| ***NUM*** | ***Company*** | ***Related Tariff Section*** | ***Date of Comments*** | ***Comments*** |
| --- | --- | --- | --- | --- |
|  | *Six Cities* | *34.9* | *November 16, 2010* | In Draft Section 34.9, in the shaded language added to the second half of the section, the phrase “is likely to” should be changed to “may”. |
|  | *SCE* | *34.9* | *November 16, 2010* | **Section 34.9**: Request clarificationThe second paragraph contains: “If the Exceptional Dispatch is likely to trigger a CPM designation, …”.Will the CAISO please clarify/provide examples of Exceptional Dispatches that may not trigger a CPM designation? Are these potentially non-CPM’ed Exceptional Dispatches limited to resources that already have RA, RMR, CPM contracts or to resources which have previously stated a preference to receive supplemental revenues rather than a CPM contract? Or are there examples of a non-RA resource that has not selected the supplemental revenue option being Exceptionally Dispatched that could not result in a CPM designation?  |
|  | *CPUC* | *34.9* | *November 16, 2010* | With the revisions to section 34.9, the CAISO appears to be removing the obligation to utilize exceptional dispatch efficiently if the dispatch does not require CPM payments. Regardless of any CPM designation associated with Exceptional Dispatch, the CAISO should continue to utilize Exceptional Dispatch in a cost effective manner.The CPUC Staff again emphasizes that the CAISO’s proposal goes beyond the conventional understanding of the purpose and function of the backstop, by allowing up to a 12-month CPM designation contract for generation units that the CAISO believes are needed for reliability, but may shut down due to insufficient revenues. This conflicts with State and federal law directing that California’s long-term procurement and resource adequacy requirements are established by State laws and policies. The CPUC has established and operated a successful RA program that has resulted in drastic reductions in CAISO out-of-market procurement. The CPM should be used only for incremental or unanticipated reliability needs that are not fulfilled through the CPUC’s RA procurement process. |
|  | *CPUC* | *39.10* | *November 16, 2010* | The CAISO should not remove the language in section 39.10 that provides for mitigation measures.  |
|  | *Six Cities* | *43.2 (3)* | *November 16, 2010* | In Draft Section 43.2(3), “and” should be changed to “an”. |
|  | *CDWR SWP* | *43.2.6* | *November 16, 2010* | **43.2.6 Capacity At Risk Of Retirement Needed For Reliability, subsection (5)** indicates that the resource owner submits request for CPM procurement.Does the CAISO first need to inform this resource owner that its resource would be needed under the risk of retirement CPM prior to the submittal of request for CPM? Would this condition be better if modified to “ISO informs such owner and the resource owner submits the request for CPM”.**43.2.6 Capacity At Risk Of Retirement Needed For Reliability** states “*The CAISO shall post the report on the CAISO’s Website and allow an opportunity of no less than seven (7) days for stakeholders to review and submit comments on the report*”. What happens if the stakeholders do not agree with the CAISO procurement proposal? What steps are contemplated to reconcile stakeholder views with a CAISO decision whether to pursue capacity procurement? |
|  | *NRG* | *43.2.6* | *November 17, 2010* | NRG has attached proposed changes to Section 43.2.6, regarding the ability of the ISO procure capacity from units in danger of retiring. Put simply, the mechanism currently proposed by the ISO is unworkable for a number of reasons and should be modified. The overarching theme of these comments is that generator owners need a level of certainty before making critical decisions as to whether to shutter an existing power plant. The 2nd Modified Tariff Language does not provide a generator owner the information that it requires to make a reasoned and supportable decision as to whether to seek a CPM designation under Section 43.2.6. Given the likely increase in the need for flexible gas fired generation as renewable penetration increases, and the fact that such resource attributes are not currently compensated under the CAISO or CPUC market structures, this is a very real problem. The problem becomes even more acute as we consider the environmental capital expenditures that are likely to be imposed on existing gas-fired generation resources, including 316(b) “Once-Through Cooling” compliance costs.  |
|  | *NRG* | *43.2.6* | *November 17, 2010* | Major problems include:* **Public Notification of Financial Distress Makes the Proposal Unworkable.**

The proposal to make public that a particular plant is considering retirement prior to issuing a CPM designation is a fatal flaw. A proposal that would require plant employees to hear that his or her employer is considering retiring the plant from the ISO via a market notice is untenable. Moreover, publically notifying contractors, power off-takers, natural gas suppliers, or other entities with which the plant has a commercial relationship, that the plant is facing imminent shutdown risks potential termination of existing contracts, massively increased collateral costs, and other undesirable side effects. It is not necessary to require a generation owner to gamble in this manner. Instead, NRG proposes an alternative timeline in the attached redline that would (i) allow the ISO to determine whether the plant is needed for reliability in advance of making any public announcement or binding declaration; (ii) provide LSEs an opportunity to provide the affected facility with an RA designation immediately after the issuance of CPM designation under Section 43.2.6; and (iii) provide for the confidential treatment such resources require. All of these goals can be accomplished while ensuring that only units able to demonstrate their lack of financial viability are able to receive CPM designations under Section 43.2.6.  |
