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Decision 97-05-021 May 6, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's
Own Motion to Implement the Biennial Resource
Plan Update Following the California Energy
Commission's Seventh Electricity Report.

I.89-07-004
(Filed July 6, 1989)

ORIGINAL

**OPINION MODIFYING UTILITY REPORTING REQUIREMENTS
RELATING TO THE INCORPORATION OF QUALIFYING FACILITIES
INTO THE UTILITY SYSTEM**

I. Summary

This decision grants the joining parties¹ amended Petition to Modify Resolution E-1738 and Decision (D.) 82-01-103, D. 82-12-120, D.90-03-060, D.91-10-039, D.93-04-001, and D.96-12-028 with the modifications set forth below. Specifically, this decision modifies existing utility reporting requirements relating to the incorporation of qualifying facilities (QFs) into the utility system. The primary changes include:

- Requiring the utilities to file the Cogeneration and Small Power Production Quarterly Report annually, and semi-annually only if there is new information to report;
- Eliminating the utilities' requirement to file the Incremental Energy Rate Report, the Annual Wheeling Report, and the Spot Firm Capacity Purchases Report;
- Requiring the utilities to file the Negative Avoided Cost and Hydro Spill Condition Report annually for any year in which a negative avoided cost or hydro spill condition occurs; and

¹ The joining parties include Southern California Edison Company (Edison), San Diego Gas & Electric Company (SDG&E), Pacific Gas and Electric Company (PG&E) (collectively "the utilities"), the Independent Energy Producers Association (IEP), the California Cogeneration Council (CCC), Sithe Energies, Destec Energy and Watson Cogeneration Company.

- Requiring that utilities make their Avoided Cost Posting on a calendar month basis.

II. Background

A. Procedural Background

In D.82-01-103, 8 CPUC2d 20, we ordered the utilities to develop standard offers for power purchases from QFs based on avoided cost principles. QFs are nonutility power plants that qualify under the federal Public Utility Regulatory Policies Act of 1978 (PURPA). Section 210 of PURPA requires electric utilities to offer to purchase available electric energy from qualifying cogeneration and small power production facilities. The Federal Energy Regulatory Commission (FERC) developed rules implementing PURPA.

Currently, the utilities have various reporting requirements relating to the incorporation of QFs into the utility system; these requirements originate from Commission decisions implementing PURPA. In D.93-04-001, we addressed and modified one of these reporting requirements applicable to the quarterly report of negative avoided costs or hydro spill. In that decision, we stated that additional reporting requirements are similarly in need of updating, elimination, consolidation, or other refinement. We instructed the parties to file any future recommendation for such changes in the then-current Biennial Resource Plan Update (Update) docket, and expressed our preference for a joint recommendation. (D.93-04-001, slip op. at p. 3.)

On November 27, 1996, the utilities filed petitions (1) to modify D.82-01-103 to eliminate the requirement to file an Annual Wheeling Report, and (2) to modify Ordering Paragraph 4 of Resolution E-1738 to change the requirement of the filing of the Cogeneration and Small Power Production Quarterly Report from quarterly to annually. IEP responded to both petitions on December 13, 1996. In addition to responding to the merits, IEP requested time to meet and confer with the utilities and other interested parties in the attempt to arrive at a joint recommendation regarding the petitions.

On December 30, 1996, assigned Administrative Law Judge (ALJ) Econome issued a ruling directing the parties to meet and confer to discuss both the reporting requirements set forth in the petitions, and other periodic reporting requirements relating to the incorporation of QFs into the utility system. The joining parties, representing a broad coalition of utilities, QF trade representatives, and individual QFs, met on January 13, 1997, and reached the agreement embodied in the amended Petition which we address in this decision.

On February 18, 1997, the joining parties filed a Petition to Modify various Commission decisions and resolutions, and the utilities filed a motion to withdraw their two Petitions to Modify filed on November 27, 1996. On March 3, 1997, the parties submitted an amended Petition to Modify making minor word changes and including the specific modifications to the resolution and decisions they seek to modify, pursuant to Rule 47(b) of the Commission's Rules of Practice and Procedure.

