



COMMENTS OF CAC AND EPUC ON CAISO'S PROPOSAL TO MODIFY THE DEFINITION OF REGULATORY MUST-TAKE GENERATION

I. INTRODUCTION AND SUMMARY

The Cogeneration Association of California and the Energy Producers and Users Coalition (CAC/EPUC) strongly support the California Independent System Operator's (CAISO's) proceeding to revise the definition of "*Regulatory Must-Take Generation*." The initiative is both timely and essential. The straw proposal notes the settlement agreement regarding combined heat and power (CHP) facilities, recently approved by the California Public Utilities Commission in D.10-12-035, under which utility mandatory purchase obligations will be removed. CAISO correctly states that this removal will result in "*significant uncertainty*" in the treatment of CHP resources under the current tariff definition of Regulatory Must-Take Generation, which assures certain resources the ability to self-schedule. Access to self-scheduling, guaranteed by express tariff language, is vital to continued CHP operations.

CAISO's proposed definition of Regulatory Must-Take Generation, with the revisions discussed in these comments, will remove uncertainty in the tariff language and preserve existing CHP delivery and service options. Tariff updates are warranted for Appendix B.3 and Section 4.6.3, which govern the operational relationship between CHP generators and CAISO and maintain a facility's ability to meet thermal energy requirements. CAISO should establish a "*QF and Regulatory Must-Take Generation PGA*" in Appendix B.3, with conforming revisions to Section 4.6.3, in order to reflect existing provisions under the Qualifying Facility Participating Generator Agreement (QF PGA). Appendix A, Sections 9.1.5.2, 10.1.3.3, and 40.8.1.8, and Section 3.4 of the

Large Generator Interconnection Agreement (LGIA) also warrant modification to address operational and tariff provisions for CHP.

II. THE PROPOSED DEFINITION SHOULD BE REVISED TO ENSURE THAT INTENDED FACILITIES, AND ONLY INTENDED FACILITIES, ARE INCLUDED WITHIN THE DEFINITION

CAISO's revised definition of Regulatory Must-Take Generation includes topping cycle CHP facilities, but is ambiguous regarding the treatment of bottoming cycle CHP facilities. The definition should only include intended facilities, *i.e.*, those with industrial or commercial thermal host applications. To address these issues, CAC/EPUC propose the following revisions:

The following Generation resources that the relevant Scheduling Coordinator may bid or schedule directly with the CAISO on a must-take basis: ... (2) the non-dispatchable capacity of Generation from (a) other QF Generating Units, (b) other Generating Units of facilities ~~producing electricity in conjunction with that~~ produce electric energy and forms of useful thermal energy (such as heat or steam), used for industrial, commercial, heating, or cooling purposes through the sequential use of energy

A topping cycle CHP facility first produces electricity and then uses exhaust heat from the power production process as thermal energy in an industrial or commercial process.¹ A bottoming cycle CHP facility first produces thermal energy for an industrial or commercial process and then uses waste heat from the process for power production.² The electricity in a bottoming cycle plant is not made in conjunction with the thermal process but as a byproduct of that thermal process. A more nuanced definition, acknowledging both types of CHP facilities and in parallel to the current

¹ 18 CFR §292.202(d).

² 18 CFR §292.202(e).

federal definition,³ creates more certainty in achieving CAISO's goal of including all types of CHP operations.

On the other hand, CAISO's proposed definition should properly target CHP facilities with industrial or commercial thermal host applications. It could be argued, for example, that any conventional steam generator produces thermal energy that is "useful," i.e., "useful" in producing electricity. Anchoring the definition to an industrial or commercial host will ensure that only CHP generation is included as Regulatory Must-Take Generation, as opposed to a facility that can creatively interpret the language "*in conjunction with useful thermal energy.*" CAC/EPUC's language ensures that all CHP facilities, and only CHP facilities, are included within the definition.

III. TARIFF REVISIONS

A. Revisions To Appendix B.3 And Section 4.6.3 Are Essential To Ensure The Continued Operation Of CHP

The success of California's CHP policy hinges on maintaining the current operational relationship between the CAISO tariff and CHP facilities and contracts. CHP units must be able to deliver electricity to the grid predictably and without interruption, thereby ensuring the generator's ability to meet its host facility's thermal energy requirements. CHP facilities with existing contracts are today exempt from the tariff and the execution of a PGA, thereby sustaining the generators' control over thermal and electric output. Existing CHP-utility contracts will terminate in the near future, which, under D.10-12-035, will result in a loss of the PGA exemption and present a risk to the CHP operations relative to providing thermal energy to its host.

