

141 FERC ¶ 61,176  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony T. Clark.

California Independent System  
Operator Corporation

Docket No. ER12-2634-000

ORDER APPROVING TARIFF AMENDMENTS

(Issued November 30, 2012)

1. On September 17, 2012, the California Independent System Operator Corporation (CAISO) submitted a filing to amend its tariff to en the blanket “regulatory must-take” scheduling priority for qualifying facilities, with certain exceptions, and continue to allow combined heat and power resources to receive a scheduling priority for the capacity dedicated to their industrial host, and remain exempt from certain tariff requirements regardless of whether the resources are qualifying facilities. As discussed below, we accept the proposed tariff amendments, effective December 12, 2012, as requested.

**I. Background**

2. Under the Public Utility Regulatory Policies Act of 1978 (PURPA),<sup>1</sup> certain small generators, including some renewable resource generators, and combined heat and power resources can obtain treatment as qualifying facilities, which exempts them from parts of the Federal Power Act. PURPA also imposed on public utilities a mandatory purchase requirement for energy from qualifying facilities.<sup>2</sup>

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<sup>1</sup> Pub. L. No. 95-617, 92 Stat. 3117 (codified as amended in scattered sections of 15, 16, 42, and 43 U.S.C.).

<sup>2</sup> PURPA § 210, 16 U.S.C. § 824a-3 (2006). PURPA was implemented to encourage, among other things: (1) the conservation of electric energy, (2) increased efficiency in the use of facilities and resources by electric utilities, (3) equitable retail rates for electric consumers, (4) expeditious development of hydroelectric potential at

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3. CAISO's tariff requires CAISO to honor the terms of certain PURPA power purchase agreements in effect prior to CAISO's operations (Existing QF Contracts). Moreover, generating units with Existing QF Contracts have been exempt from compliance with the CAISO tariff, and such qualifying facilities have had no obligation to enter into various agreements with CAISO. In the absence of a direct contractual relationship between these grandfathered qualifying facilities and CAISO, the purchasing public utility schedules the resources with CAISO as regulatory must-take generation. Regulatory must-take resources receive a higher level of protection from curtailment in the CAISO market optimization than that given to resources with self-schedules and economic bids. Specifically, in the event of over-generation or congestion, CAISO curtails resources with economic bids and self-schedules before regulatory must-take schedules.

4. Qualifying facilities under Existing QF Contracts are also exempt from the standard capacity product availability standard reporting requirements related to resource adequacy capacity because the contractual provisions of the Existing QF Contract prevented scheduling coordinators for certain qualifying facilities that provide resource adequacy capacity from obtaining the information necessary in order to demonstrate compliance.<sup>3</sup>

5. If its Existing QF Contract terminates, a qualifying facility is no longer eligible for the exemption from compliance with the CAISO tariff.<sup>4</sup> However, the CAISO tariff continues to recognize the special characteristics of those qualifying facilities, particularly those that are combined heat and power resources. For instance, those qualifying facilities can have net metering and telemetry, and they can enter a special form of participating generator agreement (the QF PGA, Appendix B.3 to the tariff), which provides qualifying facilities that are combined heat and power resources

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existing small dams, and (5) conservation of natural gas while ensuring that rates to natural gas consumers are equitable. One of the ways PURPA set out to accomplish its goals of was through the establishment of a new class of generating facilities which would receive special rate and regulatory treatment. Generating facilities in this group are known as qualifying facilities (QF), and fall into two categories: qualifying small power production facilities and qualifying cogeneration facilities.

<sup>3</sup> CAISO Filing at 3 (citing *Cal. Indep. Sys. Operator Corp.*, 137 FERC ¶ 61,167, at P 11 (2011)).