In light of the joining parties' recommendation that the filing requirement for the Annual Wheeling Report, Spot Firm Capacity Purchase Report, and Incremental Energy Rate Report be eliminated (see part I B below for a discussion of the contents of the joint recommendation), the utilities also requested, by letter dated January 27, 1997 to the Commission's Executive Director, an extension of time of the filing dates for these three reports. By letter dated January 30, 1997, the Commission granted the utilities an extension of time to file these three reports through and until June 2, 1997.

Although the December 30 ALJ ruling directed the parties to file their recommendations pursuant to the Commission's rules regarding stipulations and settlements, the parties request that the Commission consider their joint recommendation through the amended Petition to Modify. The joining parties believe that the amended Petition to Modify is a more appropriate vehicle because adoption of the parties' recommendations involves modification of additional Commission decisions which were not included in the utilities' November 27, 1996 petitions. We agree with the joining parties in this regard.

On March 19, 1997, the Office of Ratepayer Advocates (ORA) filed a limited protest to the amended Petition to Modify, and on April 7, 1997, The Utility

Reform Network (TURN) filed a late-filed response. We interpret TURN's late-filed response as a motion requesting leave to file a late-filed response, together with its response, and discuss this filing below.

B. The Joining Parties' Proposal

The joining parties recommend the following proposal in their amended Petition to Modify:

- Modification of the filing requirement of the Cogeneration and Small Power Production Quarterly Report so that the Report is filed with the Commission on July 31, with a semi-annual Report due on January 31 if there is new information to be reported.
- The requirement to file semiannually will be for three years. If there is no new information to be reported, the utility will submit a letter to the Commission so stating. After the third year, the Report will be filed on July 31.
- Interested parties may obtain a copy of the Report through the Commission's Central Files. The utility will provide a copy of the Report to the Commission's Office of Ratepayer Advocates and the Commission's Energy Division.
- Elimination of the Incremental Energy Rate Report.
- Elimination of the Annual Wheeling Report.
- Modification of the filing requirement of the Negative Avoided Cost and Hydro Spill Condition Report so that the Report is filed annually on July 31 and only if a negative avoided cost or hydro spill condition occurs.
- Elimination of the Spot Firm Capacity Purchases Report.
- Modification of the filing requirement of the Avoided Cost Posting so that the Posting corresponds to a calendar month basis.
- At the expiration of the May 12, 1997 to June 9, 1997 Posting, the utility will post for the remainder of June 1997 based on the gas price that would have been used under the calendar month approach. Commencing July 1997, the utility will post based on the approach described below.

- Edison and SDG&E will use the indices published in *BTU Daily*, *Natural Gas Week*, and *Natural Gas Intelligence*.
- Within two business days after receipt of the appropriate published indices, the utility will file its Posting at the Commission. Prices will be effective as of the first day of the calendar month.
- The utility may provide notice indicating a clerical error or technical correction to the Posting and issue a revised Posting as soon as practicable after discovery but no later than 30 days after the filing date of the Posting, even if the clerical error or technical correction would result in adjusting QF payments downward. The QF's protest rights remain unchanged.
- The recommended modification will not affect the distribution of the utility's posting or any notice of clerical error or technical corrections to QFs with current power purchase contracts with the individual utility with energy payments paid based on the Posting and who have been recipients of the Posting. Other interested parties may obtain a copy of the Posting from the Commission's Central Files.
- Prior to implementation of a change to a calendar month posting, the index used from *Natural Gas Intelligence* must become available on the first business day of the month. The parties explain that currently, the index used from *Natural Gas Intelligence* is available on the first Monday of the month. The parties also state that on or about April 1997, *Natural Gas Intelligence* intends to make the index available on the first business day of the month.

The parties believe that their recommendations will result in a more efficient and streamlined process for the Avoided Cost Posting. In the event that this expectation does not materialize due to an unexpected circumstance (i.e., a continuous delay in the receipt of one of the publications), the parties will meet to resolve the circumstance. The parties further state that nothing in their joint recommendation otherwise limits or affects a party's rights to seek a change or modification to the Avoided Cost Posting practices or methodology.

ORA filed a limited protest to the amended Petition to Modify. ORA states that it was unable to participate in the meetings which developed the joining parties' proposal due to Commission reorganization and staffing constraints. ORA agrees that it is important to update reporting requirements in the QF area to conform

more closely to current conditions, and generally does not oppose the joining parties' recommendations.

