

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

Refinements to Horizontal Market Power)
Analysis for Sellers in Certain Regional) **Docket No. RM19-2-000**
Transmission Organization and Independent)
System Operator Markets)

**REPLY OF THE DEPARTMENT OF MARKET MONITORING FOR THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO
COMMENTS FILED BY PACIFIC GAS AND ELECTRIC COMPANY**

The Department of Market Monitoring (DMM) for the California Independent System Operator (CAISO) respectfully submits these reply comments in the above-captioned proceeding. This reply clarifies aspects of DMM’s initial comments filed on March 19, 2019 relating to issues raised by Pacific Gas & Electric Company (PG&E) in reply comments filed on April 2, 2019.¹

First, DMM clarifies that DMM did not intend to *propose* indicative market screens as a measure to protect against the potential abuse of market power in CAISO’s backstop capacity procurement process.² On the contrary, DMM agrees with PG&E that “the right remedy for the potential for abuse of market power that DMM observes would be for the CAISO to modify the CPM’s mitigation rules to effectively identify and mitigate market power.”³ DMM believes the indicative screens should not be relied upon to mitigate market power and cautions that

¹ *Reply of Pacific Gas and Electric Company to the Comments Filed by the Department of Market Monitoring for the California Independent System Operator Corporation and the Edison Electric Institute*, FERC Docket No. RM19-2-000, April 2, 2019.

² PGE Reply Comments, p. 2.

³ PGE Reply Comments, p. 3.

standard screens are unlikely to detect market power in local areas where ownership of capacity needed to maintain reliability is most concentrated.

With or without these indicative screens, the CAISO and the Commission must ensure that capacity market power mitigation provisions incorporated in the CAISO backstop procurement mechanisms are maintained and enhanced as needed in response to changing market conditions. Comments of numerous participants indicate that performing indicative screens for capacity market power would impose a significant burden. Therefore, if the Commission determines the burden of the screens for sellers of capacity in CAISO is significant and outweighs the value to the Commission of requiring these screens, DMM supports relieving sellers of capacity of the burden of filing indicative screens.

PG&E also responds to DMM's comments on relieving indicative screen requirements for entities participating in the CAISO's energy imbalance market (EIM).⁴ DMM clarifies that since EIM is currently limited to a voluntary real-time energy market, DMM's comments on requiring the indicative screens in the EIM are applicable only to the special MBR authority that has been required by the Commission for sales of real-time energy in the EIM. Thus, DMM's comments do not address bilateral market sales by EIM participants or bilateral sales by other entities in EIM balancing areas.

⁴ PGE Reply Comments, p. 2, pp. 3-4.

I. COMMENTS

The preferred and most effective way of mitigating market power in capacity markets is through ISO market rules.

As noted in DMM's March 19 comments, DMM believes that "the most effective way of mitigating market power in RTO/ISO-administered energy and capacity markets is through strong market power mitigation mechanisms and procedures incorporated directly into the ISO market design."⁵ DMM's initial comments indicate that there is evidence of substantial structural market power for capacity needed to ensure reliability in local areas, which can be mitigated indirectly by CAISO's two backstop procurement processes: the Capacity Procurement Mechanism (CPM) and Reliability Must Run (RMR) designations.⁶ Although these backstop procurement provisions are rarely utilized, these provisions play an important role in mitigating market power in bilateral markets for capacity needed to meet the resource adequacy requirements of load serving entities. DMM notes that these mechanisms are currently not as strong as market power mitigation provisions in other ISO-administered capacity markets -- which mitigate market power based on "reference levels set according to going-forward costs" that are generator specific.⁷

While DMM's March 19 comments indicated support for the NOPR's provisions relating to sales of capacity in the CAISO, DMM does not consider

⁵ *Comments of the Department of Market Monitoring for the California Independent System Operator Corporation*, FERC Docket No. RM19-2-000, March 19, 2019, p. 1.

⁶ DMM Comments, pp. 11-13.

⁷ 165 FERC ¶ 61,268, *Notice of Proposed Rulemaking: Refinements to Horizontal Market Power Analysis for Sellers in Certain Regional Transmission Organization and Independent System Operator Markets*, Docket No. RM19-2-000, December 20, 2018, p. 27.

indicative screens as an effective means of mitigating market power, particularly in local areas in which structural market power for capacity is of most concern. DMM cautions that standard indicative screens are unlikely to detect market power in local areas where ownership of capacity needed to maintain reliability is most concentrated. Thus, if not properly designed and applied to reflect local reliability requirements, DMM cautions that the screens could lead to a false sense of competitiveness in many local areas.