|  | *NRG* | *43.2.6* | *November 17, 2010* | * **Binding Commitments to Retire the Facility if it is not Provided a CPM Designation are Unworkable.**

It is not in the best interests of generators, load serving entities or the CAISO to require a generator to make a binding commitment to retire without understanding the compensation options open to it. To avoid this problem, the NRG proposed tariff language would permit a generator to seek a determination from the ISO as to whether the unit would qualify for a CPM designation through 43.2.6 *prior* to making the final decision to retire. Once the ISO has made such a determination, the generator can then make an educated decision as to whether to continue operating the unit, or seek to retire it and accept a CPM designation. Under NRG’s proposal, the generation owner would still have to demonstrate, to the reasonable satisfaction of the ISO and DMM that the facility is not economically tenable without the additional compensation. Because of the “all or nothing” nature of the current proposal, it is unlikely any responsible generator owner would be able to take advantage of the system as it is currently proposed.  |
|  | *NRG* | *43.2.6* | *November 17, 2010* | * **A 180-Day Notice Requirement, Combined with a Same-Year-Only RA Designation, Leaves no Time for a Unit to Earn Revenues.**

As NRG understand the current proposal, a unit is only eligible for an RA designation for the remainder of the current RA compliance year. Given that RA designations are typically provided in October/November of the year preceding the RA compliance year, a 180 day notice provision means that a unit could only receive a CPM designation under 43.2.6 for approximately 6 months before the end of the compliance year. Such a program is unlikely to achieve the desired effect. Instead, NRG proposes allowing a unit to pre-determine whether it is needed for reliability purposes, and also proposes extending the period of the CPM designation for a total of 24 months after the CPM designation is approved. LSE concerns that such a program would require it to incur additional costs not contemplated by the CPUC program are misguided. The relevant LSE would be free to designate the resource as an RA resource for the remainder of the current compliance year, and would then have the *option* of procuring the unit’s capacity attributes as part of its next year’s compliance program. The LSE would not be required to do so, but would be free to.  |
|  | *Six Cities* | *43.2.6* | *November 16, 2010* | The final paragraph of Draft Section 43.2.6 provides that prior to issuing a CPM designation for a resource at risk of retirement, the ISO will prepare a report explaining the need for the designation and allow no less than 7 days for stakeholders to review and comment on the report and no less than 30 days for an LSE to procure Capacity from the resource. The Cities remain concerned that these periods are too brief to allow meaningful comment on the ISO’s report or adequate time to arrange to procure capacity from the resource. Without waiving objections to designation of CPM capacity for resources at risk of retirement and as an alternative to extending the time periods for stakeholder input or procurement following the ISO’s report on a request for a CPM designation, the Cities suggest that the ISO post a market notice of a request for a CPM designation, with the supporting information, within five days after the request for a CPM designation is submitted. This will allow stakeholders to evaluate the designation request and to pursue alternative possibilities for procurement of capacity in parallel with the ISO’s analysis of the request.  |
|  | *NRG* | *43.2.6.1* | *November 17, 2010* | * **Issuing a CPM Designation “Subject to Refund” is Unworkable.**

Section 43.2.6.1 is also unworkable because it exposes the generator to continued uncertainty and risk with no end date. Indeed, under the proposal, a unit could be kept waiting until the day before the end of the compensation period to find out whether the additional revenues it is counting on will have to be repaid. This level of uncertainty is also unnecessary. The alternative tariff language submitted by NRG avoids this problem entirely by allowing the CAISO to reach its decision on whether to issue a CPM designation ahead of time.  |
