capacity CPM resources, shall be entitled to retain any revenues received as a result of their selection the CAISO markets.

90 Calpine Protest at 9.

Tariff section 43A.7 expressly includes CPM resources with a "resource-specific CPM rate authorized by FERC," *i.e.,* resources with an offer above the CPM soft offer cap. Thus, under the tariff above-cap resources retain market revenues, the CAISO is obligated to follow its tariff on file with the Commission. Further confirming this point, the CAISO noted in its February 25 Filing that its systems and market rules are not configured to claw back revenues from CPM resources. The CAISO also notes that the 2015 tariff amendment filing and accompanying offer of settlement included the tariff provisions providing for the retention of market revenues by CPM resources with cost-justified, above cap offers.[91]

That all CPM resources, including those with above cap, cost-justified prices, retain their market revenues is also consistent with stakeholders' understanding of the applicable tariff provisions. In that regard, in Docket No. ER18-641, DMM, the Six Cities, the CPUC, SCE, and PG&E all noted that the CPM allows all CPM resources to retain their market revenues, even those receiving annual designations.[92] The CAISO agreed with their characterization. Calpine filed comments in that proceeding[93] and never challenged this fact.

Calpine also argues that "resource owners receiving CPM compensation based on their full fixed costs under the existing Tariff should not expect or be allowed also to retain their net market revenues"[94] because they would realize "that such prospect is too good to be true."[95] Here it is unclear if Calpine is arguing that a generator would

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[91] CAISO Tariff Amendment, Docket No. ER15-1783, Attachment A (Tariff section 43A.7.3) and Attachment B (Redlined tariff section 43A.7.3), March 26, 2015.
[92] *Cal. Indep. Sys. Operator Corp.,*163 FERC ¶ 61,023 at P 34 (2018).
[93] *Id*. at P 8.
[94] Calpine Protest at 9.
[95] *Id*.

voluntarily surrender its net market revenue or that the Commission would refuse to uphold the CAISO's filed rate. The former is speculative and irrelevant to what the tariff provisions actually provide. The latter contention violates the filed rate doctrine and the Federal Power Act. Absent an express tariff provision clawing back net market revenues, a generator pursuing unit-specific would be entitled to keep both its Commission-established CPM compensation rate and its market revenue.

4. Calpine's Concerns about the Relationship between Bilateral Resource Adequacy Procurement and the CPM are Speculative and Unfounded

a. Summary of Calpine's Concerns about Resource Adequacy Impacts

The CAISO's backstop procurement mechanisms have faced a perpetual challenge of balancing two competing factors to ensure that the CAISO's backstop does not distort the front stop of bilateral RA procurement – if the backstop price is too low, then LSEs could have an incentive to forego primary procurement in favor of the CAISO's backstop; if the CAISO's backstop price is too high, then generators might have an incentive to withhold their capacity from the bilateral RA procurement process. That is why the Commission has found a CPM price at the higher end of RA prices to be just and reasonable.[96]

Calpine claims that the CAISO's proposal to limit above-cap compensation to going-forward fixed costs plus 20 percent, rather than full fixed costs, represents a "suppression of CPM compensation"[97] that likely will "create adverse incentives for load serving entities to forego bilateral RA contracts and instead rely on CPM backstop

[96] 2015 CPM Order at P 29.
[97] Calpine Protest at 16. 6.

procurement."[98] Calpine argues that load serving entities already are over-reliant on CPM because "[r]educing the price differences between RA and CPM will further encourage use of the backstop as a frontstop."[99] Also, Calpine asserts that broader changes in California's RA program could make these purported problems worse.[100]

b. Calpine Has Not Explained How the Revised Soft Cap Methodology Would Impact Bilateral RA Procurement

Calpine's arguments concerning adverse incentives to LSEs are misplaced. As the Commission has recognized,[101] and as discussed in Section IV.E.1.b below, the CPM soft offer cap is set at the higher end of RA prices. The Commission found that this should not cause LSEs to forego bilateral procurement and instead lean on CPM.[102] If the CPM soft offer cap is sufficient to discourage leaning, then any price above that cap necessarily must discourage leaning.

Moreover, the type of potential distortion over which Calpine is concerned requires evidence that numerous resources have felt compelled to submit offers above the CPM soft offer cap. However, in the history of CPM and its predecessors, no generator has ever filed for a resource-specific price above the CPM soft offer cap or the fixed administrative price. This might be an issue under the dramatically lower CPM soft offer cap proposed by DMM and PG&E, but there is no evidence it is a problem under the existing cap. Indeed, in the La Paloma complaint proceeding the Commission found there was no evidence demonstrating that the CPM soft offer cap was

98 *Id*. at 15.
99 *Id.* at 17.
100 *Id*. at 16 ("This adverse incentive effect could be accentuated by other developments in the primary RA procurement program, which the CAISO Filing ignores.").
101 2015 CPM Order at P 29.
102 *Id.*

suppressing RA prices.[103] Calpine provides no specific evidence here to contradict the Commission's finding except generalized claims and speculation. Such unsupported claims were insufficient in the La Paloma complaint proceeding and they are insufficient here. If there is no evidence the existing soft offer cap is suppressing RA prices, a price higher than that level certainly cannot be suppressing prices.

Calpine's speculative concern also ignores that CPM procurement has costs for load serving entities. Where the CAISO needs to procure for RA deficiencies, it first looks to allocate the costs to the load serving entities that were short. A rational utility would only voluntarily fail to procure and force the CAISO to procure more CPM where that imposes lower costs. The soft offer cap, however, already is at the high end of RA prices.

c. Recent Developments Surrounding the Resource Adequacy Program are Not Relevant to this Proceeding

Calpine correctly notes that the CPUC has been considering a central buyer concept for RA procurement in its ongoing, multi-track proceeding to examine long-term reforms to the RA program.[104] Calpine states that the CAISO is increasingly relying on thermal resources for reliability needs, and California faces potential capacity shortages in the coming years. Calpine fails to explain how any of these potential changes relate to the narrow issues raised by the CAISO's tariff filing.

At this point in time, any discussion regarding what impact a central procurement entity will have on bilateral procurement and backstop procurement is rank speculation.

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[103] *CXA La Paloma v. Cal. Indep. Sys. Operator Corp.,* 169 FERC ¶ 61,045 at P 18 (2019).

