
**CALIFORNIA INDEPENDENT SYSTEM
OPERATOR**

**PRO FORMA
PARTICIPATING GENERATOR
AGREEMENT**

BLACKLINE

PARTICIPATING GENERATOR AGREEMENT (PGA)

THIS AGREEMENT is dated this ____ day of _____, 19____ and is entered into, by and between:

(1) **[Full Legal Name]** having its registered and principal place of business located in **[Address]** (the "Participating Generator");

and

(2) **California Independent System Operator Corporation**, a California nonprofit public benefit Corporation having a principal executive office located at such place in the State of California as the ISO Governing Board may from time to time designate, initially 151 Blue Ravine Road, Folsom, California 95630 (the "ISO").

The Participating Generator and the ISO are hereinafter referred to as the "Parties".

Whereas:

- A.** The ISO Tariff provides that the ISO shall not schedule Energy or Ancillary Services generated by any Generating Unit interconnected to the ISO Controlled Grid, or to the Distribution System of a Participating TO or of a UDC otherwise than through a Scheduling Coordinator.
- B.** The ISO Tariff further provides that the ISO shall not be obliged to accept Schedules or Adjustment Bids or bids for Ancillary Services relating to Generation from any Generating Unit interconnected to the ISO Controlled Grid unless the relevant Generator undertakes in writing to the ISO to comply with all applicable provisions of the ISO Tariff.
- C.** The Participating Generator wishes to be able to Schedule Energy and to submit Adjustment Bids, Supplemental Energy bids and bids for Ancillary Services to the ISO through a Scheduling Coordinator and, therefore, wishes to undertake to the ISO that it will comply with the applicable provisions of the ISO Tariff ~~and the ISO Protocols~~.
- D.** The Parties are entering into this Agreement in order to establish the terms and conditions on which the ISO and the Participating Generator will discharge their respective duties and responsibilities under the ISO Tariff ~~and the ISO Protocols~~.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, **THE PARTIES AGREE** as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

- 1.1 Master Definitions Supplement.** ~~Unless the context otherwise requires,~~ All terms and expressions used in this Agreement shall have the same meaning as those contained in the Master Definitions Supplement to the ISO Tariff.
- 1.2 Rules of Interpretation.** The following rules of interpretation and conventions shall apply to this Agreement:
- (a) ~~unless the context otherwise requires,~~ if there is any inconsistency between this Agreement and the ISO Tariff ~~or any applicable ISO Protocol,~~ the ISO Tariff ~~or applicable ISO Protocol~~ will prevail to the extent of the inconsistency;
 - (b) the singular shall include the plural and vice versa;
 - (c) the masculine shall include the feminine and neutral and vice versa;
 - (d) “includes” or “including” shall mean “including without limitation”;
 - (e) references to a Section, Article or Schedule shall mean a Section, Article or a Schedule of this Agreement, as the case may be, unless the context otherwise requires;
 - (f) a reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented or restated through the date as of which such reference is made;
 - (g) unless the context otherwise requires, references to any law shall be deemed references to such law as it may be amended, replaced or restated from time to time;
 - (h) unless the context otherwise requires, any reference to a “person” includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organization or other entity, in each case whether or not having separate legal personality;
 - (i) unless the context otherwise requires, any reference to a Party includes a reference to its permitted successors and assigns;
 - (j) any reference to a day, week, month or year is to a calendar day, week, month or year; and
 - (k) the captions and headings in this Agreement are inserted solely to facilitate reference and shall have no bearing upon the interpretation of any of the terms and conditions of this Agreement.

