

**Comments of the Independent Energy Producers Association (IEP) re ISO Proposal Revised Definition  
of Regulatory Must-Take Generation and Related Changes**

**January 10, 2011**

“The CAISO proposes to revise the tariff definition of Regulatory Must-Take Generation to remove the limitation based on PURPA and to make it more generally applicable to industrial facilities with the capability to produce electricity in conjunction with the operation of their industrial processes and to other facilities producing electricity in conjunction with useful thermal energy.” [CAISO Straw Proposal, p. 5] In response to this initiative regarding the status of CHP facilities and their treatment under the CAISO Tariff defining Regulatory Must-Take Generation, IEP makes the following comments:

- Regarding the QF Settlement Agreement, if FERC declares that the PURPA mandatory purchase obligation no longer applies in California, then the mandatory purchase obligation will be suspended only with respect to new contracts from QF resources. However, the IOUs will continue to have a mandatory obligation to purchase energy and/or capacity during the pendency of any existing QF contract(s) administered by the IOU. Accordingly, the CAISO must ensure that the modifications will not change the current status and treatment of existing QFs operating pursuant to the terms of existing, PURPA-based contracts. This is true irrespective of whether a dispatchable and/or non-dispatchable component of the existing QF operations may be distinguished. IEP notes as well that the QF Settlement contains a “dispatchable pricing option” (i.e. Option C1) that facilitates the modification of any existing contracts with individual QFs positioned to operate in a dispatchable manner.
  
- To the extent that the CAISO continues to focus on the “truly non-dispatchable portion of a facility’s output...” [CAISO Proposal, at p. 6], the CAISO should not proceed to impose mandatory obligations on all QFs (e.g. renewable and/or CHP ) without regard to the operational and economic restrictions they may face. The program should create incentives to those who can provide dispatchability without imposing dispatchability on all market participants. Not all generators will be able to respond to even well-structured incentives.
  
- The process of distinguishing a dispatchable component from the non-dispatchable component of a new CHP application (QF or otherwise) may be complicated. Additional time to finalize the tariff language related to CHP/QF applications of Must-Take Generation prior to Board submission may be warranted. IEP notes that the Effective Date of the CPUC QF Settlement has a number of Conditions Precedent and contracting for new CHP resources by the IOUs is not expected to occur until the Settlement Agreement is effective (late 2011/2012). We urge the CAISO to take sufficient time to consider the matter, develop reasonable protocols for distinguishing how to assess what would be the dispatchable and non-dispatchable component of CHP/QF operations associated with new CHP/QF operations, and assess to what extent that any such distinction made in the tariff would support or hinder the CARB/CPUC goals for future

CHP development. We believe the current schedule to close stakeholder comment by February 22 and for CAISO Board consideration by March 30, 2011 may not provide sufficient time to achieve favorable outcomes.