|  | *SCE* | *43.2.6 (6) and (7)* | *November 16, 2010* | Nov 9 version:(6) the CAISO reviews the affidavit and supporting financial information and documentation submitted by the resource owner pursuant to Section 43.2.6(5) ~~and performs due diligence to assess the resource’s financial circumstances, and which as part of its review shall consider the results of any analysis performed by the CAISO’s DMM of the affidavit and supporting financial information and documentation to assess the accuracy of the information submitted, the reasonableness of the representations and conclusions contained in the submission, and the appropriateness of the resource’s conduct and efforts to sell Capacity in the bilateral market;~~ and ~~(7) the CAISO~~ determines that the expectation of losses and likely retirement of the resource are reasonable and supported by fact. Will the CAISO please provide some background regarding their decision to remove language (highlighted in yellow) from the tariff that would require a resource to include, within their notice, a description of their conduct and efforts to sell Capacity in the bilateral market? SCE is concerned that removal of this requirement, a requirement that was specifically mentioned by CAISO personnel during the Aug 23 workshop and which we did not see comments suggesting removal, may give a resource the ability to request and receive a CPM designation without first duly attempting to sell their Capacity via the bilateral market, thus in effect use the CAISO’s Capacity Procurement Mechanism to bypass the established RA procurement process.  |
|  | *SCE* | *43.2.6* | *November 16, 2010* | **Section 43.2.6**: Request clarificationThe last paragraph includes“Prior to issuing the CPM designation, the CAISO shall prepare a report that explains the basis and need for the CPM designation. The CAISO shall post the report on the CAISO’s Website and allow an opportunity of no less than seven (7) days for stakeholders to review and submit comments on the report and no less than thirty (30) days for an LSE to procure Capacity from the resource.” A) Will the CAISO please clarify/confirm that a Market Notice will be issued prior to the posting of the CPM report and that language to this effect will remain in the final BRS or be included within the Tariff language. Note: This clarification is a repeat from our initial comments.B) Will the CAISO please clarify if a maximum number of days has been discuss by when a stakeholder can submit comments on the report and by when an LSE can procure Capacity?  C) Will the CAISO please clarify if it is be possible for the identified amount of needed capacity to be less than the resource’s full capacity, and if so, will the CPM Report identify only the amount of capacity needed for reliability purposes or will the CPM Report identify the resource’s full capacity as being needed? If the full capacity is not needed, would the CAISO declare a CPM designation for only the amount of capacity that is needed or would the CPM designation be for the resource’s full capacity? Note: This clarification is a repeat from our initial comments.D) Will the CAISO please clarify the process a stakeholder should use to question the results of the CAISO’s technical assessment, to obtain information/assumptions used in the CAISO’s technical assessment, and what tariff language can a stakeholder reference to contest a CPM designation for a resource that threatened retirement?Note: This clarification is a repeat from our initial comments. |
|  | *CPUC* | *43.2.6* | *November 16, 2010* | In Section 43.2.6, , the minimum review and comment period for the CAISO’s report has been shortened to 7 days from 30 days. This creates a barrier to meaningful comment, particularly given that the resource must give the CAISO 180 days notice of its planned retirement and request for a CPM designation. The comment period must allow a reasonable time for analysis and discovery regarding the CAISO’s determination of need and the selection of a particular unit for CPM designation over other available units. The CPUC Staff previously expressed concerns regarding the lack of standards and the ability of DMM to perform due diligence regarding the economic claims of resources leaving the market. These concerns have not been adequately addressed by the changes to the proposed tariff language in section 43.2.6. It remains unclear how the CAISO will determine that the decision to retire is definite and the financial claims of the resource are reasonable and supported by fact. The changes to the proposed tariff language in 43.2.6 do not eliminate or sufficiently reduce the gaming opportunity for a plant seeking to leverage a CPM designation through a threat of retirement of the unit.[[1]](#footnote-1) A generator may be able to predict its importance to the grid based on past history, its location in a Local Area or Subarea, or information from the various planning processes. A generator could then threaten to retire in order to receive a CPM designation at a price higher than the current market for capacity. In the present market, some generators are currently willing to enter in Resource Adequacy (RA) contracts with LSEs below the current $41/kw-yr backstop price, let alone the $55/kw-yr proposed for CPM. The CAISO’s Market Surveillance Committee has acknowledged that a 12-month designation can create an incentive for units to threaten to retire and the “CPM payment can influence RA prices.”