<sup>4</sup> See CAISO tariff sections 4.6.3 and 4.6.3.2.

additional protection from CAISO operating orders and dispatches below their specified minimum operating limits.<sup>5</sup>

6. In 2005, Congress amended PURPA to allow public utilities to request that the Commission grant relief from the mandatory purchase requirement for qualifying facilities.<sup>6</sup> The three investor-owned participating transmission owners of the CAISO, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company, sought and received this relief resulting in the end of the mandatory PURPA purchase obligation for qualifying facilities greater than 20 MW.<sup>7</sup>

7. In 2007, the California Public Utilities Commission (CPUC) issued a decision requiring qualifying facilities whose “grandfathered” power purchase agreements (i.e., Existing QF Contracts under the CAISO tariff) expire to enter into new standard forms of power purchase agreements that include, among other provisions, requirements to comply with the CAISO tariff.<sup>8</sup> In 2010, the CPUC approved a global settlement intended to implement alternative contractual arrangements for combined heat and power units to replace the program that had implemented PURPA.<sup>9</sup> The global settlement requires combined heat and power resources to execute one of certain standard forms of new power purchase agreements<sup>10</sup> by July 1, 2015, sell into the wholesale market, shut down, or cease to export to the CAISO grid.<sup>11</sup>

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<sup>5</sup> See CAISO tariff section 4.6.3.4.4.

<sup>6</sup> See Energy Policy Act of 2005, Pub. L. 109-58, §§ 1261 *et seq.*, 119 Stat. 594 at § 153 (2005).

<sup>7</sup> See *Pac. Gas & Elec., et al.* 135 FERC ¶ 61,234 (2011).

<sup>8</sup> Cal. Pub. Util. Comm’n, Decision D. 07-09-040 (September 25, 2007) available at [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_DECISION/73181.PDF](http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/73181.PDF).

<sup>9</sup> Cal. Pub. Util. Comm’n, Decision D. 10-12-035 (December 16, 2010), as modified in Decision D.11-07-010 (July 15, 2011); *see* <http://docs.cpuc.ca.gov/PUBLISHED/GRAPHICS/124875.PDF>.

<sup>10</sup> Under the new standard form agreements, the resource must comply with the CAISO tariff.

<sup>11</sup> Certain other qualifying facilities may continue to operate under their Existing QF Contracts.

## **II. Stakeholder Process**

8. Beginning with the posting of a straw proposal on December 16, 2010, CAISO indicates that it initiated an extensive stakeholder process on regulatory must-take generation including the consideration of stakeholder comments. CAISO states that it presented the proposal to the CAISO Board of Governors (Board) on May 16, 2012. The Board, in turn, unanimously approved the proposal. Following Board approval, CAISO states that it undertook additional stakeholder processes with all industry sectors culminating in posting a final version of the proposed tariff language on September 10, 2012. Throughout the policy and tariff stakeholder processes, CAISO states that it worked with the stakeholders and representatives from state energy agencies to resolve and/or compromise stakeholders' concerns. CAISO indicates that the resulting proposed tariff language reflects agreed upon resolutions.

## **III. Instant Filing**

9. CAISO states the proposed tariff amendments further the objectives of the global settlement and state and federal policy, such as retaining and expanding combined heat and power resources' greenhouse gas emission reduction benefits. CAISO indicates that without the proposed tariff amendments, combined heat and power resources would lose regulatory must-take scheduling priority, making curtailment of the resources more likely. CAISO warns that curtailments could adversely affect the operation of the related host's industrial processes and potentially increase the costs of products produced by the facilities. CAISO asserts that the increased risk of curtailment would act as a disincentive to the expansion of the use of combined heat and power resources, thwarting federal and state policy objectives. Additionally, CAISO maintains that curtailment would undermine the energy efficiency benefits of combined heat and power resources, while also undermining greenhouse gas reduction goals.

10. In addition, CAISO states that revisions to its tariff are needed to preserve existing tariff exemptions for resources under Existing QF Contracts. CAISO proposes tariff amendments to allow resources subject to certain contract requirements to be exempt from some tariff requirements in the event the resource owner elects to amend its contract consistent with the options available under the global settlement (and which do not extend the term or increase the capacity under contract).