However, ORA notes that currently, the utilities are responsible for providing copies of the Quarterly Report and the Avoided Cost Posting to the public. The joining parties would transfer this responsibility to the Commission's Central Files. ORA states that the Commission may want to consider alternative means of making this information public. Specifically, ORA suggests a requirement that the utilities post this information on their world wide web (WWW) sites. ORA states that parties interested in this information either already have access to the WWW or could easily obtain it at many locations such as public libraries. ORA recommends this approach, since it would save the Commission resources and transaction costs, while improving public access to this information.

On April 7, 1997, TURN also filed a late-filed response to the amended Petition to Modify.² TURN generally does not object to the amended Petition, but wishes to receive copies of the utilities' avoided cost postings without the delay and burden entailed of having to request each copy from Central Files. Therefore, TURN requests that the joining parties' proposal be modified so that the monthly avoided cost postings be served on the QFs delineated in the proposal, as well as other parties who indicate to the utilities their desire to receive the postings.

III. Discussion

We gratefully acknowledge the joining parties' time and effort in attempting to achieve streamlined, workable modifications to various reporting requirements. For the most part, we adopt the joining parties' proposal as more fully set forth below. To

² Protests or responses to the amended Petition to Modify were due on April 2, 1997. TURN explains that its tardiness in filing its response is due to lack of staff resources in that its small staff has been focused on the ongoing unbundling hearings in electric industry restructuring, the proposed decision issued in the Diablo Canyon ratemaking proceeding, the Competition Transition Charge proceeding, and other matters dealing with industry restructuring. Given that no party is prejudiced by TURN's late-filed response, we treat TURN's response as a motion to file a late-filed response and grant TURN permission to file its response.

the extent we modify the proposal, we do so primarily to address the needs of the Commission, in the exercise of its duties, since the Commission was not a party to the meetings which lead to the proposal. We address each element of the proposal below.

A. *Cogeneration and Small Power Production Quarterly Report*

On January 10, 1978, the Commission adopted Resolution E-1738 entitled Order Directing Electric Utilities to Augment Cogeneration Projects. This Resolution was adopted, in part, because it was found that there is a need for regulatory agencies to provide support to efforts being made to implement cogeneration projects. Ordering Paragraph 4 of the Resolution requires the utilities to fully identify long-term cogeneration potential and to provide time frames for bringing these sources on line. It also requires the utilities to file quarterly status reports on cogeneration projects being considered.

The joining parties propose to modify this requirement so that the report will be updated annually on July 31, with a semi-annual report due on January 31 if there is new information to be reported. The requirement to file the semi-annual report should exist for three years, and if there is no new information, the utility would send a letter stating so. After the third year, the requirement to file the semi-annual report would be eliminated.

The proposal also modifies the service requirement so that in addition to filing the Report with the Commission, the utilities need serve only ORA and Energy Division. The parties state that all other interested parties can obtain a copy of the Report from the Commission's Central Files.

As stated above, we commend the parties for the time and effort they spent in arriving at this joint recommendation. However, we believe it is necessary to make minor modifications to this particular recommendation in light of the Commission's need to exercise its duties with respect to monitoring and oversight, especially with respect to QF-related Competition Transition Charges (CTC) as a result of electric industry restructuring.

In electric industry restructuring, a component of the CTC is above market payments to QFs. This amount can change, among other reasons, if the utilities and QFs enter into contract buyout or other reformation arrangements. For example, PG&E admits that electric industry restructuring and the provisions of Assembly Bill 1980 should significantly increase its QF buyouts.³

We therefore do not believe it is appropriate at this time to eliminate the filing of a semi-annual report in three years. Consequently, we modify Resolution E-1738 to provide that the Cogeneration and Small Power Production Quarterly Report, which should now be called the Cogeneration and Small Power Production Report, should be filed annually on July 31, with a semi-annual report due on January 31 if there is new information to report. If there is no new information to report, the utility should file a letter so stating in lieu of the semi-annual report.

In the future, any party may file a petition to modify this decision to eliminate the filing of the semi-annual report, if circumstances warrant. This action may be appropriate if, for example, after several years, there has been no new information to report in the semi-annual report or other events make the filing of the semi-annual report unnecessary. Based on the considerations outlined above, we do not believe it is appropriate in today's decision to eliminate the semi-annual report in three years.