DMM agrees with numerous other commenters that the only effective way of ensuring mitigation of market power for capacity in the CAISO is through strong CAISO market design, including the CAISO's two backstop procurement processes. As noted in DMM's March 19 comments, "the CAISO's existing market power mitigation provisions for energy and capacity need to be maintained and enhanced as needed in response to changing market conditions to ensure effective mitigation of market power in the CAISO markets."⁸

In response to changes occurring in California's market structure and conditions, CAISO is actively developing and considering enhancements to the CPM and RMR backstop procurement mechanisms. Changes recently approved by the CAISO Board as part of an ongoing stakeholder process include changes in eligibility requirements, compensation and operating requirements of units procured under the CAISO's two capacity procurement mechanisms.⁹ Further

⁸ DMM Comments, p. 1.

⁹ Memorandum to ISO Board of Governors, *Re: Decision on reliability must-run and capacity procurement mechanism enhancements proposal*, March 20, 2019.
<http://www.caiso.com/Documents/Decision-ReliabilityMust-Run-CapacityProcurementMechanismEnhancementsProposal-Memo-Mar2019.pdf>

enhancements, including changes in CPM compensation, will be considered in 2019 as part of the next phase of this stakeholder process. DMM is recommending that this process include consideration of a variety of modifications, including tests for the competitiveness of CPM designations and modification of CPM compensation under uncompetitive conditions.¹⁰

With or without a requirement for sellers of capacity to submit indicative screens, the CAISO and Commission must ensure that capacity market power mitigation provisions incorporated in the CAISO market rules are maintained and enhanced as needed in response to changing market conditions. DMM routinely assesses and reports on market power for capacity within local transmission constrained areas in annual reports to the Commission.¹¹ Under the NOPR, the Commission will retain its ability to require a market power analysis, including indicative screens, from any market-based rate seller at any time. As noted by Calpine, another mechanism that may be employed by the Commission to mitigate market power in the bilateral capacity market is to require sellers to gain approval for mitigation plans for sales of capacity.¹²

Comments of numerous participants indicate that performing indicative screens for capacity market power would impose a significant burden. Therefore,

¹⁰ Memorandum to ISO Board of Governors, *Re: DMM comments - Decision on reliability must-run and capacity procurement mechanism enhancements proposal*, March 20, 2019. p.1. <http://www.caiso.com/Documents/Decision-ReliabilityMust-Run-CapacityProcurementMechanismEnhancementsProposal-DMMComments-Mar2019.pdf>

¹¹ e.g. see *2017 Annual Report on Market Issues and Performance*, Department of Market Monitoring, June 2018, pp.154-155: <http://www.caiso.com/Documents/2017AnnualReportonMarketIssuesandPerformance.pdf>

¹² *Comments of Calpine Corporation*, FERC Docket No. RM19-2-000, March 19, 2019, p.19.

if the Commission determines the burden of requiring the screens is significant and outweighs the value to the Commission of requiring the screens, supports relieving sellers of capacity of the burden of filing indicative screens. DMM also agrees with PG&E that it is important that “the Commission stay engaged in the CAISO’s upcoming stakeholder process on the CPM soft offer cap to ensure CAISO creates effective market power screens and mitigation for the sale of capacity via its CPM.”¹³

Since the energy imbalance market is a voluntary real-time energy market, DMM’s support for provisions of the NOPR applies only to indicative screens relating to special MBR authority that has been required for sales of real-time energy in the EIM.

DMM’s March 19 comments indicate that the Western energy imbalance market (EIM) “should be treated as an energy market that is subject to Commission-approved market monitoring and mitigation,” so that sellers of energy in the EIM would not have the obligation to submit indicative screens.¹⁴ DMM clarifies that since EIM is currently limited to a voluntary real-time energy market, this recommendation is applicable only to indicative screens relating to special MBR authority that has been required for sales of real-time energy in the EIM. DMM’s comments (and the mitigation applied in the EIM) are not applicable to bilateral market sales by EIM participants or bilateral sales within EIM balancing areas by other entities. Thus, DMM has not commented on indicative screens that may be required in order to obtain MBR authority to engage in bilateral wholesale energy or

¹³ PG&E Reply Comments, p. 3.

¹⁴ DMM Comments, p. 9.

capacity sales by EIM participants or bilateral sales within EIM balancing areas by other entities.

II. CONCLUSION

For the foregoing reasons, DMM respectfully requests that the Commission accept and consider these reply comments.

Respectfully submitted,

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Dated: April 5, 2019

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties listed on the official service lists in the above-referenced proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California this 5th day of April, 2019.

Is/ Anna Pascuzzo
Anna Pascuzzo