### **A. Scheduling Priority**

11. CAISO proposes to revise its tariff to ensure that combined heat and power resources continue to have a scheduling priority after the elimination of the blanket scheduling priority for qualifying facilities. But this proposed scheduling priority is limited to the extent that the output is necessary to serve the combined heat and power resources' industrial hosts or to produce electricity from the heat that is a byproduct of the industrial process. Thus, CAISO proposes to redefine regulatory must-take

generation to include “Generation delivered from a [combined heat and power] Resource needed to serve its host thermal requirements up to RMTMax in any hour.”

12. CAISO proposes that RMTMax be, “the minimum operating level at which the Generating Unit can safely and reliably meet host requirements as established under proposed section 4.6.10, including the production of electricity from heat produced as a consequence of the industrial host’s operations.”

13. Proposed tariff section 4.6.10 provides for determining RMTMax (which may be different for on-peak and off-peak periods), through agreement between the combined heat and power resource owner and its scheduling coordinator (if the scheduling coordinator is a load serving entity and there is a power purchase agreement between the combined heat and power resource owner and its scheduling coordinator). Otherwise, RMTMax is to be set by agreement between the combined heat and power resource owner and CAISO. If the parties cannot agree or there is insufficient evidence of agreement, a California-licensed certified engineer will determine the RMTMax. The RMTMax cannot be established at a level that conflicts with any power purchase agreement between the combined heat and power resource owner or operator and the load-serving entity.

14. CAISO contends that the proposed limited scheduling priority accommodates stakeholders who opposed the scheduling priority and those who wanted to retain it. CAISO states that its proposal for scheduling priority limited to the extent that the output is necessary to serve the combined heat and power resources’ industrial hosts or to produce electricity from the heat that is a byproduct of the industrial process, recognizes the changed legal landscape since congress amended PURPA, while providing the necessary protections to the host. By allowing for both an on-peak and off-peak RMTMax, and by limiting priority to the output actually required by the host, even if less than RMTMax, CAISO maintains the proposal responds to stakeholder concerns that basing priority on a single RMTMax would interfere with the CAISO markets by providing an undue advantage to the combined heat and power resource over such resources as wind and hydropower. But CAISO contends that incorporating a limited scheduling priority avoids interfering with industrial operations to a degree that would outweigh any economic savings that a potential host might expect from such facilities, or creating a significant disincentive to the construction or continued operation of combined heat and power facilities, contrary to state and federal energy efficiency and greenhouse gas reductions objectives.

15. CAISO states that another concern raised by stakeholders was the need to avoid tariff provisions on scheduling priority that might override negotiated contract provisions allowing curtailment of energy that serves the industrial host. CAISO states that the proposed revisions address this issue by providing in tariff section 30.5.2.2 that the quantity scheduled as regulatory must-take generation must also be consistent with any

contractual agreements between the combined heat and power resource and the scheduling coordinator regarding curtailments.<sup>12</sup>

**B. Existing and Amended Contracts**

16. CAISO proposes to amend the definition of Existing QF Contract and introduce the defined term Amended QF Contract. These changes are intended to ensure that existing tariff exemptions are not extended to resources that should not be exempt and to ensure that the exemptions do apply to resources they were intended to apply. CAISO states that under the global settlement, qualifying facilities with contracts that meet the current criteria for Existing QF Contracts can select certain contractual amendments that do not extend the term of the contract, do not increase the capacity of the contract, and do not require the qualifying facility to comply with the CAISO tariff. CAISO states that although these proposed amendments would take the contract outside the parameters of the existing definition of Existing QF Contract, they do not change the fundamental nature of the contract from CAISO's perspective. Thus, CAISO proposes to amend the definition of Existing QF Contract to include contracts that have been amended consistent with the global settlement.

