

**TO:** Sydney Davies, Assistant General Counsel – Tariff, CAISO

**FROM:** Joint Investor-Owned Utilities (“Joint IOUs”) Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company

**DATE:** August 3, 2013

**RE:** CAISO’s July 27, 2012 version of Draft Tariff Language RMT Generation - Tariff Amendment to be filed at FERC on or before August 3, 2012 [“RMT Tariff”].

The most recent version of the draft RMT Tariff language is flawed and needs some targeted revision due to its deviation from the CAISO Board’s adopted RMT policy in two important respects. The use of “the efficient use of available thermal energy” as a factor in the definition of RMTmax is unsupported, can lead to abuse, and must be removed from the current draft. Secondly, must-take obligations are determined by the contract between generator and power purchase agreement (“PPA”) counterparty, so references to agreement between the generator and its scheduling coordinator (“SC”) should account for the case when the scheduling coordinator is not the counterparty, which could also lead to abuse of the current draft RMT language. Proposed tariff revisions are provided at the end of this memo.

**1. RMTmax may not be subject to a seller’s proposed “efficient use of available thermal energy.”**

The draft RMT Tariff language includes a definition of a combined heat and power (CHP) facility’s protected operating level known as “RMTmax” which incorporates the “efficient use of available thermal energy.” Promoting the generation of electricity with waste heat has not been raised as an issue in the RMT discussions to date. Further, this issue is unrelated to the CAISO’s goal of protecting a CHP thermal host’s industrial process from harm due to curtailment of primary electric generation, which has been the focus of the RMT stakeholder discussions.

The practice of basing RMTmax on the “efficient use of thermal energy” has not been circulated for stakeholder comment. The CAISO RMT policy does not even consider the “efficient use of thermal energy” as a factor (see Memo re: Decision of RMT Generation Scheduling Priority dated May 9, 2012, adopted May 16, 2012.) This “efficiency” proposal was not discussed at the April 17, 2012 summit meeting of stakeholder leaders that CAISO held before adopting the Memo. There, leaders agreed to the principle that the RMT Tariff must not interfere with operating, curtailment and dispatch rights embodied in the PPA between the seller and the buyer. As written, by allowing sellers to unilaterally generate more electricity based on “the efficient use of available thermal energy”, the current draft RMT Tariff language is inconsistent with this principle and opens the door to broad potential manipulation. The Joint IOUs are concerned that

under the current draft language, there does not appear to be any limit to the operations that seller can claim are needed for the efficient use of waste heat.

RMTmax is defined as,

The minimum operating level at which the Generating Unit can ... meet host requirements and efficiently make use of available thermal energy. The use of the term 'efficiently' is not intended to incorporate the efficiency requirements of (PURPA) or any contractual requirement.

Joint IOUs believe that the current draft language will erode the primacy of the PPA as the basis of minimum operating levels. Moreover, the efficiency proposal in the current draft RMT Tariff language allows unlimited continued generation from waste heat despite the curtailment of other resources, including renewable resources such as hydro, wind, and solar. The Memo limits RMT scheduling priority "up to the actual megawatt quantity necessary to meet the expected host's industrial process requirement in any given hour." (pg. 4, lines 9-10.) In the case of bottoming-cycle CHP, the thermal process is primary and whether electricity is generated from waste heat does not impact the thermal host. As such, including an efficiency requirement is designed for the convenience of the host, and not to protect the process. The Joint IOUs believe that any efficiency-based operating concerns may be negotiated and resolved, if necessary, through the RMT Tariff's independent engineer process.

The efficiency proposal is unrelated to the CAISO's RMT policy, may lead to increased curtailment of renewable resources, and introduces more uncertainty into the resource mix. The potential negative impact of this term on Joint IOUs' customers, project developers, and system reliability are of great concern to the Joint IOUs. Unless the efficiency proposal is deleted, the IOUs may be compelled to press these concerns at FERC to ensure that they are accommodated in the final tariff.

**2. Minimum operating levels must be based on agreement between the generator and purchaser, not between the generator and its scheduling coordinator.**

The CAISO Board understood that the must-take obligation is subject to the parties' rights under the PPA. The Memo states,

The ISO's position is that the utility, as scheduling coordinator, should schedule the must-take capacity identified by the resource owner subject to any contractual right that might be in issue. (Memo, p. 6, lines 15-17.)