Moreover, in order to assist our Commission staff in reviewing this information for, among other things, our electric industry restructuring proceeding, we direct the utilities to deliver to the Energy Division and ORA a 3.5 inch disc of the data in Microsoft Excel format, or any other electronic format acceptable to both the Energy

³ See January 16, 1997, Motion of PG&E for Adoption of Additional Guideline for Multiyear QF Buyouts at pp. 2-3.

Division and ORA, when they file their hard copies of the reports.⁴ Finally, we take this opportunity to direct that Edison's reports be made uniform with PG&E's and SDG&E's by adding to the data that Edison currently reports for each contract both (1) the type of Standard Offer for each contract, and (2) the operational date.

With respect to service, this is currently the responsibility of the utilities. We do not wish to transfer this responsibility to Central Files. However, we agree with the joining parties that it is a good idea to narrow the distribution of the hard copy of the report to only those parties who are interested in receiving the Report, yet to improve public access to this material while at the same time imposing the minimum burden on any party.

We continue to require the utilities to file their Cogeneration and Small Power Production Report with the Commission. In addition, for the interim, the utilities should serve their Report on ORA, the Commission's Energy Division, and on those parties to this proceeding who have indicated to each utility in writing their desire to receive this Report on an ongoing basis.

Nothing in this decision precludes a utility from distributing its Report electronically, in addition to following the other service requirements. We understand from the comments to the draft decision that the joining parties and ORA and TURN are having ongoing discussions regarding electronic posting on the utilities' WWW site. Upon implementation of the utilities' plans to provide this information on their WWW home pages for viewing or downloading via FTP, the utilities may file an advice letter or letters requesting authorization to discontinue distributing the information to *non-contract holders* by mail. These advice letters shall be served on all persons receiving the reports by mail at the time of the advice letter filing.

⁴ If there is no new information to report in the semi-annual report, there is no requirement to provide the disc.

B. Incremental Energy Rate Report

The joining parties propose to eliminate the Incremental Energy Rate Report. As stated above, in the early 1980s, we ordered the major California electric utilities to develop standard offers for power purchases from QFs based on avoided cost principles. In D.82-12-120, 10 CPUC2d 553, 618, we explained that incremental heat rates, which reflect the efficiency with which utilities can burn fuel at the margin, are one component in the determination of the marginal cost of electricity. Because actual incremental heat rate and fuel use data filed regularly would be useful for the evaluation of future period energy prices, we directed that the utilities file a quarterly Incremental Energy Rate Report. (10 CPUC2d at 643, Ordering Paragraph 12 b.)

It appears that neither the utilities nor the QFs believe that filing this Report is currently necessary. In light of experience gained, we agree with the recommendation of the joining parties and eliminate this reporting requirement.

C. Annual Wheeling Report

Wheeling involves transmission-only service, where one or more third-party entities must give access to their transmission lines in order for the seller of electricity to deliver its power to the purchasing utility. In D.82-01-103, 8 CPUC2d 20, 86-89, we noted that at that time, FERC provided through regulation for limited wheeling. We also expressed our optimism that the electric utilities subject to the Commission's jurisdiction would respond to wheeling requests in a fair and nondiscriminatory manner. If our optimism is well-founded, we stated we would not need to decide the extent of action needed to encourage wheeling. We also stated that if our optimism is unfounded, we would take appropriate action.

It was in this posture that we then required the utilities to file an annual wheeling report on the wheeling performed during the previous year. We directed that this report include the parties for whom the wheeling was performed, the terms and conditions and technical arrangements of the transaction, and the status of any pending requests to wheel. The report should also describe the circumstances relating to any wheeling request which was refused. (See 8 CPUC2d at 122, Ordering Paragraph 23.)

Although we are still concerned that wheeling requests be dealt with in a fair and nondiscriminatory manner, it appears that in light of experience gained since the early 1980s, it is not necessary for the utilities to continue to file this report at this time to effectuate this goal.