[104] *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.* R.17-09-020. http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M270/K469/270469481.PDF

The impacts will not be known until there is some actual history with such procurement. The contours of the contemplated central buyer approach are not finally defined and approved. On March 26, 2020, a CPUC Administrative Law Judge Proposed Decision on this matter issued. Under that Proposed Decision, PG&E and SCE would be centralized procurement entities for local capacity in their TAC Areas, and there would be no centralized procurement entity for procuring local capacity in the San Diego Gas & Electric TAC Area.[105] The program would not apply to system capacity. Most importantly centralized procurement entity procurement would not commence until 2023. As discussed *infra* in Section IV.E.1.d, this fits with the timeframe when the CAISO would be commencing the next CPM initiative. As the CAISO discusses therein, it would be nonsensical to undertake a new CPM initiative before the CAISO completes its ongoing RA Enhancements Initiative and the CPUC completes all of the tracks of its ongoing RA reform proceeding. That way the CPM initiative could take all of these changes into account. Also, the CAISO is committed to examine CPM pricing sooner if there is a surge in LSEs relying on CPM instead of procuring capacity bilaterally. However, that is not the case now.

Calpine is correct that the CAISO has raised concerns over future capacity shortages. This concern is important but is beside the point in this proceeding because the CPM is not intended or designed to create incentives for new construction. CPM is meant to fill short-term capacity needs as a backstop. Were the CAISO to design CPM compensation to provide such incentives it would intrude on the CPUC's role in

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105 Proposed Decision of ALJ Chiv, *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.* R.17-09-020, March 26, 2020.

overseeing primary procurement and distort the RA program. Here again, Calpine tries to have it both ways. Calpine faults the CAISO for trying to distort the RA program, when the CAISO in fact does no such thing, but at the same time faults the CAISO for failing to take actions that unquestionably would interfere with the CPUC's established role in capacity procurement.

As a final note, although Calpine's protest rests on the false premise that the CAISO tariff already allows for market revenues from CPM resources to be clawed back, to the extent Calpine is suggesting the tariff should be changed to reflect such practice, that would constitute a material modification to the CAISO proposal and thus is beyond the scope of changes that can be mandated in an FPA Section 205 proceeding by *NRG.* Retention of market revenues has been a hallmark of CPM and its predecessors since inception of the backstop procurement mechanism. Also, as the CAISO indicated in its February 25 Filing, clawing back revenues would be problematic, add undue complexity, and require system changes because a significant number of CPM designations are for partial units. Market revenue clawback may work effectively and efficiently for whole-unit RMR designations, but it is an implementation and administrative challenge for partial unit CPM designations. That is why the CAISO has declined to pursue any revenue clawback in connection with CPM and its predecessors, and strongly opposes it now. Finally, to the extent Calpine is making its arguments to require market revenue clawback as a backdoor attempt to force the CAISO to only make whole-unit designations under CPM, that is far beyond the scope of this proceeding and has been rejected by the Commission because partial unit procurement is consistent with the RA program.[106]

E. The Commission Should Reject Impermissible Arguments and Proposals That Go beyond the Scope of This FPA Section 205 Proceeding

The CAISO filed this tariff amendment pursuant to FPA Section 205 to implement three distinct tariff revisions: (1) a revised formula for pricing offers above the CPM soft offer cap in tariff section 43A.4.1.1.1; (2) clarifying that certain provisions of tariff section 40.9 apply to CPM resources; and (3) clarifying the timing of CPM reports that the CAISO will issue in connection with certain types of CPM designations. These reflect all of the tariff revisions the CAISO is proposing resulting from two stakeholder initiatives the CAISO conducted to consider changes to the CPM. Nevertheless, several parties in this proceeding make arguments and raise proposals on issues and tariff sections the CAISO does not propose to change and that go well-beyond the scope of the FPA Section 205 proceeding on this tariff amendment. The Commission should reject those arguments and proposals.

First, the CPUC, DMM, and PG&E argue that the level of the existing CPM soft offer cap in different tariff section 43A.4.1.1 is too high because the level of the costs included in the fixed O&M cost component as reflected in the California Energy Commission (CEC) are too high. Second, SCE requests that the Commission require the CAISO to implement a three pivotal supplier test for the annual designation competitive solicitation process. Third, the CPUC and SCE desire the CAISO to provide resource adequacy credits to load serving entities for the effective flexible capacity of

[106] 2011 CPM Order at PP 195-96; ICPM Order at P 94.

CPM resources even if such resources are designated to meet system or local capacity needs. Fourth, Powerex argues (1) the term of CPM designations should be of a minimum of six months, (2) the CAISO should adopt deficiency charges for load serving entities that fail to meet their resource adequacy requirements, (3) CPM pricing should go up to the cost of new entry (CONE), and (4) CPM procurement should be forward and possibly multi-year. These stakeholders' proposals would require new tariff sections or changes to tariff sections that the CAISO does not propose to change in this filing, and are beyond the scope of the tariff changes the CAISO proposes herein.

The CPUC asks the Commission to require the CAISO to undertake a more thorough review of the soft offer cap and flexible capacity crediting issues within the next two years.[107] Alternatively, the CPUC states it will work with stakeholders, CAISO management, and the CAISO Board to raise this issue in the CAISO's multi-year stakeholder initiative roadmap process.[108] Similarly, DMM recommends that the CAISO continue to review the soft offer cap,[109] and PG&E expresses that it is amenable to working with the CAISO to further evaluate the soft offer cap.[110] In the interim, PG&E asks FERC to require the CAISO to publish metrics and data regarding the competitiveness of each competitive solicitation.[111]

The aforementioned arguments and proposals raised by the CPUC, DMM, SCE, and Powerex are beyond the scope of the tariff revisions proposed by the CAISO and should be rejected by the Commission. They all pertain to existing tariff sections the

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107 CPUC Comments at 12.
108 *Id.*
109 DMM Comments at 18.
110 PG&E Comments at 12.
111 *Id.* at 13-14.

CAISO proposes to retain and has not revised in this tariff amendment filing. Interveners are able to pursue changes to these tariff provisions under Section 206 of the Federal Power Act, not in connection with a CAISO Section 205 filing to change other tariff provisions. Further, the CAISO is not proposing to change the level of the soft offer cap, the reference resource used to determine the soft offer cap, the components of fixed costs considered in setting the CPM soft offer cap (*i.e.*, fixed O&M costs, *ad valorem* taxes, and insurance), or the 20 percent adder.

Although not captioned as complaints, the comments of the CPUC, DMM, PG&E, Powerex, and SCE argue that certain aspects of the CAISO tariff unchanged by the instant tariff amendment filing should be changed because they are unjust and unreasonable. These arguments are effectively complaints requesting the Commission to modify the CAISO tariff under Section 206. The Commission should accordingly reject these portions of the commenters' filings.