ARTICLE II ACKNOWLEDGEMENTS OF PARTICIPATING GENERATOR AND ISO

- 2.1 ISO Responsibility.** The Parties acknowledge that the ISO is responsible for the efficient use and reliable operation of the ISO Controlled Grid consistent with achievement of planning and operating reserve criteria no less stringent than those established by the Western Systems Coordinating Council and the North American Electric Reliability Council and further acknowledges that the ISO may not be able to satisfy fully these responsibilities if the Participating Generator fails to fully comply with all of its obligations under this Agreement; and the ISO Tariff ~~and the ISO Protocols~~.
- 2.2 Scope of Application to Parties.** The Participating Generator and ISO acknowledge that all Generators, except those specified in Section 2.2.1 of this Agreement, wishing to schedule Energy and to submit Adjustment Bids, Supplemental Energy bids and bids for Ancillary Services to the ISO through a Scheduling Coordinator must sign this Agreement in accordance with Section 5 of the ISO Tariff.
- 2.2.1 Exemption for Certain Generators.** The Generator with an existing power purchase agreement with a UDC is not required to sign a Participating Generator Agreement if: (a) the Generator sells all of its Energy (excluding any Energy consumed by auxiliary load equipment electrically connected to that Generator at the same point) and Ancillary Services to the UDC; (b) the Generator sells any Energy through "over the fence" arrangements as authorized under Section 218(b) of the California Public Utilities Code; or (c) the Generator employs landfill gas technology for the generation of electricity as authorized under 218(c) of the California Public Utilities Code. With respect to subsections (a) and (b), an existing power purchase agreement shall mean an agreement which has been entered into and is effective as of December 20, 1995. With respect to subsection (c), an existing power purchase agreement shall mean an agreement which has been entered into and is effective as of December 31, 1996.

ARTICLE III TERM AND TERMINATION

- 3.1 Effective Date.** This Agreement shall be effective as of the later of the date it is executed by the Parties or the date accepted for filing and made effective by FERC, and shall remain in full force and effect until terminated pursuant to Section 3.2 of this Agreement.

4-23.2 Termination

- 3.2.1 Termination by ISO.** Subject to Section 5.2, the ISO may terminate this Agreement by giving written notice of termination in the event that the

Participating Generator commits any material default under this Agreement, ~~and/or~~ the ISO Tariff ~~and/or the ISO Protocols~~ which, if capable of being remedied, is not remedied within thirty (30) days after the ISO has given, to the Participating Generator, written notice of the default, unless excused by reason of Uncontrollable Forces in accordance with ~~Section 15 of the ISO Tariff~~ Article X of this Agreement. With respect to any notice of termination given pursuant to this Section, the ISO must file a timely notice of termination with FERC. This Agreement shall terminate upon acceptance by FERC of such a notice of termination. ~~must also be filed at the FERC. Pending acceptance by the FERC of such termination, the Parties agree not to request services under this Agreement and the operation of the terms of this Agreement and of the ISO Tariff shall be suspended.~~

- 3.2.2 Termination by Participating Generator.** In the event that the Participating Generator no longer wishes to schedule Energy or provide Ancillary Services through a Scheduling Coordinator over the ISO Controlled Grid, it may terminate this Agreement, on giving the ISO ninety (90) days written notice, provided, however, that in accordance with Section 4.1.3, the Participating Generator may modify Schedule 1 to eliminate Generating Units which it no longer owns and such modification shall be effective upon receipt by the ISO. With respect to any notice of termination given pursuant to this Section, the ISO must file a timely notice of termination with FERC. This Agreement shall terminate upon acceptance by FERC of such a notice of termination. ~~must also be filed at the FERC. Pending acceptance by the FERC of such termination, the Parties agree not to request services under this Agreement and the operation of the terms of this Agreement and of the ISO Tariff shall be suspended.~~

ARTICLE IV GENERAL TERMS AND CONDITIONS

4.1 Generating Units

- 4.1.1 Identification of Generating Units.** The Participating Generator has identified the Generating Units that it owns or operates in Schedule 1, as required by Section 5.3 of the ISO Tariff.
- 4.1.2 Technical Characteristics.** The Participating Generator has provided to the ISO in Schedule 1 the required information regarding the capacity and operating characteristics of each of the Generating Units listed in that schedule.
- 4.1.3 Notification of Changes.** The Participating Generator shall notify the ISO promptly of any change to the information provided in Schedule 1. Subject to such notification this Agreement shall not apply to any generating unit identified in Schedule 1 which the Participating Generator no longer owns.
- 4.2 Agreement Subject to ISO Tariff ~~and ISO Protocols~~.** The Parties will comply with all applicable provisions of the ISO Tariff ~~(, including Sections 2.3.2, 2.5.3.4 and 5) and all applicable provisions of the ISO Protocols~~. This Agreement shall

be subject to the ISO Tariff ~~and the ISO Protocols~~ which shall be deemed to be incorporated herein.