17. Similarly, CAISO proposes to include the defined term, "Amended QF Contract" and allow resources with Amended QF Contracts to retain some of the same exemptions as resources with Existing QF Contracts. CAISO claims these revisions are necessary because, as a result of the global settlement, it is possible that certain former qualifying facilities may no longer meet the criteria for a qualifying facility, or may otherwise participate in the CAISO markets and be subject to the CAISO tariff, but may still be subject to contracts that limit their ability to comply with the CAISO tariff.

18. Also, CAISO proposes to amend certain sections of the tariff to limit the exemption to resources with Existing QF Contracts (or Amended QF Contracts) because, as a result of the global settlement, there are likely to be a greater number of qualifying facilities that are no longer parties to Existing QF Contracts and are under the obligation to comply with the CAISO tariff. The proposal includes such changes in tariff sections 8.2.3.3 (voltage support), 9.3.5.2.1 (outage communication), 10.2.12 (exemption from metering standards), and 40.8.1.7 (regarding geothermal units) and 40.9.2 (exemption from standard capacity product availability standards).

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<sup>12</sup> CAISO tariff section 30.5.2.2 requires the combined heat and power resource owner or operator to provide its scheduling coordinator with the regulatory must-take generation values and is solely responsible for the accuracy of the information.

19. In addition, CAISO states that the current tariff does not consistently use the term Existing QF Contract when referring to existing power purchase agreements between qualifying facilities and load-serving entities under PURPA. CAISO states that the proposal therefore revises a number of tariff sections to make consistent use of the defined term.

**C. Net Scheduled PGA**

20. CAISO proposes tariff revisions that it contends preserve the metering and operational arrangement currently available to combined heat and power resources that would otherwise cease as a result of the elimination of the blanket “regulatory must-take” scheduling priority for qualifying facilities. Under revised tariff section 4.6.3.3, combined heat and power resources, regardless of whether they are qualifying facilities, as well as qualifying facilities, may enter a “Net Scheduled PGA” if the on-site load has standby service from a load-serving entity or is curtailed in the event of a failure of the generating unit. CAISO states that the Net Scheduled PGA is substantially the same as the current QF PGA. And under a Net Scheduled PGA a resource would remain protected from CAISO operating orders and dispatches below their specified minimum operating limits.<sup>13</sup>

21. CAISO’s proposal also revises certain tariff sections to extend to net scheduled resources the metering, scheduling, and operating requirements currently available to qualifying facilities. CAISO’s proposal revises a number of sections to replace the term “QF PGA” with the term “Net Scheduled PGA” and to refer to net scheduled generation where appropriate.

**D. Miscellaneous Revisions**

22. CAISO states that the proposal also revises a few typographical errors and outdated or imprecise provisions that came to light during the stakeholder process. These revisions are in sections 4.5.1.1.6.2, 4.6.3, 10.2.12, and 40.9.2.

**E. Effective Date and Request for Commission Order**

23. CAISO requests that the Commission make the tariff revisions contained in its filing effective as of the December 12, 2012 trading day.<sup>14</sup> CAISO states that it has

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<sup>13</sup> See proposed CAISO tariff section 4.6.3.4.4 and Appendix B.3, Net Scheduled PGA.

<sup>14</sup> CAISO states that trading day implementation means both the day-ahead market and the real-time market for the trading day. Accordingly, CAISO requests that the new

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designed and developed the software changes to implement the new Regulatory Must Take scheduling priority, which is scheduled for deployment on December 11, 2012. CAISO requests that the Commission issue an order by November 30, 2012, to ensure regulatory certainty and an orderly implementation.

### **III. Notice and Responsive Pleadings**

24. Notice of the CAISO tariff filing was published in the *Federal Register*, 77 Fed. Reg. 58,986 (2012), with interventions and protests due on or before October 9, 2012. Notice of intervention was filed by the CPUC. Motions to intervene were filed by ACE Cogeneration Company, the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California (Six Cities), the City of Santa Clara, California and the M-S-R Public Power Agency, Exelon Corporation and NRG Companies. A Motion to intervene one day out-of-time was filed by California Department of Water Resources State Water Project (State Water Project). Timely motions to intervene and comments were filed by the California Energy Commission, the California Wind Energy Association (Wind Energy), the Energy Producers and Users Coalition, the Cogeneration Association of California and the California Cogeneration Council (the CHP Parties) and Pacific Gas and Electric Company (PG&E). On October 12, 2012, the CPUC filed comments three days out of time. On October 19, 2012, CAISO filed a motion for leave to answer the protest and comments of Wind Energy and an answer.