Filings that attempt to comingle complaints with other types of filings fail to satisfy the essential requirements for a complaint under FPA section 206. "The Commission has long held that a complaint should not be submitted as part of a motion to intervene or protest in an ongoing proceeding – such a filing does not allow interested parties sufficient notice of the complaint because it is not formally docketed and noticed."[112]

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[112] 2019 RMR Order at P 102; *see also Midcontinent Indep. Sys. Operator, Inc.*, 155 FERC ¶ 61,040 at P 18 (2016) (citing Commission precedent). As to the docketing and notice requirements for a complaint, the Commission explained in one of the cited orders that "[c]omplaints filed with the Commission are given a separate docket number and a notice of filing is issued by the Commission and published in the Federal Register. This procedure provides all interested parties notice that a complaint has been filed, and provides them an opportunity to respond. The notice contains a comment date by which all interested persons must file comments, protests, or interventions. Furthermore, the Secretary must serve a copy of the complaint on any person against whom the complaint is directed." *La. Power & Light Co.*, 50 FERC ¶ 61,040 at 61,062 (1990) (citing 18 C.F.R. § 385.2001(b)(1), which sets forth the same requirements under the same C.F.R. section today).

The Commission consistently rejects complaints that are combined with protests,[113] and should do the same here.

The Commission should reject all arguments made by parties that are beyond the scope of this Tariff Amendment. The Commission does not permit parties to raise issues that go beyond the specific tariff revisions under review.[114] Further, consistent with *NRG* the Commission must reject the aforementioned material changes to the CAISO''s proposal recommended by SCE, the CPUC, DMM, PG&E, and Powerex.

1. Commenters Do Not Justify Reducing the Soft Offer Cap

Even if it were proper to address such issues in this proceeding, interveners fail to carry their burden to demonstrate that the soft offer cap previously approved by the Commission has become unjust and unreasonable either as a result of something the CAISO is changing in the 205 filing or as a result of changed circumstances.[115] In particular, commenters fail to demonstrate or provide compelling evidence that the

113 *See, e.g.*, *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,248 at P 5 (2004) ("We will dismiss that portion of Movant's September 3 filing that alternatively requests consideration of the filing as a conditional complaint. The Commission has consistently rejected efforts to combine complaints with other types of filings."); *see also TransCanada Power Mktg., Ltd. v. ISO New Eng. Inc.*, 122 FERC ¶ 61,049 at P 22 (2008); *Ind. Mich. Power Co.*, 51 FERC ¶ 61,191 at 61,524 (1990).

114 *See, e.g.*, *Midwest Indep. Transmission Sys. Operator, Inc.*, 116 FERC ¶ 61,306 at P 28 (2006) ("To the extent that [the parties'] concern about problems with management of the queue is a request to address matters other than the proposed tariff revisions, they raise issues beyond the scope of this proceeding."); *Cal. Indep. Sys. Operator Corp.*, 162 FERC ¶ 61,278 at P 32 (2018) ("We thereby decline Public Citizen's request to initiate a section 206 proceeding, and find Public Citizen's comments expressing its concerns with the existing rate to be outside the scope of this proceeding addressing CAISO's section 205 filing."); *Cal. Indep. Sys. Operator Corp.*, 143 FERC ¶ 61,276 at P 11 (2013) ("We will not address State Water Project's concerns regarding the cost allocation methodology for ancillary services produced in real-time, as this issue is not before us and thus is outside the scope of this proceeding.").

115 "Under section 206(b) of the FPA, the burden of proof . . . rests with the Complainants. It therefore is the Complainants' responsibility to demonstrate, on the basis of substantial evidence, both that the rate in effect is unjust and unreasonable and that their proposed alternative rate is just and reasonable." *Ameren Servs. Co.*, 124 FERC ¶ 61,173 at P 9 (2008).

existing soft-offer cap is unjust and unreasonable or what a just and reasonable soft offer cap for non resource adequacy capacity of generation in California would be.

a. Reducing the CPM Soft Offer Contravenes Commission Guidance and Could Encourage "Leaning" on CPM

The Commission has stressed that the CPM price must be set at a level that does not create incentives for LSEs to rely on CPM instead of bilateral RA procurement. For example, in the 2015 CPM the Commission stated "because the soft offer cap represents the high end the range of current resource adequacy prices, it should not create incentives for load serving entities to forego bilateral resource adequacy contracts and, instead, rely on CPM backstop procurement."[116] Similarly, in approving the predecessor Interim Capacity Procurement Mechanism the Commission stated that pricing ICPM capacity at the higher end of bilateral contracts will "provide an appropriate incentive to actively pursue bilateral contracts, and, since the price resides within the range of existing contracts it will not inappropriately increase the existing rate for capacity services."[117] The existing CPM soft offer cap is $6.31/kW month or $75.68/kW-year.[118] The only public data regarding RA prices available to the CAISO shows, for 2018, the maximum RA price on the system to be $10.09/kW-month, the maximum LA Basin price to be $6.81/kW-month, the maximum Big Creek/Ventura price to be $6.76/kW-month, and the maximum Bay Area price to be $8.00/kW-month.[119] Thus, the

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116 2015 CPM Order, 153 FERC ¶ 61,001 at P 29.

117 *Cal. Indep. Sys. Operator Corp*., 125 FERC ¶ 61,053 at P 43 (2008).

118 CAISO tariff section 43A.4.1.1.1

119 CPUC 2018 Resource Adequacy Report at 31. Available at https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy/Energy_Programs/Electric_Power_Procurement_and_Generation/Procurement_and_RA/RA/2018%20RA%20Report%20rev.pdf

existing CPM soft offer cap is both within the price ranges of existing bilateral RA contracts and at the higher end of RA contracts to discourage LSEs leaning on CPM as required by prior Commission orders. It is above the 85th percentile price.[120] Also, the capacity eligible for CPM designations -- capacity without an RA capacity contract – is more likely to be higher cost than capacity with RA contracts.[121]

DMM suggests that the CPM soft offer cap should be reduced by more than $35/kW-year to $40/kW-year (which reflects a 20 percent adder).[122] PG&E claims that the CPM soft offer cap should fall somewhere between $2.30/kW month and $3.10/kW-month -- a reduction of approximately $38/kW-month to $48/kW-month --[123] which would place the CPM soft offer cap at or below the average prices for local area capacity and in the range of average system RA prices.[124] Both pricing proposals would place the CPM soft offer cap well below the 85th percentile prices for local and system RA capacity.[125] This, in turn, could incentivize LSEs to rely on CPM rather than bilateral RA procurement, particularly if tightening supply conditions cause RA prices to rise. This would contravene the Commission's express directives regarding the level of the CPM soft offer cap. As discussed *infra*, under the existing CPM soft offer cap, there has been no LSE reliance on CPM in connection with the annual and monthly RA showings, and the CAISO examined and confirmed this in the underlying stakeholder process.[126] This shows the existing CPM soft offer cap is working effectively to discourage "leaning"

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120 *Id.*

121 *See Cal. Indep. Sys. Operator Corp.*, 163 FERC ¶ 61,023 at P 44 (2018) (a resource at risk of retirement likely has costs greater than what the resource would earn in a competitive market).

