Competitive Power Ventures (CPV) appreciates the opportunity to comment on the Draft 2009 IEPR and commends the Commission and Staff for the work product and the attention they have paid to an increasingly large regulatory process. In short, the Draft 2009 IEPR does a commendable job of incorporating the multitude of over arching and sometimes contradictory regulatory measures, proceedings, actions and proposals that make up the dynamic California regulatory arena and we look forward to action being taken on many of the proposed recommendations. In this instance we wish to comment on one lightly addressed but exceedingly important aspect of the California market: The role of a Forward Capacity Market in California. Specifically, CPV believes that while a Forward Capacity Market may have a role to play in California to support existing generation and generation coming off of long-term contracts, forward capacity markets have demonstrated an inability to provide the necessary incentives to develop and finance new or replacement generation. In fact, the market structure best designed to provide new and replacement generation is a competitive solicitation (RFO) process that results in the award of long-term, bi-lateral contacts between Independent Power Producers and sponsoring load serving entities.

The concept of Forward Energy and Capacity Markets within the California market has been recommended by stakeholders in a number of forums and is briefly addressed in the draft report.

> *"For several years the CPUC has been investigating whether this structure is adequate to provide signals to a competitive industry that additional generation is needed. Advocates of both a central capacity market and a bilateral forward market have put forward the merits of their proposals. At this July 28, 2009 IEPR workshop on OTC issues and in comments following, several generators urged consideration of their forward capacity market construct submitted to the CPUC. They asserted that this would be the best mechanism to surface replacement generation proposals."* [i]

CPV's national experience within the areas of electrical generation, electricity and natural gas markets, market structures and long-term contracts provides us with a broad perspective from which we can comment on the above consideration relative to our expertise.

The forward capacity markets that exist today (ISO-NE, NYISO, PJM as examples) have, without exception, failed to provide the incentives necessary to develop and finance new generation. They have failed because they do not provide an adequate fixed revenue stream of significant duration that lenders require to finance new power plants. Financial institutions are not willing to finance around the types of risks in the energy markets that they might once have undertaken; nor are they willing to rely on third party consultant reports estimating a project's potential revenue stream in a particular wholesale market. As a result, new and competitive capacity cannot be financed without bi-lateral, long-term power sales contracts, even where forward capacity markets are in place. The recent collapse of the credit markets has only exacerbated this reality.

CPV is not unique in this perspective. For example, in their recent testimony before FERC, other competitive power producers likewise noted that;

> *"In the interim, in order to encourage the development of the needed long-term investments in new power plants, support in the form of competitive, medium term PPAs will be needed. The term of such PPAs will depend on the nature and amount of the underlying investment; but the fact remains that the current terms available in the organized markets, such as 5-year PPAs, are simply inadequate to attract the substantial debt and equity necessary to put steel in the ground today."*[ii]

CPV's views on this issue are based on actual, real-time discussions with lenders in connection with our projects currently under development in the United States and Canada. Numerous state agencies have recognized, even prior to the recent collapse of the credit markets that long-term contracts can further, and in many cases are necessary for the development of new generation.[iii] For example, the Connecticut statute mandating all-source requests for proposals in that state specifically authorized contracts of up to fifteen (15) years.[iv]

Additionally, by spreading the cost of new generation over multiple years, competitively bid, long-term contracts not only enhance price certainty but lower finance costs as well, thereby decreasing the cost of new generation to consumers. The shorter the term of the firm pricing, the higher the price because a firm capacity price mechanism of a longer duration will reduce the project's risk profile and enable the project to attract lower cost financing, all of which would benefit the ratepayers. Increasing the contract term will also expand the pool of potential lenders to the project in the current, relatively illiquid financing market, thereby increasing the likelihood of a successful and attractively priced financing.

The very aspect that continues to make California an attractive market for power generation in light of the extensive, costly and uncertain development process is the functioning market structure where the need for new capacity and services is determined via competitively solicited RFO's, and long term bi-lateral contracts between Independent Power Producers and load serving entities are awarded. To move away from this proven configuration would be detrimental to the California power market and greatly reduce the incentives for investing. CPV appreciates this opportunity to comment and looks forward to addressing this important topic in more detail in the future.

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[i] California Energy Commission, 2009 IEPR, Draft Committee report, September 2009, CEC-100-2009-003-CTD p.198

[ii] Prepared Direct Testimony of Bruce Levy on Behalf of International Power PLC, FERC Docket No. AD09-2-000, filed January 13, 2009

[iii] *See* Comments of New England Power Pool Participants Committee, FERC Docket No. RM07-19-000, *et al.*, at 19 (filed Sep. 14, 2007) ("Long term power contracting can benefit both consumers and suppliers of electricity and can promote the efficient functioning of the organized markets. . . . Long term power contracts also can provide a predictable revenue stream to suppliers, and thus encourage and support new investment in supply and demand resources, which can lower consumer costs and improve reliability. . . ."). The New York Public Service Commission

similarly concluded "that utility long-term contracts may be required to support new construction to maintain reliability, if adequate reliability is not provided by the wholesale market or to be judiciously used to achieve other policy goals (*e.g.,* RPS)," and further noted that "[t]he greater availability of short-, medium-, and long-term contracts, voluntary or mandatory, could temper the risk of entry for generators and render financing more available, as recent projects have suggested." *Order Initiating Electricity Reliability and Infrastructure Planning*, State of New York Public Service Commission, Case 07-E-1507, *et al.*, at 21-23 (Dec. 24, 2007)

[iv] CONN. GEN. STAT. § 16-243M (2007)