### **IV. Discussion**

#### **A. Procedural Matters**

25. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2012), the Commission will grant CPUC's late-filed comments and State Water Project's late-filed motion to intervene given their interests in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest and/or answer unless otherwise

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regulatory must-take scheduling priority will be in effect on December 11, 2012 for the December 12, 2012 trading day in addition to the real-time market for the December 12, 2012 trading day.



ordered by the decisional authority. We will accept CAISO's answer because it has provided information that assisted us in our decision-making process.

**B. Comments and Protest**

26. Several parties filed comments in support of the filing. The California Energy Commission states that the proposal reflects a forward thinking approach to system dispatch while continuing to support California's industry, jobs, and energy efficiency and environmental policies. Similarly, the CPUC states the proposal is consistent with California policies favoring the development of combined heat and power resources. The CPUC explains that curtailment of combined heat and power resources beyond the minimum capacity needed for their industrial hosts can be damaging and costly for the industrial processes and would be strong disincentive to deployment of new combined heat and power technology. CPUC states that limiting the scheduling priority to the level required to satisfy the needs of the industrial host will promote the efficient use of these resources.<sup>15</sup> PG&E also supports CAISO's proposal because the limitation of deliveries from regulatory must take generation to RMTMax during curtailment will provide more scheduling flexibility. PG&E particularly supports CAISO's proposed provision that ensures that RMTMax not be established at a level that will conflict with the terms and conditions of a power purchase agreement negotiated by the generating unit owner or operator and the distribution company.<sup>16</sup>

27. The CHP Parties seek confirmation from CAISO of their interpretation of the proposed new term "Net Scheduled Generating Unit." The CHP Parties understand that the proposed definition for net scheduled generating unit does not alter the existing treatment of a facility with multiple generation units as a single qualifying facility.<sup>17</sup>

28. Wind Energy does not oppose the proposed tariff amendments that would provide scheduling priority during curtailments imposed for economic reasons, for combined heat and power resources that need to stay on line to meet thermal commitments to their industrial hosts. Neither does Wind Energy oppose the proposed scheduling priority for small (20 MW and under) wind generating facilities that are treated as "regulatory must-take generation," because they have entered into standard offer contracts with their host utility. However, Wind Energy argues that CAISO should afford similar scheduling

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<sup>15</sup> CPUC October 12 2012 Comments at 2

<sup>16</sup> PG&E October 9, 2012 Comments at 4 (citing proposed tariff section 4.10.1.1(d)).

<sup>17</sup> CHP Parties October 9, 2012 Comments at 4.

priority to small qualifying facility wind generators that no longer have regulatory must-take contracts, and to larger wind generating facilities that have contractual obligations to meet in furtherance of state and federal policy goals.<sup>18</sup> Wind Energy argues that CAISO failed to provide a rational basis for providing scheduling priority to combined heat and power resources and new small qualifying facilities, while not providing similar priority to qualifying wind resources, thus improperly favoring the set of federal and state policies promoting combined heat and power generation over those promoting renewable energy.<sup>19</sup>