122 DMM Comments at 12.

123 PG&E Comments at 11.

124 *Id.*

125 CPUC 2018 Resource Adequacy Report at 31.

126 Transmittal Letter at 11, n.36.

on CPM. This warrants adherence to the axiom "ïf it ain't broke, don't fix it." Accordingly, the Commission should reject DMM's and PG&E's attempts to dramatically lower the CPM soft offer cap at this time.

b. DMM's Comments Regarding the CEC Cost of Generation Studies Do Not Warrant Changing the Soft Offer Cap Level

DMM claims that the CEC's cost of service study is out-of-line with other studies of the costs of combined cycle units because it reflects higher fixed O&M costs.[127] DMM also alleges that the CEC may wrongly have included variable O&M costs in the fixed O&M cost category.[128] DMM recommends that the CPM soft offer cap should be set using fixed O&M costs more in line with the various numbers reflected in these other studies.

As an initial matter, the CAISO tariff expressly provides that the CAISO will use the results of the CEC's Cost of Generation Study and Model, or a study the CAISO commissions if the CEC does not conduct such cost study.[129] Further, the CAISO has used CEC generation cost studies to establish CPM (and its predecessor's) prices from the inception of such backstop procurement authority. There is no basis under the tariff to utilize some other non-California specific study to establish the level of the CPM soft offer cap. That would require separate action under Section 206 of the FPA, not in a CAISO Section 205 filing where the CAISO has not proposed to change such provision.

DMM claims the fixed O&M costs that the CEC cost study calculated for combined cycle units in California is too high because cost studies elsewhere estimate

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127 DMM Comments at 12-13.
128 *Id.* at 10-11.
129 CAISO tariff section 43A.4.1.1.2.

lower fixed O&M costs for combined cycle units.[130] DMM provides a mere listing of these studies and their fixed O&M numbers, but no underlying analysis, assumptions, or descriptions of these studies.[131] DMM's bare bones list fails to show that the CEC's fixed O&M cost number for combined cycle units in California is erroneous.

For starters, none of the studies listed by DMM are California-specific studies; eight of the cost estimates are from integrated resource planning studies for potential new units in Oregon, Colorado, and Arizona. Others are cost estimates for combined cycle technologies generally, not estimates for units and their accompanying substations and equipment in California. Thus, they fail to reflect the costs being incurred by combined cycle units in California. The CEC was well aware of "national" studies when it conducted it studies and found they were deeply flawed for purposes of calculating the costs for California-specific units. In that regard, the CEC stated:

> In producing these estimates, the Energy Commission recognized that several studies already exist of the current and/or projected costs of new generation. However, these studies suffer from a number of drawbacks from a California policy maker's perspective. First, the majority of the most thorough and well-researched studies present national cost averages rather than California-specific values. California typically experiences higher costs for new generation than the national average. This means that national studies are likely to understate the costs to build resources in California….In addition, the cost estimates in the various studies are not always directly comparable, as some cost components and other assumptions may be included in one study but excluded in others.
>
> This report seeks to address these issues without replicating high quality studies. This study uses a combination of national and California-specific estimates of the current and future costs of new utility-scale generation by aggregating and comparing these studies and translating them into California-specific values. This approach has the added benefit of drawing on a wide variety of resources that can illuminate alternative views of the future trends associated with different technology costs. **This report also uses new data drawn directly from surveys of natural**

130 DMM Comments at 11-13.
131 *Id*. at 12.

> **gas-fired power plant owners in California to add relevant information.** Finally this report brings a harmonizing perspective to the multiple sources and imposes a consistent set of assumptions that allow for direct comparisons that would not otherwise be possible between disparate studies.[132]

Thus, unlike other cost studies, the CEC cost studies rely on actual data obtained from actual units in California and better reflect the costs of units in California.[133]

The studies DMM lists are inadequate for other reasons. They merely look at the costs of generation technologies so costs can be compared among different technology types. However, they do not appear to consider the specific additional costs of operating and maintaining the actual substations and tie-lines that must accompany these technologies, operating and maintaining special equipment necessary to comply with the strict environmental laws in California, or the costs of ensuring and monitoring compliance with California's environmental laws.

DMM suggests that the CEC cost studies may be treating variable O&M costs as fixed O&M costs thus overstating the fixed O&M cost levels.[134] However, DMM offers no specific evidence showing this is the case. To the contrary, the CEC cost study separately estimated fixed O&M costs and variable O&M costs.[135] The CEC cost study

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[132] *Estimated Cost of New Renewable and Fossil Generation in California,* California Energy Commission Draft Staff Report, p. 15, May 2014 (emphasis added) (2014 CEC Cost of Generation Study).

[133] The CAISO notes national cost estimates (*e.g*., SNL average) use general FERC Form 1 data to formulate their cost estimates. Among other reasons, this is flawed because merchant generators do not submit FERC Form 1, so the estimates fail to account for the costs actually being incurred by merchant generators at actual power plants. Moreover, several of the "studies" listed by DMM merely take their cost numbers from other studies and really do not constitute separate stand-alone, studies of the costs of combined cycle units that survey data from actual plants in operation (*e.g*., NREL, E3). Also, the information included in many of these studies is so sparse it is impossible to determine whether all of the appropriate cost (*e.g*., A&G) were included in fixed O&M number (Lazard, PGE). In any event, none of these cost estimate studies are California-specific.

[135] 2018 CEC Cost Study at B-25.

defines fixed O&M costs as “Staffing and other costs independent of operating hours” and variable O&M costs as “operation and maintenance costs that are a function of operating hours.”[136] The 2018 CEC Cost Study states that fixed O&M costs for combined cycle units include staffing plus non-staffing costs such as equipment, regulatory filings, and other direct costs.[137] Variable O&M costs include different types of maintenance such as annual maintenance and maintenance for parts that are designed to wear out during normal operations, and water supply costs.[138] These reflect a standard approach to distinguishing fixed O&M costs and variable O&M costs.[139] There is no evidence the CEC is conflating fixed O&M and variable O&M costs. Conclusory allegations to the contrary do not suffice.