4.3 Obligations Relating to Ancillary Services

4.3.1 Submission of Bids. When the Scheduling Coordinator on behalf of the Participating Generator submits a bid for Ancillary Services, the Participating Generator will, by the operation of this Section 4.3.1, warrant to the ISO that it has the capability to provide that service in accordance with the ISO Tariff ~~and ISO Protocols~~ and that it will comply with ISO Dispatch instructions for the provision of the service in accordance with the ISO ~~Tariff~~ Protocols.

4.3.2 Certification. Except as provided in Section 4.3.3, the Participating Generator shall not use a Scheduling Coordinator to submit a bid for the provision of an Ancillary Service or submit a schedule for the self provision of an Ancillary Service unless the Scheduling Coordinator serving that Participating Generator is in possession of a current certificate pursuant to Sections 2.5.6 and 2.5.24 of the ISO Tariff.

4.3.3 Initial Exemption. Not later than July 1, 1998, the ISO shall fully implement its certification process in accordance with Sections 2.5.6 and 2.5.24 of the ISO Tariff. Until full implementation of the certification process and notification of the Participating Generator and its Scheduling Coordinator of the completion of such process, the non-certified Scheduling Coordinator on behalf of a Participating Generator may submit a bid for the provision of an Ancillary Service or submit a schedule for the self provision of an Ancillary Service. Upon timely notification by the ISO, the Participating Generator must complete the certification process prior to July 1, 1998 to continue its participation in accordance with Section 4.3.2 of this Agreement.

4.4 Obligations relating to Major Incidents

4.4.1 Major Incident Reports. The Participating Generator shall promptly provide such information as the ISO may reasonably request in relation to major incidents, in accordance with Section 5.8.3 of the ISO Tariff.

ARTICLE V PENALTIES AND SANCTIONS

5.1 Penalties. If the Participating Generator fails to comply with any provisions of this Agreement, the ISO shall be entitled to impose penalties and sanctions on the Participating Generator. No penalties or sanctions may be imposed under this Agreement unless a Schedule providing for such penalties or sanctions has first been filed with and made effective by FERC. Nothing in the Agreement, with the exception of the provisions relating to ADR, shall be construed as waiving the rights of the Participating Generator to oppose or protest any penalty proposed by the ISO to the FERC or the specific imposition by the ISO of any FERC-approved penalty on the Participating Generator.

- 5.2 Corrective Measures.** If the Participating Generator fails to meet or maintain the requirements set forth in this Agreement, ~~and/or~~ the ISO Tariff ~~or the ISO Protocols~~, the ISO shall be permitted to take any of the measures, contained or referenced in the ~~ISO Protocols~~ ISO Tariff, which the ISO deems to be necessary to correct the situation.

ARTICLE VI COSTS

- 6.1 Operating and Maintenance Costs.** The Participating Generator shall be responsible for all its costs incurred in connection with operating and maintaining the Generating Units identified in Schedule 1 for the purpose of meeting its obligations under this Agreement.

ARTICLE VII DISPUTE RESOLUTION

- 7.1 Dispute Resolution.** The Parties shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. In the event any dispute is not settled, the Parties shall adhere to the ISO ADR Procedures set forth in Section 13 of the ISO Tariff, which is incorporated by reference, except that any reference in Section 13 of the ISO Tariff to Market Participants shall be read as a reference to the Participating Generator and references to the ISO Tariff shall be read as references to this Agreement.