29. Wind Energy argues that CAISO's proposal undermines wholesale competition by favoring wind resources that have PURPA power purchase agreements over those that do not.<sup>20</sup> Wind Energy explains that these resources will have a higher scheduling priority, meaning that they will be curtailed pro rata with each other after other generating resources have been curtailed non-pro rata to relieve transmission congestion. Wind Energy resources that are regulatory must-take generation (generation from generating units subject to an Existing QF Contract or and Amended QF Contract, or subject to a QF power purchase agreement for a QF 20 MW or smaller pursuant to a mandatory purchase obligation as defined by federal law) would benefit over those that are not because non-regulatory must take generation are subject to a greater curtailment risk, non-pro rata, curtailments if they participate in the competitive market. Wind Energy states the Commission should direct CAISO to revise its proposal to provide for pro rata curtailment of regulatory must-take and non-regulatory must-take wind resources regardless of the size of the facility and that at a minimum, the Commission should direct CAISO to eliminate the curtailment preference for small wind generation projects (20 MW or smaller) and curtail all projects pro rata if they are selling under long-term power sales contracts, regardless of whether the sales are under PURPA or non-PURPA contracts.<sup>21</sup>

30. Finally, Wind Energy argues that CAISO did not "seriously consider" this issue in its stakeholder process, but only promised to take up the issue during a new stakeholder process, which it has not yet convened. Wind Energy notes that CAISO, in refusing to address the issue as part of the instant proceeding, took the position that there was no

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<sup>18</sup> Wind Energy October 9, 2012 Protest at 1-2.

<sup>19</sup> *Id.* at 7.

<sup>20</sup> CalWEA notes that larger (over 20 MW) wind generators may also be qualifying facilities.

<sup>21</sup> *Id.* at 10-13.

urgency with non-regulatory must-take wind resources because they have protections under the participating intermittent resources program.<sup>22</sup>

**C. Answer**

31. In its answer to Wind Energy's protest, CAISO explains that combined heat and power resources are uniquely constrained because their output is directly tied to their host's industrial activities, which supports the need for a scheduling priority limited to the output necessary to accommodate the industrial processes of the host (RMTMax).<sup>23</sup> CAISO states that Wind Energy did not present evidence that wind resources have operational constraints that require similar scheduling priority. CAISO states that to the extent there is evidence that wind resources generally, or wind qualifying facilities specifically, require special treatment with regard to curtailment for other reasons, Wind Energy can present it during the later stakeholder process.<sup>24</sup>

32. CAISO explains that its proposal is not a comprehensive effort to promote policies relating to renewable and combined heat and power resources, and that it is inaccurate to portray it as favoring one over the other. CAISO notes that it has implemented new policies to promote and integrate renewable resources such as its location constrained resource interconnection program, and its participating intermittent resources program.<sup>25</sup> CAISO states that the 13-month long stakeholder process that led to this tariff filing was specifically constituted to address the potentially adverse effects that the end of the regulatory must-take scheduling priority would have on combined heat and power resources with capacity dedicated to a host industrial process in recognition of new policies promulgated by the CPUC as well as state and federal public policy goals to promote new heat and power development.<sup>26</sup> CAISO states that Wind Energy submitted its protest requesting similar priority to qualifying wind resources at the very end of that process, after the draft final proposal had already issued, far too late to consider comments that would require substantial change in the scope of the initiative. However, CAISO reiterates that it has agreed to schedule a stakeholder initiative process to address Wind Energy's specific concerns.

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<sup>22</sup> *Id.* at 13.

<sup>23</sup> CAISO October 19, 2012 Answer at 3, 8.

<sup>24</sup> *Id.* at 3

<sup>25</sup> *Id.* at 7.

<sup>26</sup> *Id.* at 3 -5.

33. CAISO explains that today, wind resources are subject to different scheduling priorities. For example, CAISO provides that some wind resources are qualifying facilities under grandfathered contracts, some are qualifying facilities no longer under grandfathered contracts, and some participate in CAISO's participating intermittent resource program, which do not receive a scheduling priority; rather the resources submit "self schedules." CAISO states that the state and federal regulatory changes, driving the instant filing will end the higher scheduling priority applicable to wind qualifying facilities, so that, over time, all wind resources will have the same self-schedule priority except for the qualifying facilities under 20 MW that remain under PURPA contracts.