DMM also claims that the CEC's cost study is not designed to provide an estimate of going forward costs or to be used for the type of ratemaking involved in setting the CPM soft offer cap.[140] This conclusory claim is baseless. The CEC has expressly recognized that the CAISO uses its generation cost study.[141] Also, as discussed above, the CAISO's use of the CEC study for purposes of setting the CPM soft offer cap is expressly set forth in the CAISO tariff, and over the years the CAISO has had significant engagement and discussion with CEC staff regarding the cost study and the CAISO's use of such study. The CEC study “carves out” and calculates cost

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136 2018 CEC Cost Study at A-2.
137 *Id* at 35.
138 *Id.*
139 *See, e.g., PJM Interconnection LLC,* 167 FERC ¶ 61,030 (2018) (variable costs are those directly attributable to the production of energy and can be a function of starts and run hours)
140 DMM Comments at 10.
141 *Estimated Cost of New Generation in California: 2018 Update,* Cal. Energy Comm'n Staff Report, p1, May 2019.

estimates for the three individual components of going forward costs used by the CAISO—fixed O&M, insurance, and *ad valorem* taxes.[142]

c. Other Arguments Raised by DMM and PG&E Do Not Support the Significant Decrease in the CPM Soft Offer Cap They Propose

DMM and PG&E raise other arguments why the CPM soft offer cap should be lowered. DMM states that there are pivotal suppliers in several local capacity areas and sub-local areas.[143] DMM also points to the two annual local capacity CPM in 2017 for 2018 that were at or slightly below the CPM soft offer cap.[144] Third, DMM points to the monthly competitive solicitation Significant Event CPM designations in September and October 2018 where it claims all suppliers were pivotal to meet the CAISO''s procurement target.[145] PG&E argues that in a competitive market one would expect backstop procurement to be at a price below the CPM soft offer cap, but, based on a list of all CPM designations attached to its comments, PG&E claims that 85 percent of CPM capacity has been procured at or near the soft offer cap.[146]

DMM's additional arguments do not support reducing the CPM soft offer cap. CPM is a backstop procurement mechanism. Where there is sufficient capacity to procure as RA, LSEs should be procuring it as RA; it should not fall to backstop procurement. To that end, in the history of CPM and its predecessors, the CAISO has only had to backstop the annual RA procurement process once—designating two units as CPM for 2018 due to RA procurement deficiencies under unique circumstances (as

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142 2018 CEC Cost Study at A-2, Appendix D.
143 DMM Comments at 15.
144 *Id.* at 15-16.
145 *Id.* at 16-17.
146 PG&E Comments at 9-10.

discussed in greater detail *infra*). As the Commission has recognized, to the extent procurement falls to the CPM, prices should "appropriately reflect both changing market conditions and fluctuations in capacity prices."[147] Similarly, in 2011 the Commission recognized the following regarding CPM pricing:

> Resource adequacy compensation has the potential to fluctuate over time based on changes in system conditions and the amount of capacity available to meet reliability needs. The proposed fixed price CPM, however, does not take into account these potential fluctuations over time. The long-term nature of the proposed CPM warrants consideration of prospective changes in the conditions it is designed to address.[148]

Lowering the CPM soft offer cap ignores the Commission's guidance and would inappropriately suppress prices even when market conditions warrant higher prices. Evidence suggests that capacity supplies are tightening, and the CPUC approved additional new procurement of 3,300 MW.[149] Such conditions do not support the drastic reduction in the CPM soft offer cap espoused by PG&E and DMM. Proposals to lower the CPM soft offer cap also fail to take into account that some wind resources have received CPM designations,[150] and the CEC's 2018 Cost study shows that a wind resource has higher kW-year going forward costs than a combined cycle resource, which serves as the current reference resource for CPM.[151]

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[147] *2015 CPM Order,* 153 FERC ¶ 61,001 at P 28.

[148] *2011 CPM Order*, 134 FERC ¶ 61,211 at P 57.

[149] *See* CPUC*, Decision Requiring Electric System Reliability* Procurement for 2021-2023, *Order Instituting Rulemaking to Develop an Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements, Rulemaking 16-02-007,* Nov. 13, 2019.; *Department of Market Monitoring of the California Independent System Operator Corporation on Assigned Commissioner and Administrative Law Judge's Ruling Initiating Procurement Track and Seeking Comments*, CPUC Rulemaking 16-02-067, July 22, 2019.

[150] *See* PG&E Comments, Appendix 1.

[151] 2018 CEC Cost Study at D-2.

As discussed above, the CPM soft offer cap is reasonably based on the going forward fixed costs of a mid-cost combined cycle unit plus a 20 percent adder and it is at the higher end of bilateral RA prices. Thus, consistent with general price cap, price formation, and Commission-espoused CPM principles, [152] it provides a meaningful opportunity for resources to recover their costs and allows room for prices to reasonably fluctuate with changing market conditions and capacity prices. Drastically lowering the soft offer cap will greatly increase the risk of CPM being used more than just as a backstop, *i.e*., it will encourage leaning because the CPM price will no longer be at the higher end of RA prices. Also, it could increase the likelihood the cap will suppress prices below CPM resources' reasonable costs thus requiring above-cap, resource-specific cost justification filings, which may discourage resources from offering their capacity. Such pricing also would fail to reflect conditions of scarcity or shortage. The Commission has recognized that prices should rise in conditions of scarcity or shortage, not drop dramatically as DMM and PG&E propose. This is particularly problematic for a backstop procurement mechanism that is voluntary, and produces primarily one and two month designations. It could discourage resources with costs above the cap to offer supply given the transaction costs and effort required to obtain a price above the cap.

DMM's reliance on the September and October monthly Significant Event designations is misplaced for similar reasons. The only reason it had to engage in

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[m] The Commission has recognized that price caps should sufficiently compensate resources for their services, not discourage higher cost resources from offering into the market, and not artificially suppress prices. *Offer Caps in Markets Operated by Regional Transmission Organizations and Independent system Operators,* Order No, 831 (Nov. 17, 2016). The Commission's price formation objectives include recognizing the value of services in periods of scarcity and shortage. *See Settlement Intervals and Shortage Pricing in Markets Operated by Regional Transmission Organizations and Independent System Operators,* Order No. 825 (June 16, 2016).

backstop procurement in the first place is because RA requirements of LSEs for September and October 2018 were not adjusted upward to reflect the CEC's revised forecast for those months, as published on July 10, 2018.[153] Had RA requirements been adjusted upward, the CAISO would not have needed to engage in backstop procurement. Further, DMM fails to mention that the prices for the Significant Event designations ranged from $2.00/kW-month to $6.00/kW-month—all below the CPM soft offer cap.[154] The highest price in the September competitive solicitation was $5.50/kW-month for 161 MW of the 624 MW that was procured.[155] The highest price for October was $6.00/kW-month for only seven out of 2,579 MW that was procured.[156] The next highest price in the competitive solicitations was $5.50/kW-month.[157]

PG&E's analysis contains several flaws. First, PG&E relies on 18 CPM designations from 2012 through September 2015 to support its claim that the competitive solicitation process does not yield competitive outcomes. These designations do not support PG&E's claim because they were not the result of a competitive solicitation. The Commission did not even approve the CPM competitive solicitation process until October 1, 2015,[158] and the CAISO did not implement it until well after that date. Prior to implementing the CPM competitive solicitation process, the

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153 See *Intent to Designate CPM Capacity Pursuant to CPM Significant* Event, p.2, August 2, 2018 , available at - http://www.caiso.com/Documents/Presentation-CapacityProcurementMechanismSignificantEvent.pdf

154 *See* PG&E Comments, Appendix 1 at pp. 4-7 (September 1. 2018 and October 1, 2018 designations).