[[2]](#footnote-2)In addition, many generating resources, particularly older and less efficient ones in Local Areas, are typically part of a fleet of resources owned by affiliated companies. Affiliated companies could assign ownership of an individual resource to a particular entity to support a claim for economic subsidy, regardless of the overall profitability of other resources owned or operated by affiliated entities. The language changes regarding the timing of the CPM designation relative to future need are not sufficiently clear to ensure that the CAISO can accurately predict what capacity will be needed for the next RA compliance year to justify up to a 12-month CPM designation without relying on data from the year’s Local Capacity Technical Analysis (LCR) study, which is typically performed in April and finalized in May of the previous RA compliance year, and thus may not be available at the time the CAISO makes the determination of whether to offer a CPM designation. The LCR study provides the basis for single-year Local RA obligations for the next compliance year (starting in October.)  |
|  | *CPUC* | *43.2.6 (6)* | *November 16, 2010* | In the prior section 43.2.6(6), the CAISO was required to consider any analysis performed by DMM before issuing its report regarding the need for a CPM designation. That requirement has been eliminated in section 43.2.6.1.  |
|  | *SDG&E* | *43.2.6* | *November 16, 2010* | Without waiving its general objection to all provisions of the draft CPM tariff pertaining to generating unit retirement matters (section 43.2.6), SDG&E proffers two comments on the most recent tariff language. First, section 43.2.6 (3) should be revised to require the CAISO to offer its “technical assessments” on unit retirements in the CPUC’s LTPP/RA proceedings. Delivering these technical assessments too late for market participants to act renders it useless. The CAISO should move from a *reactive* mode triggered by a generator giving notice to retire to a *proactive* mode of providing information related to retirement earlier in the LTPP and RA proceedings so that an efficient market-based solution can emerge. The CAISO already provides a similar analysis when it determines annually how much capacity is needed in a local area and what generation is effective in meeting that need. The CAISO should expand this analysis to identify the extent to which certain units are likely to be needed in meeting future (projected) local capacity requirements, say the next 3-5 years, thereby allowing market participants to negotiate commercial arrangements while there may still be time to consider alternative solutions. Giving load-serving entities less than 90 days to procure capacity that now knows it will be getting a CPM designation makes a mockery of the LTPP and RA mechanisms. The CAISO should instead use its on-going analysis of all aspects of the system, including transmission upgrades and projected levels of load and supply, to apprize market participants of projected needs in capacity constrained regions so that market participants can negotiate economically efficient outcomes for units that are in the closing years of their useful life.  |
|  | *SDG&E* | *43.2.6 (5)* | *November 16, 2010* | Second, section 43.2.6 (5) should be clarified by adding the words “without the revenues from CPM” to the end of that section after the word “definite”. The suggested edit is designed to remove the current ambiguity created by the notion that a officer is being required to swear that retirement of a unit is “definite” even as that same officer is making a voluntary request for a CPM designation to keep the unit operating.  |
|  | *CDWR SWP* | *43.4* | *November 16, 2010* | **43.4 Selection of Eligible Capacity under the CPM***,* **subsection (5)**states that criteria for resource selection include “whether the resource is subject to restrictions as a Use-Limited Resource”.CAISO application of this criterion should be clarified.Does this mean that non-Use Limited Resources (non-ULR) have priority over ULR? Does this also mean that ULRs are not qualified for CPM? |
|  | *CDWR SWP* | *43.7.3* | *November 16, 2010* | The CAISO also allocates costs of its backstop procurement to address shortfalls using this coincident peak method (§ 43.7.3). SWP is aware of no reason for a departure from this approach when allocating an anticipated shortfall attributed to generator retirement. The following are the tariff provisions on allocation of obligation based on coincident peak share:***43.7.3 Collective Deficiency In Local Capacity Area Resources****If the CAISO makes designations under Section 43.1.2 the CAISO shall allocate the costs of such designations to all Scheduling Coordinators for LSEs serving Load in the TAC Area(s) in which the deficient Local Capacity Area was located. The allocation will be based on the Scheduling Coordinators’ proportionate share of Load in such TAC Area(s) as determined in accordance with Section 40.3.2, excluding Scheduling Coordinators for LSEs that procured additional capacity in accordance with Section 43.1.2.1 on a proportionate basis, to the extent of their additional procurement.