34. CAISO refutes Wind Energy's claim that CAISO's proposal will undermine competition since resources with and without PURPA contracts have always been treated differently under CAISO's tariff. CAISO states the amendment simply continues the historical deference to PURPA contracts but will no longer exempt qualifying facilities from other tariff requirements, consistent with existing policy goals and the amendments to PURPA.

35. In response to the CHP Parties' concern regarding the proposed definition of Net Scheduled Generating Unit, when read in light of CAISO's tariff provision stating that the singular includes the plural, CAISO agrees with CHP Parties' reading of the new definition. CAISO states that a combined heat and power facility with multiple generating units is treated as a single Net Scheduled Generating Unit.<sup>27</sup>

#### **D. Commission Determination**

36. We find CAISO's proposal, which retains the existing scheduling priority for small qualifying facilities (20 MW or less) with a PURPA power purchase agreement,<sup>28</sup> ends the existing blanket scheduling priority for qualifying facilities, and allows combined heat and power resources to receive a scheduling priority for the capacity dedicated to their industrial hosts (regardless of whether the resources are qualifying facilities) is just and reasonable and not unduly discriminatory.

37. CAISO's proposed tariff amendments reflect changes in state and federal policies concerning qualifying facilities and combined heat and power resources, and they recognize the operational constraints of combined heat and power resources primarily dedicated to economic activity of their industrial hosts. We find CAISO's proposal to

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<sup>27</sup> CAISO October 19, 2012 Answer at 13.

<sup>28</sup> Small qualifying facilities include combined heat and power resources and renewable resource generation.

retain the scheduling priority of combined heat and power resources, limited to the maximum amount of capacity necessary to serve the host and to retain the efficient use of the thermal energy (RMTMax), maintains regulatory certainty for combined heat and power resources, in light of the evolving regulatory framework. The CAISO proposal recognizes the existence of generation dedicated to the industrial host processes, while fostering greater competition by enabling resources to make any incremental capacity available to the CAISO market through economic bids.

38. Without the proposed amendments, termination of Existing QF Contracts would cause combined heat and power resources to lose the regulatory must-take scheduling priority that they currently have under the CAISO tariff, making curtailments of the generation dedicated to serving industrial hosts more likely. Those curtailments could adversely affect the operations of the related industrial host and increase the costs of products produced by the facilities.

39. The revisions are also needed to retain existing tariff exemptions (such as the standard capacity product availability and standard reporting requirements) for certain combined heat and power resources. Otherwise, some of these resources would not be able to comply with the requirements because contractual provisions of the Existing QF Contract prevent scheduling coordinators for certain qualifying facilities that provide resource adequacy capacity from obtaining the information necessary to comply. Also, CAISO's tariff revisions regarding Existing QF Contracts and Amended QF Contracts reflect the regulatory changes affecting qualifying facilities.

40. We are unconvinced by Wind Energy's request for the Commission to order CAISO to extend scheduling priority to all wind resources. CAISO's proposal recognizes the unique operational constraints attendant to combined heat and power resources, and Wind Energy has not shown that wind resources have the same operational constraints. Similarly, as CAISO notes, CAISO has undertaken efforts to better integrate renewable resources, specifically addressing the concerns of the wind resources. As explained by CAISO, the proposed tariff amendments do not seek to establish a new tariff scheduling priority for small wind qualifying facilities. Rather, CAISO, in this filing, seeks to retain the recognition of the unique operational characteristics of combined heat and power resources in the face of evolving federal and state policies. The retention of scheduling priority for small wind qualifying facilities is coincidental to the aims and scope of this proceeding. Through its proposed tariff amendments, CAISO continues the scheduling priorities contracted for and that are consistent with the global settlement. Further, because CAISO states its intention to conduct a stakeholder process that will consider Wind Energy's curtailment priority issues, we find no need to order further procedures here.

The Commission orders:

CAISO's proposed tariff revisions are hereby accepted, as filed, effective December 12, 2012, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.