155 *Id.* at Appendix 1, p. 4 (September 1 designations).

156 October 1, 2018 CPM Designation Report, available at - http://www.caiso.com/Documents/October_1_2018_Significant_Event_CPM_Designation_Report.pdf

157 *See* PG&E Comments, Appendix 1 at pp. 4-7 (September 1. 2018 and October 1, 2018 designations).

158 *Cal. Indep. Sys. Operator Corp.,* 153 FERC ¶ 61,001 (2015).

CAISO paid all CPM resources a fixed administrative price specified in the tariff and applied a monthly availability factor to it.[159] PG&E's claim that 85 percent of all CPM capacity procured was at or near the soft offer cap price relies on 18 designations above that price that were not procured via a competitive solicitation process. If anything, PG&E's listing of CPM designations demonstrates that the current competitive solicitation process has produced competition and lower prices for CAISO ratepayers compared to the prior fixed price regime.

Second, PG&E's list misstates the cost and volumes of the annual CPM designations for Encina and Moss Landing for 2018. PG&E's list shows 818 MW of designated annual capacity for Encina. However, the CAISO only designated 545 MW of capacity from Encina. In addition to overstating the amount of capacity procured from Encina, PG&E incorrectly states that 272 MW of Encina were at a price of 8.31/kW-month and 273 MW at a price of $7.31/kW-month. The Encina units were all designated at a price of $6.31/kW-month. PG&E also shows all 510 MW of Moss Landing being procured at a price of $6.31/kW-month. This is incorrect. 490 MW of the Moss Landing annual designation were procured at a price of $6.19/kW-month and the other 20 MW were procured at a price of $6.31/kW-month. SCE's and DMM's comments correctly indicate the volumes and prices of the 2018 annual CPM designations.[160] Within the time permitted for answers under the Commission's rules

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[159] *See* Archived Tariff Section 43.7.1. It shows that on February 6, 2012, the fixed CPM price of $67.50/kW-year went into effect for a two year period, after which it increased to $70.88/kW-month until February 12, 2016. A monthly availability factor also applied to all CPM designations. *See* Archived Tariff Section, Appendix F, Schedule 6. The cost estimates in CPM designation reports from 2012-2014 reflected an availability factor greater than 1.0, thus explaining why the kW-month price exceeded the applicable fixed CPM capacity price. Later CPM designation reports do not apply any availability factor and simply reflect the monthly bid price and quantity.

[160] SCE Comments at 5; DMM Comments at 15-16.

and given current circumstances, the CAISO is unable to examine each and every CPM designation listed by PG&E to determine if there are additional errors. The errors in PG&E's analysis the CAISO has identified are more than sufficient to call into question PG&E's conclusions and analysis as a whole.

With the mere corrections identified above, a much lower percentage of capacity has been procured at prices below the soft offer cap than PG&E claims. PG&E also fails to acknowledge that the vast majority of CPM designations have been for only one or two months and have been for partial units as low as 1.25 MW. Indeed, there have only been two annual designations in the history of CPM, and the Commission found these were unique and transitional (*see infra*). PG&E's flawed analysis cannot serve as the basis to lower the existing soft offer cap, particularly given that the CAISO has not proposed to change that tariff provision, and the request is beyond the scope of this proceeding.

d. CAISO Further Evaluation of the Soft Offer Cap Should Not Occur Before Completion of Ongoing RA Initiatives at the CAISO and CPUC

The CAISO appreciates the CPUC's comments about commencing another CPM initiative in the next two years to examine the soft offer cap and providing flexible capacity credits for CPM designations. The CAISO notes that under its tariff, it already is required to commence the next CPM initiative within 46 months after May 2019 (when the CEC posted its draft cost of service study), *i.e.*, by March 2023.[161] The CAISO notes that it currently is involved in two major efforts regarding resource adequacy, which may result in significant changes to the resource adequacy program in California

[161] CAISO tariff section 43A.4.1.1.2.

-- the CAISO's own RA Enhancements Initiative and the CPUC's ongoing proceeding in Rulemaking 17-09-020 to examine possible reforms to the CPUC's resource adequacy program. In response to the CPUC's, DMM's, and PG&E's requests, the CAISO would be willing to commence a CPM initiative following the successful completion of these efforts at the CPUC and CAISO. This would have the added benefit of allowing CPM to be evaluated comprehensively taking into account all of the changes to the RA paradigm that will ultimately be implemented by the CAISO and the CPUC. That might allow a CPM initiative to commence sometime in 2022. It makes no sense to commence a new CPM initiative before understanding the fundamental rule changes to the RA paradigm, including the role of a central procurement entity.

Regarding PG&E's request that the CAISO publish information regarding the competitiveness of each competitive solicitations, the CAISO notes that it already provides a significant amount of relevant information. Under tariff section 43A.6.4, the CAISO publishes all final offers into a competitive solicitation on a rolling quarterly basis with a five quarter delay. Published information includes: (1) technology or fuel type of the resource; (2) kW-month of capacity offered; (3) for annual and monthly competitive solicitations the type of capacity offered (flexible, RA or both); (4) the competitive solicitation into which the capacity was offered; and (5) the flexible capacity category, if applicable. If fewer than three resources of a particular technology or fuel type are offered into a competitive solicitation, then the CAISO shall consolidate reporting for multiple technology or fuel type. In addition, under tariff section 43A.6.2, after each CPM designation, the CAISO posts a designation that includes the following information: (1) the resource name and amount of CPM capacity designation; (2) the reason why that amount of capacity was designated; (3) the date and duration of the designation; (4) the accepted offer price of the designation or a notation that the resource owner is seeking a resource-specific price. Not only is PG&E's request beyond the scope of the CAISO's filing, PG&E fails to show why the information the CAISO already posts is inadequate and more is necessary.

2. The Commission Must Reject SCE's Proposal to Add a Three-Pivotal Supplier Test to the CPM

SCE argues that to "address the significant change in CPM usage," the Commission should reject the ISO's proposal because of a lack of market power mitigation measures for the annual CPM designation process in the CAISO's proposal.[162] SCE suggests that the CPM tariff amendment might leave the CPM competitive solicitation process at risk of market power abuse and requests that the Commission reject the CPM tariff amendment because it lacks a market power mitigation mechanism.[163] SCE states that in addition to the CPM soft offer cap,[164] the CAISO should apply a three-pivotal supplier test in the annual CPM designation process to mitigate prices. The sole evidence that SCE provides to support its claim that CPM usage has increased significantly is reference to the two 12-month CPM designations the CAISO made for 2018, which as explained above were transitory and anomalous.[165]

As an initial matter, the three tariff revisions the CAISO proposes are unrelated to market power mitigation. Thus, the lack of any explicit market power mitigation measures in the existing CPM cannot be the basis for rejecting such tariff provisions.