D. Negative Avoided Cost and Hydro Spill Condition Report

One of FERC's rules implementing PURPA provides that utility purchases are not required during any period where, due to operational circumstances, purchases from QFs would result in costs greater than those which the utility would incur if it did not make such purchases, but instead generated an equivalent amount of energy itself. (18 CFR § 292.304(f).) In our 1980 rulemaking addressing the task of establishing standards governing the prices, terms and conditions of electric utility purchases of electric power from QFs, we determined, consistent with FERC rules, that the right to refuse purchases from QFs should arise only when the avoided cost at the time of delivery would be less than zero (negative avoided costs). We also directed that QFs should get reasonable notice prior to a utility's refusal to purchase. (8 CPUC2d 20, 114, Findings of Fact 63 and 64.) We ordered utilities to file an annual report regarding periods during which QF purchases were refused for the previous year. (*Id.* at 121, Ordering Paragraph 17.)

We subsequently modified the reporting requirement to include information about hydro spill and other pertinent facts. (D.82-04-071, 8 CPUC2d 653, 662, Ordering Paragraph 1(h).) Hydro spill does not allow utilities to refuse to purchase, but it does allow them to sharply reduce their prices to QFs during periods when the utilities might have to spill water at hydroelectric facilities in order to buy QF power.

We also changed the reporting period from annual to quarterly, regardless of whether a negative avoided cost or hydro spill condition occurred during the quarter. In D.93-04-001, we modified this reporting requirement so that the utility need only file a report for any quarter in which a negative avoided cost or hydro spill condition occurs. We found that the conditions of negative avoided costs or hydro spill

have not been reported as occurring since we initiated the reporting requirement in D.82-01-103 and D.82-04-071.

The joining parties now propose to file the report annually, as opposed to quarterly, for any year in which a negative avoided cost or hydro spill condition occurs. This modification appears reasonable in light of experience gained. However, we caution the utilities that they should keep this information current, for example, in order to respond to Commission requests for such information between reporting periods.

E. Spot Firm Capacity Purchases Report

In D.90-03-060, 36 CPUC2d 2, 30, where we addressed resource planning assumptions for use in determining the need for additional electric resources and for identifying resources that are potentially deferrable by utility purchases from QFs, we determined that the utilities should generally exclude spot capacity purchases from their upcoming resource plans. However, we stated that we did not have adequate information on these types of purchases, and that this information would aid us in assessing the uncertainty associated with spot capacity purchases in future update proceedings. Therefore, we directed the utilities to file quarterly reports on the quantity, price, and terms of any spot firm capacity purchases made during the previous quarter.

We no longer have an Update proceeding every two years. In light of experience gained, we agree with the recommendation of the joining parties and eliminate this reporting requirement.

F. Avoided Cost Posting

Some of the electric utilities' purchases from QFs are priced according to short-run avoided cost principles and prices consist of both a capacity and energy component. Each electric utility posts monthly energy prices intended to represent the utility's own avoided costs for the coming month. The monthly posting determines energy payments from utilities to QFs priced at the purchasing utility's short-run avoided costs. In D.91-10-039, we adopted an index methodology for calculating

avoided energy costs. In D.96-12-028, we replaced the index methodology to conform with the criteria established by Assembly Bill 1890. Since D.96-12-028 did not replace many of the procedural requirements surrounding the postings, we generally continue to rely on the procedural direction articulated in D.91-10-039.

The joining parties suggest several modifications to D.91-10-039 and D.96-12-028. The primary modification proposed is that the filing requirement for the avoided cost posting should now correspond to a calendar month basis. Currently, the utilities make their postings on the second Monday of each month, with prices remaining in force until the next posting. Under the parties' proposal, June would be a transition month, with the posting from June 9 to the end of June based on the gas price that would have been used under the calendar month approach. Commencing July 1997, the utility would post based on the calendar month approach. Under the proposal, the utilities would file their posting at the Commission within two days after receipt of the appropriate published indices.⁵ The parties state that prior to the implementation of a change to the calendar month approach, the index used from *Natural Gas Intelligence* must become available on the first business day of the month, which event the parties anticipate occurring on or about April 1997.

