

California Independent System Operator
Market and Infrastructure Policy

**Comments of the California Wind Energy Association
on the
Regulatory Must Take Generation Final Staff Proposal**

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The California Wind Energy Association (“CalWEA”) hereby submits its comments on the January 30, 2012, Final Staff Proposal (“Staff Proposal”) concerning Regulatory Must Take Generation (“RMTG”). Among CalWEA’s members are several wind-powered electricity generating facilities that qualify as RMTG. Also among CalWEA’s members are wind-powered electricity generating facilities that may have transitioned, and may soon be transitioning, from the traditional definition of RMTG under the California Independent System Operator Corporation’s (“CAISO”) tariff because of the expiration of their original standard offer power purchase agreements (“PPAs”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

CalWEA’s principal concerns with the Staff Proposal are that it (i) fails to consider the RMTG status of at least two classes of RMTG resources and (ii) does not address curtailment priority among RTMG and former RMTG resources that are not combined heat and power (“CHP”) facilities. While several of the items addressed in the Staff Proposal may be unique to CHP facilities, others will affect both CHP and non-CHP facilities, including those not considered in the Staff Proposal. CAISO should not adopt a revised RMTG policy without considering its impacts on all RMTG and former RMTG facilities.

The Staff Proposal addresses seven different categories of facilities for RMTG purposes, three of which deal exclusively with CHP facilities. Unfortunately, the Staff Proposal fails to address at least two categories of non-CHP facilities that implicate RMTG status issues: (a) Non-CHP Qualifying Facilities (“QFs”) of 20 MW or less whose original PURPA-based PPAs have terminated or expired, which QFs are eligible to sell power to an investor-owned utility (“IOU”) under a new PURPA-based PPA, but that elect to sell power to an IOU or other party under a non-PURPA-based contract (including, for example a PPA resulting from an IOU’s Renewable Auction Mechanism, or RAM, solicitation, or an IOU’s or other third party’s generic Renewables Portfolio Standard, or RPS, solicitation); and (b) Non-CHP QFs of more than 20 MW whose original PURPA-based PPAs have terminated or expired and that sell power to an IOU or third party under a non-PURPA based contract. This latter class of renewable QFs is not eligible for a new PURPA-based PPA, as are smaller renewable QFs and larger CHP facilities that are eligible for “transition PPAs” (and that fall within the Staff Proposal’s category 4).

While it appears that the Staff Proposal is intended to deal comprehensively with RMTG issues, it is apparent that it does not. CAISO should consider, as part of its RMTG policy, the treatment of renewable QFs and the equity issues that these resources pose. For example, CAISO should consider whether it is appropriate to treat renewable facilities greater than 20 MW, which are not eligible for a new PURPA-based contract, differently from smaller renewable QFs, or from equal or even larger CHP facilities that may choose a new PURPA-based contract.

Along these lines, a critical issue that falls within the RMTG policy but that does not appear to be addressed in the Staff Proposal, is the manner in which losing RMTG status impacts curtailment priority for CHP and non-CHP facilities alike. For example, to the extent that a RMTG facility does not have on-site demand requiring continuous generation for the purpose of contract compliance, should it receive curtailment priority over a renewable QF that has lost its RMTG status because its PURPA contract has expired? In fact, it is important to consider whether an RMTG facility selling electricity to an IOU or another party may lawfully be curtailed any differently than any other generator on the CAISO grid or an IOU distribution system.

CalWEA is aware that consideration of curtailment issues for RMTG and non RMTG QFs is not an academic exercise, as it has been implicated in connection with RMTG facilities on Southern California Edison Company's distribution system. CalWEA understands that a formal policy in connection with this matter has not been set. The related issues should be addressed openly and consistently throughout the CAISO grid. They should be addressed as part of CAISO's RMTG stakeholder process.

For the reasons discussed above, the Staff Proposal should be revised to consider all categories of RMTG and former RMTG facilities and to address curtailment issues affecting these resources.

Thank you for your consideration.