162 SCE Comments at 6.
163 *Id*. at 2-6.
164 The CAISO notes that the CPM soft offer cap is based on the going forward fixed costs (*i.e.*, fixed OM, insurance, and *ad valorem* taxes) of a mid cost combined cycle unit.

Further, SCE's comments do not even address the CAISO's specific tariff revisions, and SCE offers no evidence or arguments to suggest they are unjust and unreasonable. Thus, SCE's filing contains nothing that would support rejection of the proposed tariff revisions.

SCE's recommendation is far beyond the scope of this proceeding. The existing CPM does not have any separate market power mitigation measures, and neither did any CPM predecessor. SCE seeks to add a new feature to CPM that is separate and unrelated to the three tariff changes the CAISO proposes herein. Accordingly, the Commission must reject SCE's proposal as beyond scope and inconsistent with the limitations on changes in a FPA Section 205 proceeding established *NRG.*

The Commission should also recognize that the market power issues SCE raises are limited to annual CPM designations. SCE's claim that annual CPM designations are increasing is misplaced. Although there were two annual designations for 2018, there were no annual CPM designations for 2019 or 2020, and in the entire history of CPM and its predecessors, 2018 is the only year for which there are annual CPM designations. As the CAISO and the Commission have noted, these designations were unique and transitional and did not reflect any systematic increase in CPM usage. Indeed, in the underlying stakeholder process, the CAISO examined this issue, and there was consensus that the 2018 designations did not reflect any leaning on CPM.[166]

On December 22, 2017 the CAISO designated units at Encina Power Station and Moss Landing as CPM based on Scheduling Coordinators' failure to demonstrate sufficient local capacity in individual annual resource adequacy plans (CAISO tariff

[166] Transmittal Letter at 11, n. 36.

section 43A.2.1.1) and failure collectively to procure sufficient capacity to ensure compliance with the Local Capacity Technical Study criteria (CAISO tariff section 43A.2.2).[167]

The CAISO identified the Encina generation as necessary until the Carlsbad Energy Center came online in mid-2018. The CAISO had identified this need well in advance, and necessitated the CAISO pursuing an extension of Encina's once-through-cooling compliance date of December 31, 2017 from the State Water Resources Control Board (SWRCB). However, San Diego Gas & Electric Company (SDG&E) was precluded from procuring Encina because of limitations set by the CPUC in Decision 12-04-046.[168] That decision did "not allow the utility to continue to purchase or receive power generated using noncompliant OTC [once-through-cooling facilities] beyond that date [OTC compliance date] even if SWRCB [State Water Resources Control Board] extends the compliance date."[169] Based on this language, SDG&E determined that it was precluded from procuring capacity from Encina for the 2018 resource adequacy compliance year, which was beyond the resource's original OTC compliance date, even though the SWRCB had extended the OTC compliance date. This led to there being both a resource adequacy showing deficiency in the local area for certain LSEs and a collective local deficiency. The CAISO designated two Encina units as CPM until

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[167] *See* CAISO Year Ahead Local CPM Designation Report (Dec. 22, 2017), available at http://www.caiso.com/Documents/December222017YearAheadLocalCPMDesignationReport.pdf. Designations under tariff section 43A.2.2 are Collective Deficiency CPM designations. LSEs procured sufficient resources to meet there local RA capacity procurement obligations, but the specific mix of local area capacity resources they procured did not effectively meet all of the requirements of each and every local sub-area. The CAISO allocates the costs associated with Collective Deficiency CPM designations to all LSEs in the TAC area because the procurement was not caused by LSEs failing to meet their RA procurement obligations.

[168] CPUC Decision, D.12-04-06, *Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans,* Rulemaking 10-05-006 (Apr. 24, 2012).

[169] *Id.* at 27.

the then under-construction Carlsbad Energy Center could be shown as RA capacity. Thus, the circumstances that led to the Encina CPM designation were unique and transitional and not systemic.

The CAISO also designated the Moss Landing capacity to address a specific sub-area need in the Greater Bay Area local capacity area. The CAISO selected the Moss Landing capacity for a CPM designation from among other eligible capacity in accordance with the CPM competitive solicitation process set forth in CAISO tariff section 43A.4. Almost all of the designated Moss Landing capacity filled a collective deficiency. Most LSEs in the PG&E TAC Area procured sufficient capacity to meet their local RA obligations, but the CAISO needed an additional unit in the specific sub-area to maintain reliability. As indicated above, most of the Moss Landing capacity was procured at a bid below the CPM soft offer cap. LSEs satisfied their annual local capacity resource adequacy showing obligation for every month of the year (some even providing local resource adequacy capacity in excess of their obligation), with some small LSEs falling short by only a handful of MWs in certain months.

In the La Paloma complaint proceeding, the Commission rejected claims that the Encina and Moss Landing procurement reflected a failure of the RA program and evidence of expected increased usage of CPM.[170] The Commission agreed with the CAISO that the designations were unique and transitional in nature and consistent with the purposes of the CAISO's backstop procurement. Thus, SCE's claim that the two designations reflect a significant, systemic change in CPM usage must fail. The rarity of

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[170] *CXA La Paloma LLC v. Cal. Indep. Sys. Operator Corp.,* 165 FERC ¶ 61,148 at P 75 (2018), *order on reh''g,* 169 FERC ¶ 61,045 at P 31 (2019).

annual CPM designations undermines SCE's claim that a three-pivotal supplier test is needed for annual CPM designations.

SCE's proposal for a three-pivotal supplier test also reflects a fundamental misunderstanding of the nature of the CPM. As the Commission recognized in the 2015 CPM Order, the CPM is solely a voluntary backstop to the primary bi-lateral resource adequacy procurement market; it is not a centralized capacity market engaging in forward procurement. In that regard, unlike the centralized capacity markets and other markets that have explicit market power mitigation measures like a three-pivotal supplier test, the CPM pays resources as-bid, not a market-clearing price. Centralized capacity market features cannot arbitrarily be imposed onto a completely different mechanism like CPM.

Reliance on annual CPMs should be rare and infrequent as it has been if California's bilateral capacity market continues to function properly. Indeed, the Commission approved the currently effective CPM in part for that very reason: "We find the pay-as-bid approach is appropriate because *[CPM] is a backstop procurement mechanism that is not utilized to clear load and supply through a market process*; rather it is a backstop to respond to unexpected reliability needs."[171] The Commission also stated that the CPM competitive solicitation process would reflect changing market conditions,[172] but imposing a three-pivotal supplier test would prevent CPM prices from fluctuating with market conditions. SCE's proposal potentially could encourage LSEs to

[171] 2015 CPM Order at P 29 (emphasis added). *See also id.* at P 15 (""CAISO states that the CPM is not intended to incentivize generation and will not function as a capacity-clearing market.").