Furthermore, the utility can now provide notice indicating a clerical error or technical correction to the Posting and issue a revised Posting as soon as practicable after the discovery, but no later than 30 days after the filing date of the Posting, even if the clerical error or technical correction would result in adjusting QF payments downward. The parties further propose that the utilities would continue to serve the Posting and any notice of clerical error or technical corrections on QFs with current

⁵ The parties recommend that Edison and SDG&E use *BIU Daily*, *Natural Gas Week*, and *Natural Gas Intelligence*. The parties recommend that Edison and SDG&E use *BIU Daily* rather than *BIU Weekly* (as set forth in D.96-12-028) as the prices are the same in both publications and as use of *BIU Daily* would result in more expedited receipt of the index. The parties state that this change would not affect PG&E, and PG&E would continue to use the indices required in D.96-12-028.

power purchase contracts with the individual utility with energy payments paid based on the Posting and who have been recipients of the Posting, and that other interested parties may obtain a copy of the Posting through the Commission's Central Files.

The parties make their recommendations in order to achieve a more efficient and streamlined process for the Avoided Cost Posting. For these reasons, the parties' recommendations, except for the modification of the service requirement of the Avoided Cost Posting, appear to be reasonable and we adopt them.⁶ With respect to service, in addition to the affected QFs described in the joining parties' proposal on the Avoided Cost Posting, the parties should file and serve the Avoided Cost Posting in the manner set forth above for the Cogeneration and Small Power Production Quarterly Report, except that it is not necessary to provide a disc of this posting to the Energy Division or ORA.

G. *Miscellaneous Matters*

In light of the joining parties' recommendation that the filing requirements for the Annual Wheeling Report, Spot Firm Capacity Purchase Report, and Incremental Energy Rate Report be eliminated, the utilities requested an extension of time for filing these three reports by letter dated January 27, 1997 to the Executive Director.⁷ By letter dated January 30, 1997, the Executive Director granted an extension of time to file these reports through and until June 2, 1997. In light of this decision, it is no longer necessary that these three reports be filed. Therefore, the utilities are relieved of their obligation to file the Annual Wheeling Report, Spot Firm Capacity Report, and the Incremental Energy Rate Report which would have been due on June 2, 1997.

⁶ The parties note that in the event that their expectations of a more efficient and streamlined process do not materialize due to an unexpected circumstance (for example, if there is a continuous delay in the receipt of one of the publications), the Parties will meet to resolve the circumstances. This is a reasonable accommodation, as the timely availability of certain publications is a circumstance beyond the individual parties' control.

⁷ These three reports would have been due on January 31, 1997, February 1, 1997, and April 1, 1997 respectively.

The joining parties' proposal supersedes the utilities' November 27, 1996 petitions (1) to modify D.82-01-103 to eliminate the requirement to file an Annual Wheeling Report, and (2) to modify Ordering Paragraph 4 of Resolution E-1738 to change the requirement of the filing of the Cogeneration and Small Power Production Quarterly Report from quarterly to annually. Therefore, the utilities' February 18, 1997 motion to withdraw the two November 27, 1996 Petitions to Modify is granted.

Although the joining parties consist, in part, of several QF trade organizations and a number of individual QFs, we still wish to ensure that all potentially affected QFs are notified of these modifications. Therefore, we direct that the utilities send, as soon as practicable, but within 60 days of the effective date of this decision, a letter to the QF representative designated to receive notices under the contract that indicates the modifications adopted today.

IV. Comments on the Draft Decision

Although the Commission's rules do not require written comments on the draft decision, on April 17, 1997, ALJ Econome issued her draft decision for comment, because of the technical nature of the modifications involved. The joining parties and ORA and TURN (jointly) filed comments. We have reviewed the comments and have, where appropriate, made changes to the draft decision. The primary changes include:

- We allow the parties to continue to negotiate and to file an advice letter regarding posting certain reports on the utilities' WWW site in lieu of some other service requirements;
- We direct that the Cogeneration and Small Power Production Report need only be filed annually, and semi-annually if there is new information to report;
- We eliminate references to past due reports.

We have also made other changes to the draft decision to improve the discussion, add clarification, and to correct typographical errors.

V. Findings of Fact

1. Currently, the utilities have various reporting requirements relating to the incorporation of QFs into the utility system; these requirements originate from Commission decisions implementing PURPA.

2. In D.93-04-001, we stated that various QF reporting requirements are in need of updating, elimination, consolidation, or other refinement. We expressed our preference for a joint recommendation proposing modifications to existing QF reporting requirements.