ARTICLE VIII REPRESENTATIONS AND WARRANTIES

- 8.1 Representation and Warranties.** Each Party represents and warrants that the execution, delivery and performance of this Agreement by it has been duly authorized by all necessary corporate and/or governmental actions, to the extent authorized by law.
- 8.2 Necessary Approvals.** The Participating Generator represents that all necessary approvals, permits, licenses, easements, rights of way or access to install, own and operate its Generating Units have been ~~or will be~~ obtained by the Participating Generator prior ~~to the later of the ISO Operations Date or the effective date~~ to execution of this Agreement.

ARTICLE IX LIABILITY

- 9.1 Liability.** The provisions of Section 14 of the ISO Tariff will apply to liability arising under this Agreement, except that all references in Section 14 of the ISO Tariff to Market Participants shall be read as references to the Participating Generator and references to the ISO Tariff shall be read as references to this Agreement.

ARTICLE X UNCONTROLLABLE FORCES

- 10.1 Uncontrollable Forces Tariff Provisions.** Section 15 of the ISO Tariff shall be incorporated by reference into this Agreement except that all references in Section 15 of the ISO Tariff to Market Participants shall be read as a reference to the Participating Generator and references to the ISO Tariff shall be read as references to this Agreement.

ARTICLE X-XI MISCELLANEOUS

- 10-411.1 Assignments.** Either Party may assign or transfer any or all of its rights and/or obligations under this Agreement with the other Party's prior written consent in accordance with Section 17 of the ISO Tariff. Such consent shall not be unreasonably withheld. Any such transfer or assignment shall be conditioned upon the successor in interest accepting the rights and/or obligations under this Agreement as if said successor in interest was an original Party to this Agreement.
- 10-211.2 Notices.** Any notice, demand or request which may be given to or made upon either Party regarding this Agreement shall be made in accordance with Section 20.1 of the ISO Tariff. A Party must update the information in Schedule 3 of this Agreement as information changes.
- 10-311.3 Waivers.** Any waivers at any time by either Party of its rights with respect to any default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay, short of the statutory period of limitations, in asserting or enforcing any right under this Agreement shall not constitute or be deemed a waiver of such right.
- 10-411.4 Governing Law and Forum.** This Agreement shall be deemed to be a contract made under, and for all purposes shall be governed by and construed in accordance with, the laws of the State of California, except its conflict of law provisions. The Parties irrevocably consents that any legal action or proceeding

arising under or relating to this Agreement to which the ISO ADR Procedures do not apply, shall be brought as appropriate, in any of the following forums: any court of the State of California, any federal court of the United States of America located in the State of California, or, where subject to its primary or exclusive jurisdiction, before the Federal Energy Regulatory Commission.

10.511.5 Consistency with Federal Laws and Regulations. This Agreement shall incorporate by reference Section 20.8 of the ISO Tariff as if the references to the ISO Tariff were referring to this Agreement.

10.611.6 Merger. This Agreement constitutes the complete and final agreement of the Parties with respect to the subject matter hereto and supersedes all prior agreements, whether written or oral, with respect to such subject matter.

10.711.7 Severability. If any term, covenant, or condition of this Agreement or the application or effect of any such term, covenant, or condition is held invalid as to any person, entity, or circumstance, or is determined to be unjust, unreasonable, unlawful, imprudent, or otherwise not in the public interest by any court or government agency of competent jurisdiction, then such term, covenant, or condition shall remain in force and effect to the maximum extent permitted by law, and all other terms, covenants, and conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect and the Parties shall be relieved of their obligations only to the extent necessary to eliminate such regulatory or other determination unless a court or governmental agency of competent jurisdiction holds that such provisions are not separable from all other provisions of this Agreement.

10.811.8 Amendments. This Agreement and the Schedules attached hereto may be amended from time to time by the mutual agreement of the Parties in writing. Amendments that are subject to FERC approval shall not take effect until FERC has accepted such amendments for filing and has made them effective.

10.911.9 Counterparts. This Agreement may be executed in one or more counterparts at different times, each of which shall be regarded as an original and all of which, taken together, shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed on behalf of each by and through their authorized representatives as of the date hereinabove written.

California Independent System Operator Corporation

By: _____
Name

Title

[NAME OF PARTICIPATING GENERATOR]

By:

Name

Title