****40.3.2 Allocation Of Local Capacity Area Resource Obligations****The CAISO will allocate responsibility for Local Capacity Area Resources to Scheduling Coordinators for Load Serving Entities in the following sequential manner:**(a) The responsibility for the aggregate Local Capacity Area Resources required for**all Local Capacity Areas within each TAC Area as determined by the Local**Capacity Technical Study will be allocated to all Scheduling Coordinators for**Load Serving Entities that serve Load in the TAC Area in accordance with the**Load Serving Entity’s proportionate share of the LSE’s TAC Area Load at the**time of the CAISO’s annual coincident peak Demand set forth in the annual peak**Demand Forecast for the next Resource Adequacy Compliance Year as**determined by the California Energy Commission. Expressed as a formula, the**allocation of Local Area Capacity Resource obligations will be as follows: (Σ**Local Capacity Area MW in TAC Area from the Local Capacity Technical Study) \* (LSE Demand in TAC Area at CAISO annual coincident peak Demand)/(Total**TAC Area Demand at the time of CAISO annual coincident peak Demand). This**will result in a MW responsibility for each Load Serving Entity for each TAC Area**in which the LSE serves Load. The LSE may meet its MW responsibility, as**assigned under this Section, for each TAC Area in which the LSE serves Load by**procurement of that MW quantity in any Local Capacity Area in the TAC Area.**(b) For Scheduling Coordinators for Non-CPUC Load Serving Entities, the Local**Capacity Area Resource obligation will be allocated based on Section 40.3.2(a) above.* |
|  | *CDWR SWP* | *43.8.7* | *November 16, 2010* | **43.8.7 Allocation of CPM Costs For Resources At Risk of Retirement Needed for Reliability** indicates that allocation of CPM costs is based on the LSE’s actual TAC area load share percentage. Does the actual load as used for determining this allocation correspond to on-peak period or for the whole month? Given that RA obligations to acquire capacity are based on the need to meet peak loads, on-peak period load would be a better factor for allocation of CAISO-acquired capacity than socialization over total load in a TAC area. Because CAISO tariff provisions establish LSE capacity obligations in terms of contribution to coincident peak (§§ 40.2.2.3, 40.2.3.3), and generators’ capacity requirements are measured in on-peak period performance (*e.g.,* § 40.9.3), allocation based on loads’ contribution to peak would reflect cost causation more accurately. A decision to avert generator retirement via CAISO backstop capacity purchases is one of system planning. It is not a short term capacity purchase to address an unexpected emergency situation. In this respect, CAISO CPM costs associated with resources at risk for retirement fall into the same category as Resource Adequacy backstop procurement, which anticipates resources needed to meet coincident peaks of the system.Allocation of the cost of CAISO capacity procurement from resources at risk of retirement should be based on contribution to coincident peak loads in order to be consistent with the CAISO’s allocation of RA local area resources procurement responsibility. This responsibility is applied “to all Scheduling Coordinators for Load Serving Entities that serve Load in the TAC Area in accordance with the Load Serving Entity’s proportionate share of the LSE’s TAC Area Load at the time of the CAISO’s annual coincident peak Demand set forth in the annual peak Demand Forecast for the next Resource Adequacy Compliance Year as determined by the California Energy Commission.” (§ 40.3.2) |
|  | *NRG* | *Appendix A* | *November 17, 2010* | * **The Term “Resource” Does Not Appear in Appendix A.**

Because “resource” is not defined in the definitions section, NRG proposed substituting the defined term “Generating Unit” instead.  |
|  | *CPUC* | *General* | *November 16, 2010* | The CAISO’s modifications to the proposed tariff language continue to lack sufficient clarity.For the above reasons, the CPUC continues to respectfully requests that the CAISO withdraw sections 43.2.6, 43.3.7, and 43.8.7 of its Draft Tariff Language before submitting to FERC for approval.  |
|  | *SDG&E* | *General* | *November 16, 2010* | As a general comment, SDG&E continues to protest the CAISO’s decision to expand the CPM tariff to include authority for the CAISO to offer CPM contracts to generating units that the CAISO believes may be needed for reliability purposes in years beyond the current one-year resource adequacy (RA) compliance year. The CAISO has not demonstrated that this potential problem cannot be solved within the context of the CPUC’s bilateral Long Term Procurement Plan (LTPP) and (RA) proceedings. SDG&E believes the CPUC has primary authority over LTPP/RA matters, and that the burden is on the CAISO to demonstrate that the bilateral LTPP/RA markets will fail to promote an orderly and economic exit for units nearing the end of their useful life. The CAISO has made no attempt to demonstrate that bilateral market failure is highly probable, so SDG&E views the CAISO’s request for authority to intervene in bilateral negotiations to meet the CPUC’s LTPP/RA requirements as unnecessary and counterproductive. Indeed, the mere possession of such authority by the CAISO would distort negotiation incentives between LTPP/RA sellers and buyers. |

1. *See also* the Opinion on the Capacity Procurement Mechanism and Compensation and Bid Mitigation for Exceptional Dispatch, F. Wolak, J. Bushnell, B. Hobbs, CAISO Market Surveillance Committee (October 18, 2010) p. 4. [↑](#footnote-ref-1)
2. Market Surveillance Committee Opinion, *supra*, (Oct. 18, 2010), pp. 3-4. [↑](#footnote-ref-2)