3. On March 3, 1997, the joining parties filed an amended Petition to Modify containing a joint proposal suggesting modification of various QF reporting requirements.

4. The joining parties have primarily proposed to modify the reporting requirements in the following respects: (1) require the utilities file the Cogeneration and Small Power Production Quarterly Report annually, instead of quarterly, with a semi-annual filing for three years if there is new information to report; (2) eliminate the utilities' requirement to file the Incremental Energy Rate Report, the Annual Wheeling Report, and the Spot Firm Capacity Purchases Report; (3) require the utilities to file the Negative Avoided Cost and Hydro Spill Condition Report annually, as opposed to quarterly, for any year in which a negative avoided cost or hydro spill occurs; and (4) require that the utilities make their Avoided Cost Posting on a calendar month basis.

5. In electric industry restructuring, a component of the CTC is above market payments to QFs. This amount can change, among other reasons, if the utilities and QFs enter into contract buyout or other reformation arrangements.

VI. Conclusions of Law

1. The joining parties' proposal with respect to eliminating the Incremental Energy Rate Report, the Annual Wheeling Report, and the Spot Firm Capacity Purchases Report, and modifying the requirements regarding the Negative Avoided Cost and Hydro Spill Condition Report is reasonable in light of the experience gained and should be adopted.

2. The joining parties' proposal with respect to the Cogeneration and Small Power Production Quarterly Report, which should now be called the "Cogeneration and Small Power Production Report," and the Avoided Cost Posting is reasonable as modified in this decision and should be adopted.

3. The utilities should be relieved of their obligation to file the Annual Wheeling Report, Spot Firm Capacity Report, and the Incremental Energy Rate Report, which would have been due on June 2, 1997 according to a January 30, 1997 letter from the Commission's Executive Director.

4. As soon as practicable, but within 60 days of the effective date of this decision, the utilities should notify QFs currently under contract with them of the changes in the reporting requirements adopted by this decision by a letter to the QF representative designated to receive notices under the contract.

5. The utilities' February 18, 1997 motion to withdraw their two Petitions to Modify filed on November 27, 1996 is granted.

6. TURN's April 7, 1997 request to file a late-filed response to the amended protest should be granted.

7. To limit the burden of unnecessary filings, this decision should take effect immediately upon approval.

O R D E R

IT IS ORDERED that:

1. Resolution E-1738, Ordering Paragraph 4, is modified to read in full as follows:

"4(a). PG&E, SCE and SDG&E shall fully identify long-term cogeneration potential and provide time frames for bringing these sources on line. Within 15 days after the effective date of this order, PG&E, SCE, and SDG&E shall file status reports on cogeneration projects being considered as of January 1, 1978. This report shall be updated annually on July 31, with a semi-annual report due on January 31. If there is no new information to be reported in the semi-annual report, the utility will submit a letter to the Commission stating so.

"4(b). The utilities should file this Report with the Commission, and should serve the Report on the Office of Ratepayer Advocates, the Commission's Energy Division, and on those parties who have indicated to each utility in writing their desire to receive this Report on an ongoing basis. The utilities should also deliver to the Commission's Energy Division and the Office of Ratepayer Advocates (ORA) a 3.5 inch disc of the data in Microsoft Excel format, or any other electronic format acceptable to both the Energy Division and ORA, when they file hard copies of their annual and semi-annual reports. Upon implementation of the utilities' plans to provide this information on their WWW home pages for viewing or download via FTP, the utilities may file an advice letter or letters, requesting authorization to discontinue distributing the information to *non-contract holders* by mail. These advice letters shall be served on all persons receiving the reports by mail at the time of the advice letter filing."

2. Commencing with the July 31 Report, Southern California Edison Company's (Edison) Cogeneration and Small Power Production Quarterly Report shall be made uniform with Pacific Gas and Electric Company's (PG&E) and San Diego Gas & Electric Company's (SDG&E) reports by adding to the data that Edison currently reports for each contract both (1) the type of Standard Offer for each contract, and (2) the operational date.