[172] *Id.* at P 28 ("We find that compensating CPM capacity based on the results of a competitive solicitation process will result in compensation driven by competitive factors and, therefore, will appropriately reflect both changing market conditions and corresponding fluctuations in capacity prices.").

"lean" inappropriately on the CPM rather than procure capacity in the bilateral RA market. Although the soft offer cap is not an explicit market power mitigation measure, it provides a constraint on cost recovery for resources receiving CPM designations. It will continue to do so, as the CAISO has concluded, based on the most current CEC studies, that the current level of the soft offer cap remains a reasonable representation of the higher end of RA capacity costs on the system.

3. The Commission Should Reject SCE's Argument That the Tariff Amendment Constitutes a Piecemeal Proposal

SCE argues that the Commission should reject the CPM tariff amendment in part because it does not represent a comprehensive proposal, as recommended by the Commission in the 2019 RMR Order.[173] SCE contends that the CAISO has instead "bifurcated" the CPM issues.[174] This argument should be rejected.

In the 2019 RMR Order, the Commission found that protests related solely to CPM compensation or perceived deficiencies in the CPM process were beyond the scope of the proceeding at hand. After noting that the CAISO had initiated a separate stakeholder process to address issues related to CPM compensation, the Commission "encourage[d] stakeholders to participate in this process to address the [CPM] issues raised here and also encourage CAISO to include all CPM-related modifications in a single, comprehensive proposal rather than doing so in piecemeal fashion."[175] The Commission did not, however, direct the CAISO to submit any specific tariff changes as a result of this CPM stakeholder process.

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173 SCE at 2-3 (quoting 2019 RMR Order at P 98); *see also* DMM at 1 (suggesting further changes may be needed in the future as part of a "comprehensive package of changes").

174 SCE at 3.

175 2019 RMR Order at P 98.

The CAISO has done exactly what the Commission contemplated in the 2019 RMR Order. Rather than submit tariff changes involving CPM compensation and the soft offer cap in multiple filings, the CAISO refrained from submitting certain CPM tariff changes developed during the RMR-CPM Enhancements initiative and considered those tariff changes issues along with other issues in the CPM Soft Offer Cap initiative. Thus, the CAISO is including all CPM-related changes in a single filing. The CAISO has no other CPM changes pending and no other CPM initiatives ongoing or planned in the immediate future. SCE effectively suggests that the CAISO cannot make any changes to individual provisions of the CAISO tariff, including CPM, without examining and changing all provisions in that general section of the tariff. Such an approach contravenes FPA section 205. Section 205 rights are held solely by the filing public utility to determine which changes to propose. SCE would make it impossible for a public utility to make individual or incremental enhancements to its tariff, which is contrary to Section 205.

If the CPM Soft Offer Cap initiative had resulted in a conclusion that additional CPM tariff changes are warranted at this time, the CAISO would have folded them into a single tariff amendment that included all of the resulting CPM enhancements in the CPM tariff amendment.[176] However, following extensive consideration of CPM-related matters in the CPM Soft Offer Cap stakeholder process, including a number of stakeholder calls and opportunities for stakeholders to submit written comments, there

[176] *See id.* at 2-3 (describing the CAISO's determination that it should file CPM-related changes it had already identified "in a separate tariff amendment filing *along with* any CPM-related tariff amendments that might arise from the CPM Soft Offer Cap initiative") (emphasis added). Consistent with prior Commission guidance, the CAISO's goal was to avoid making piecemeal changes to the CPM. *Id.* at 10-11.

was wide disparity among stakeholders on the issues discussed. The CAISO ultimately determined that changes to the existing CPM soft offer cap level are not currently warranted and that no other CPM modifications are necessary at this time.[177] CPM is working well; there is no leaning, and CPM prices are within the range of RA prices.

SCE is incorrect in claiming that the CAISO has "bifurcated" the CPM issues. It is true that the CAISO has indicated that it may revisit certain issues discussed in the recently concluded CPM Soft Offer Cap initiative in future CPM initiatives in response to changing conditions, a changing resource fleet, and a changing RA program, but this indication does not in any way suggest that the CAISO is bifurcating its consideration of CPM compensation and related issues. Instead, the CAISO simply acknowledges its ongoing commitment to periodically revisit potential enhancements to its tariff where warranted by future system condition changes. The changes proposed in the CPM tariff amendment represent the comprehensive set of CPM revisions that are warranted today. As discussed above, the CAISO is willing to commence a new CPM initiative following completion of the CAISO's RA Enhancements Initiative and the CPUC's RA reform proceeding, when it would be appropriate to consider longer-term CPM changes to align with a revised RA paradigm. The CAISO also retains the flexibility to commence another CPM initiative if there is a change in circumstances, *e.g.*, a surge in CPM usage as a backstop to the RA program.

4. Powerex's Proposed Overhauling of the CPM Is Far Beyond the Scope of this Proceeding

Powerex proposes a complete overhaul of the CPM – forward procurement, longer-term designations, eliminating the monthly designations, and a completely

[177] *Id.* at 12.

different pricing scheme. Needless to say, these proposals are wholly unrelated to the specific tariff revisions proposed in the CAISO's Section 205 amendments and must be rejected a beyond the scope of this proceeding.

Powerex proposes wholesale changes to the CPM that would transform CPM into more of a forward procurement mechanism, not the mere backstop mechanism is was intended to be. Regarding Powerex's proposal for CONE-like pricing for CPM designations, Powerex ignores that CPM is merely a backstop procurement mechanism, and is not intended to incent new generation and is not the means by which load serving entities in the CAISO footprint procure capacity or address the need for new capacity. That process occurs through the CPUC's integrated resource planning and other procurement efforts. Accordingly, CONE pricing for CPM, which merely procures needed capacity from existing units is inappropriate. As the Commission has recognized in the CPM context, "we also are not persuaded that parties have provided sufficient evidence that pricing backstop capacity compensation on the basis of CONE will yield a just and reasonable capacity rate for non-resource adequacy resources."[178]

Powerex claims that the low level of the CPM cap causes load serving entities to "deliberately" fail to meet their RA requirements. Powerex provides no support whatsoever for its brazen claim, nor is there any. As discussed above, there is no evidence whatsoever that LSEs have been leaning on the CPM. Powerex ignores that the CAISO examined the leaning issue in the underlying stakeholder initiative, and the consensus was there was no leaning.[179]

[178] 2011 CPM Order, 134 FERC ¶61,211 at P 57.
[179] Transmittal Letter at 11. n. 36.

V. CONCLUSION

For the reasons set forth herein and in the transmittal letter, the Commission should accept the CAISO's proposed tariff revisions without modification.

Respectfully submitted,

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Dated: April 1, 2020

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each party listed on the official service list for this proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010 (2013)).

Dated at Folsom on this 1st day of April, 2020.

/s/ *Martha Sedgley*
Martha Sedgley