The Memo also observes that curtailment provisions reside in the PPA, i.e.,

In addition, a load serving entity's contract with a combined heat and power resource may contain curtailment provisions that allow the load serving entity as the scheduling coordinator to exercise its rights and schedule, in any given hour, below the maximum amount eligible for the scheduling priority or the actual megawatt quantity necessary to meet the host's industrial process requirement. (Memo, p. 4, lines 11-15.)

However, the RMT Tariff makes the SC responsible for exercising RMT rights pursuant to contract rights between the generator and the SC. This incorrectly assumes that SC is always the contract counterparty. Because the buyer is not always the SC, the RMT Tariff will not operate as intended. Joint IOUs recommend minor edits to the RMT Tariff to clarify that the PPA is the contractual basis for RMTmax and minimum operating levels.

Below are Joint IOUs' recommended tariff revisions:

#### 4.6.10 RMTMax for CHP Resources

##### 4.6.10.1 Initial Determination

Each Generating Unit that provides Regulatory Must-Take Generation from a CHP Resource must provide the ISO with establish an RMTMAX, which is determined in accordance with the Generating Unit's power purchase agreement and implemented as follows:

(a) established by agreement of the Generating Unit's owner or operator and its Scheduling Coordinator, if there is a PPA between the owner/operator and the Scheduling Coordinator is a UDC or MSS, or by agreement of the Generating Unit's owner or operator and the CAISO, if not, or

(b) in the event agreement cannot be reached,

(1) certified by affidavit of an independent California-licensed certified engineer based on the engineer's assessment of the annual and seasonal requirements of the host and the resulting electrical output, with the costs of the engineer to be evenly shared by the Generating Unit's owner or operator and its Scheduling Coordinator, unless otherwise agreed upon, if the Scheduling Coordinator is a UDC or MSS, or paid entirely by the Generating Unit's owner or operator, if the Scheduling Coordinator is not a UDC or MSS.; and

(2) reassessed and recertified by affidavit as often as quarterly if agreed by the Generating Unit's owner or operator and its Scheduling Coordinator, if the Scheduling Coordinator is a UDC or MSS, or by agreement of the Generating Unit's owner or operator and the CAISO, if not, and at a minimum once every year using the procedure

**Comment [ECL1]:** This clarification is necessary to ensure that RMTmax scheduled by a third-party SC is consistent with the terms of the negotiated PPA.

**Comment [ECL2]:** This insertion quotes Memo p. 4, lines 18-21.

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set forth in (a) or (b) above.

(c) Based on an agreement between ~~If~~ the Generating Unit owner or operator and the ~~PPA~~ ~~counterparty,~~ ~~Scheduling Coordinator, if it is a UDC or MSS, agree, or if between the Generating Unit owner or operator and the CAISO if there is no contractual counterparty agree, if the resource's Scheduling Coordinator is not a UDC or MSS,~~ two daily RMTmax values may be established, one for off-peak and one for on-peak, as those terms are defined by NERC.

(d) As part of the initial and annual recertification process, the Generating Unit owner or operator must provide the CAISO and its Scheduling Coordinator, if the Scheduling Coordinator is a UDC or MSS, with an annual non-binding indicative Regulatory Must Take Generation usage profile.

<sup>^</sup>~~PPA~~  
Power purchase agreement,

**- RMTmax**

For a Generating Unit that provides Regulatory Must-Take Generation from a CHP Resource, the minimum operating level at which the Generating Unit can safely and reliably meet host requirements ~~and efficiently make use of available thermal energy,~~ as established under section 4.6.10. ~~The use of the term efficiently is not intended to incorporate the efficiency requirements of 18 C.F.R. § 292.205 or any successor Federal regulation, or any contractual requirement.~~

**Comment [ECL3]:** Memo p4 lines 5-7 explicitly state that the optional off-peak value will be used if the CHP resource "and its contractual counterparty agree."

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**Comment [ECL4]:** New defined term. Note that "PPA" is used, but not defined, in the proposed definition of "existing QF contract".

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