3. Decision (D.) 82-12-120, Ordering Paragraph 12b, is deleted in full.

4. D. 82-01-103, Ordering Paragraph 23, is deleted in full.

5. D.93-04-001, Ordering Paragraph 1, first paragraph, is modified as follows:

"1. Each utility shall promptly file a report annually on July 31 for any year in which a negative avoided cost or hydro spill condition occurs. The report shall include the following:"

6. D.93-04-001, Ordering Paragraph 1, subsections (1) through (8) are not changed.

7. D.90-03-060, Ordering Paragraph 7, is deleted in full.

8. D.91-10-039, Ordering Paragraph 2, is modified to read in full as follows:

"2. Beginning in November 1991, the electric utilities shall post avoided cost price offers monthly on the second Monday of each month, to become effective on the second Monday of the month and remain in force until the effective date of the next posting. At the expiration of the May 12, 1997 to June 9, 1997 posting, the utility will post for the remainder of June 1997 based on the gas price that would have been used under the calendar

month approach. Commencing July 1997, the utility will post based on the calendar month approach described below:

"(a) Within two business days after receipt of the appropriate published indices, the utility will file its posting at the Commission. Prices will be effective as of the first day of the calendar month.

"(b) The utility may provide notice indicating a clerical error or technical correction to the posting and issue a revised posting as soon as practicable after discovery but no later than 30 days after the filing date of the posting, even if the clerical error or technical correction would result in adjusting QF payments downward. The QFs' protest rights remain unchanged.

"(c) The change to a calendar month posting will not affect the distribution of the utility's posting or any notice of clerical error or technical corrections to QFs with current power purchase contracts with the individual utility with energy payments paid based on the posting and who have been recipients of the posting. The utilities should file this Report with the Commission, and should, in addition to the QFs delineated above, serve the Report on the Office of Ratepayer Advocates, the Commission's Energy Division, and on those parties who have indicated to each utility in writing their desire to receive this posting on an ongoing basis. Upon implementation of the utilities' plans to provide this information on their WWW home pages for viewing or download via FTP, the utilities may file an advice letter or letters, requesting authorization to discontinue distributing the information to *non-contract holders* by mail. These advice letters shall be served on all persons receiving the reports by mail at the time of the advice letter filing.

"(d) The change to a calendar month posting will not be effective until the index used from *Natural Gas Intelligence* becomes available on the first business day of the month.

"(e) Implementation of a calendar month posting is expected to result in a more efficient and streamlined process for the avoided cost posting. In the event that this expectation does not materialize due to an unexpected circumstance, the utilities and interested parties will meet to resolve the circumstance. Nothing will limit or otherwise affect a party's right to seek a change or modification to the avoided cost posting practices or methodology."

9. D.96-12-028, Conclusion of Law 3, is modified to read in full as follows:

"3. It is reasonable to use a simple average of California/Arizona (Topock) indices published in *Natural Gas Intelligence*, *Natural Gas Week*, and *Bill Weekly* for purposes of calculating monthly changes to SCE's and SDG&E's interim SRAC formula. Because the prices in *Bill Daily* are identical to the prices in *Bill Weekly* and because *Bill Daily* may publish its prices more expeditiously than *Bill Weekly*, SCE and SDG&E may use *Bill Daily* instead of *Bill Weekly*."

10. PG&E, SDG&E, and Edison shall be relieved of their obligation to file the Annual Wheeling Report, Spot Firm Capacity Report, and the Incremental Energy Rate Report, which would have been due on June 2, 1997 according to a January 30, 1997 letter from the Commission's Executive Director.

11. PG&E's, SDG&E's, and Edison's motion to withdraw their two Petitions to Modify filed on November 27, 1996 is granted. The utilities' November 27, 1996 Petitions (1) to modify D.82-01-103 to eliminate the requirement to file an Annual Wheeling Report, and (2) to modify Ordering Paragraph 4 of Resolution E-1738 to change the requirement of the filing of the Cogeneration and Small Power Production Quarterly Report from quarterly to annually are dismissed without prejudice.

12. As soon as practicable, but within 60 days of the effective date of this decision, PG&E, SDG&E, and Edison should notify qualifying facilities (QFs) currently under contract with them of the changes in the reporting requirements adopted by this decision by a letter to the QF representative designated to receive notices under the contract.

13. The Utility Reform Network's April 7, 1997 request to file a late-filed response to the amended protest is granted.

This order is effective today.

Dated May 6, 1997, at San Francisco, California.

P. GREGORY CONLON
President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD BILAS

Commissioners