³ 18 CFR §292.202(c).

The terms of the QF PGA preserve this fundamental operational directive for CHP operations, and retention of the QF PGA provisions is essential for all CHP facilities, regardless of status as a QF. The most expedient method to maintain CHP operations is to adopt the straw proposal's suggestion to apply the QF PGA to must-take generators. CAISO should establish a "*QF and Regulatory Must-Take Generation PGA*" that adopts the terms of the QF PGA and only amends its language to the extent necessary to include all "*Regulatory Must-Take Generation.*" The terms of the QF PGA are the product of long and contentious litigation between CHP parties and CAISO. It is absolutely essential that the terms of the QF PGA remain substantively unaltered to ensure established CHP operating parameters are allowed to continue.

The new Regulatory Must-Take Generation definition requires related changes to Section 4.6.3 and its subsections. Changes to the "*existing agreements*" language in Sections 4.6.3 and 4.6.3.2 are vital to maintain the current relationship between CHP-utility contracts and the CAISO tariff, where CAISO honors the terms and conditions of the former. The new must-take definition precludes the need for separate Sections 4.6.3.2 and 4.6.3.3, since QFs without existing QF contracts will become Regulatory Must-Take Generation. Those sections should be combined in one section that addresses both QFs and associated must-take generators.

The adoption of a "*QF and Regulatory Must-Take Generation PGA*" would also require changes to the subsections of 4.6.3. The last sentence of Section 4.6.3.3, which is essentially an eligibility test to sign a QF PGA, should be converted to an eligibility test to sign the "*QF and Regulatory Must-Take Generation PGA.*" Eligibility should revolve around a generating unit's demonstration that it meets the definition of

Regulatory Must-Take Generation and that it satisfies the current standby service criteria described under subsections (a) and (b) of 4.6.3.3. References in that section to “*QF status pursuant to PURPA*” should be deleted. Further, Section 4.6.3.4 and its subsections, which restate the terms of the QF PGA, should be re-written to mirror the language of the “*QF and Regulatory Must-Take Generation PGA.*” This handful of revisions is sufficient and necessary to preserve the existing relationship between CAISO and CHP facilities.

B. CAISO Should Revise Other Tariff Sections To Comprehensively Address Associated CHP Operational Issues

The netting of generation and load, and associated financial settlement, is also essential to CHP operations. The contemplated must-take definition requires collateral revisions to Section 10.1.3.3, noted by the straw proposal, to maintain CHP’s net metering rights. The defined term “*Net Scheduled Regulatory Must-Take Generation*” should be added to Appendix A with a definition mirroring that of “*Net Scheduled QF.*” “*Point of Demarcation*” and “*Self-Provided Load*” in Appendix A should also be revised to include the net scheduling capability of CHP Regulatory Must-Take Generation. These changes conform existing net metering provisions to the proposed definition, thereby sustaining current CHP operations.

The straw proposal also notes Section 9.3.5.2. The second-to-last sentence of 9.3.5.2 discusses the communication of scheduled outage requests regarding must-take generators that have not executed a PGA or QF PGA. This section should be maintained, temporarily, to accommodate the transition of CHP generators signing PGAs. Once that transition is complete, 9.3.5.2 should be modified accordingly.

CAC/EPUC note other sections that should be modified in a manner consistent with the above changes to harmonize potentially ambiguous provisions of the tariff. CAISO should revise Section 40.8.1.8, which concerns the calculation of qualifying capacity values, and Section 3.4 of the LGIA, which addresses that document's relationship to CAISO PGAs. The terms "QF PGA" and "Qualifying Facility Participating Generator Agreement" in Appendix A should also be revised upon adoption of a "QF and Regulatory Must-Take Generation PGA," with revisions to those terms throughout the tariff.

IV. CONCLUSION

California's AB 32 policy to support the development of CHP projects hinges upon the ability of CHP and its associated hosts to effectively and efficiently deliver their must-run resources to the grid. The CAISO tariff, through the existing QF PGA has recognized this requirement. CAISO's foresight in revising the definition of Regulatory Must-Take Generation to accommodate these features of the tariff is laudable and appreciated by the CHP community. Coupled with the additional revisions contemplated by these comments, the CAISO will support the necessary conditions to sustain and develop CHP resources for the state.

Respectfully submitted,



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