



**COMMENTS OF THE COGENERATION ASSOCIATION OF CALIFORNIA
AND THE ENERGY PRODUCERS AND USERS COALITION
ON CAISO STANDARDIZED RESOURCE ADEQUACY CAPACITY PRODUCT
STRAW PROPOSAL**

On November 11, 2008, the CAISO issued its straw proposal (Proposal) on the development of a resource adequacy (RA) standard capacity product (SCP). The Proposal lists several standard obligations that would apply to resources supplying RA capacity. As acknowledged in the Proposal, there are some resources, including qualifying facilities (QFs), that will require special consideration.¹ At the November 18, 2008 stakeholder meeting, CAISO clarified that it does not intend to expand a QF's obligations to require compliance with the RA must offer obligation. By email, CAISO further clarified that QFs would not be subject to the ancillary services (A/S) must-offer obligation but encouraged QFs to offer available A/S. That clarification is helpful but does not thoroughly address the potential scope of overlap that exists between the SCP and the terms of the CPUC-governed QF-utility contracts. For QFs, the SCP obligations that CAISO seeks to standardize are governed by QF-utility contracts. Given this significant overlap, it is critical that CAISO continue to honor the obligations of QF-utility contracts, as it does today, to avoid duplicative obligations and penalties. This issue is discussed in more detail below.

¹ CAISO Straw Proposal, at 12.

I. TO ENSURE QFS WILL NOT BE SUBJECT TO DUPLICATIVE OBLIGATIONS AND PENALTIES, CAISO MUST CONTINUE TO HONOR UTILITY-QF CONTRACT PROVISIONS

Special consideration of QF issues is required to avoid duplicative regulation and penalties. Unlike the typical load-serving entity and generator contract which is negotiated a few months in advance of RA procurement deadlines, a QF contract is developed years in advance and independently from RA deadlines and program rules. Admittedly the CAISO, in this SCP development, has the difficult task of harmonizing the movement to standard obligations with long-term existing or administratively-determined contracts which cover the same scope of issues. To avoid the existing conflict between the provisions of its tariffs and QF-utility contracts, CAISO tariffs currently include a provision which grandfathers these contracts to ensure that the obligations and commitments are honored:

Current Conformed Tariff Section 4.6.3.2: Existing Contracts for Regulatory Must-Take Generation.

Notwithstanding any other provision of this ISO Tariff, the ISO shall discharge its responsibilities in a manner which honors any contractual rights and obligations of the parties to contracts, or final regulatory treatment, relating to Regulatory Must-Take Generation of which protocols or other instructions are notified in writing to the ISO from time to time and on reasonable notice.

MRTU Section 4.6.3.2: Existing Agreements for Regulatory Must-Take Generation.

Notwithstanding any other provision of this CAISO Tariff, the CAISO shall discharge its responsibilities in a manner that honors any contractual rights and obligations of the parties to existing agreements, including Existing QF Contracts, or final regulatory treatment, relating to Regulatory Must-Take Generation of which protocols or other instructions are notified in writing to the CAISO from time to time and on reasonable notice.

This accommodation of “*Existing QF Contracts*” must be continued even if an SCP is developed and adopted for use.

In addition to avoiding overlap and conflict with existing contracts, it is important that CAISO accommodate extended or new QF-utility contracts that are currently being developed under CPUC oversight. The QF-utility contracts being developed will be available for execution most likely in the first quarter of 2009. The contracts may be approved for terms of up to 10 years. Like the existing QF-utility contracts, the contracts being developed address many of the issues standardized in the SCP. For example, the contracts include rigorous availability and capacity performance requirements, scheduling rules, performance obligations, and penalties for non-performance. Given the long duration of the contract and State policy in favor of QFs and combined heat and power (CHP), it is critical that the SCP effort accommodate these resources. The only way to avoid overlap and conflict between the two sets of obligations is to ensure that the terms of the QF-utility contract govern QF obligations.

QFs that have entered a QF PGA also require the same accommodation to avoid duplicative regulation and penalties. While a QF PGA alters some of a QF’s obligations to CAISO, its obligations, pricing, scheduling and penalties are governed by its utility contract. According full effect to the QF-utility contract is consistent with QF PGA model language, which clarifies that “*[n]othing in this Agreement is intended to limit or restrict the rights of the [QF] under Section 4.6.3.2 of the CAISO Tariff.*”²

² MRTU Appendix B (August 2008 filing), Model QF PGA at Original Sheet 995.

As demonstrated above, a comprehensive solution is required to ensure that QFs, bound to the terms of their utility contracts, will not be subject to another set of duplicative requirements. To address the significant overlap discussed above, the CAISO should:

- (1) Clarify that it will continue to honor the obligations of “Existing QF Contracts” as it is required to do by Section 4.6.3.2; and
- (2) Provide that extended or new QF contracts are grandfathered so that the obligations and penalties detailed in the extended or new contracts continue to be honored by CAISO to avoid duplication and conflict.

Inclusion of this information will clarify that a QF’s performance obligations and penalties will continue to be governed by the terms of its utility contract.

Performance standards, penalties, and energy and ancillary services must-offer obligations would therefore not apply to QFs on the grounds that these resources bear similar obligations pursuant to their utility contracts.

II. CONCLUSION

While the broad goal of establishing general standard generator obligations is desirable for an SCP program, CAC/EPUC appreciate CAISO's recognition that realistically, such standards cannot accommodate all resources. CAC/EPUC look forward to working with CAISO on these and other issues.

Respectfully Submitted,



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November 21, 2008