BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans.	Rulemaking 10-05-006 (Filed May 6, 2010)

COMMENTS OF ACE COGENERATION COMPANY, RIO BRAVO POSO AND RIO BRAVO JASMIN ON THE PROPOSED DECISION IN THE LONG-TERM PROCUREMENT PLAN PROCEEDING

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Contents

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ACE Cogeneration Company, Rio Bravo Poso and Rio Bravo Jasmin (collectively, "Solid Fuel Cogens") hereby provide brief comments to ALJ Allen's February 21, 2012, *[Proposed] Decision on System Track 1 and Rules Track III of the Long-Term Procurement Plan Proceeding and Approving Settlement* ("Proposed Decision" or "PD"), consistent with Rule 14.3 of the California Public Utilities Commission ("CPUC" or "Commission") Rules of Practice and Procedure.

For the reasons described below, the Solid Fuel Cogens remain disappointed that the California state agencies implementing AB 32 have provided no pathway for existing cogeneration projects – that were developed pursuant to both State and Federal laws that encouraged much needed fuel diversity – to modify their facilities and transition to much lower carbon content fuels. The failure to address these facilities may well translate into a loss of reliable baseload generation in important locations and loss of significant local economic benefits associated with their operations. The PD continues this unfortunate policy direction by precluding another opportunity to raise, in the context of the CPUC discussions on locked-in contracts, any potential mechanism to support technology or fuel switching for existing, contracted QF resources whose needs are not addressed by the much broader QF/CHP

Settlement with its GHG reduction goals.[1] The QF/CHP Settlement addresses, generally, a program to "promote new, lower GHG-emitting CHP facilities and encourage the repowering, operational changes through utility-pre-scheduling, or retirement of existing, higher GHG-emitting CHP facilities"[2], but says nothing about providing accommodation for existing projects that must make fuel input system changes.

I. Introduction

The Solid Fuel Cogens are existing qualifying facilities ("QFs") supplying reliable baseload electricity to the utilities and useful thermal energy to their hosts. Because these facilities utilize higher carbon content fuels, the implementation of AB 32's greenhouse gas reduction program will lead to severe economic impacts to the facilities until they can make significant investments to change their fuels. Unfortunately, the recent QF/CHP Settlement Decision adopted by the Commission provides no pathway for these few facilities to economically pursue fuel switching investments under their existing commercial commitments to the utilities. Moreover, over the last two years of discussions with CARB, the agency has been unwilling to establish a pathway for the Solid Fuel Cogens to economically transition to lower carbon fuels. Accordingly, the GHG policies set into motion for the electric sector by CARB and the CPUC will orphan the very projects that California once explicitly encouraged in order to advance its fuel diversity goals, consistent with the state's implementation of PURPA.

In the case of Rio Bravo Poso and Rio Bravo Jasmin, each 33 MW cogeneration unit was designed and permitted to utilize petroleum coke or coal consistent with PURPA regulations, to

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[1] See, D.10-12-035, *Decision Adopting Proposed Settlement* (December 2010) ("QF/CHP Settlement Decision"). The QF/CHP Settlement addresses, generally, a program to move QF energy pricing to a market-based mechanism over a course of years, with other related obligations, and includes certain GHG risk mitigation mechanisms applicable to the end of 2014.

[2] QF/CHP Settlement Decision, page 2.

support enhanced oil recovery operations in the Bakersfield area of Kern County. The capacity from these projects is important for system reliability. The Poso project is located within the CAISO's resource adequacy Kern Local Capacity Area ("LCA"), and Jasmin is located within the Big Creek-Ventura LCA. Their operations meet stringent local air quality requirements and provide reliable baseload power to PG&E and SCE respectively. Each of the projects provide significant local and state tax revenue and provide higher paying jobs in a particularly economically distressed portion of California.

ACE Cogeneration Company ("ACE"), located in Trona, California, is a coal-fired cogeneration facility that supports the unique mineral mining and industrial processing operations of Searles Valley Minerals in a more remote portion of California near the Mojave Desert. ACE supplies 108 MWs of baseload power to SCE, and was permitted by the California Energy Commission as part of a fuel diversity program highlighting high efficiency fluidized bed boiler technologies. The project helps support system reliability in the area near Ridgecrest, California. ACE Cogen also provides well-paying jobs for about three dozen employees in an area of California with limited economic opportunities.

II. Discussion

A. The California Agencies Implementing AB 32 Have Failed To Support Existing Solid Fuel Generation's Need To Convert Fuels.

CARB's adoption of a cap-and-trade program will have the result of increasing operating costs for covered facilities with GHG emissions above 25,000 mmtCO2e. For most baseload facilities utilizing natural gas, the costs imposed from the program will drive investments in emissions reducing efficiency improvement to become more cost competitive. However, in the case of solid fueled facilities, ***there are no efficiency improvements that can overcome their GHG emissions levels because it is the carbon content of their fuel which dictates their GHG***

emissions profile. Accordingly, those same solid fuel projects that were once explicitly encouraged because they advanced California's fuel diversity and technology innovation goals are being orphaned by the state. They must quickly find a way to remain economically viable while simultaneously implementing changes to their fuel inputs in order to avoid economic dislocation and potential shutdown if allowance costs become excessive. But rather than crafting its "cutting edge" GHG reduction policy structure in a way that would transform its existing electric sector infrastructure by anticipating needs and providing appropriate transition mechanisms across the full spectrum of technologies and affected industries—including those currently utilizing high carbon fuels—the responsible state agencies have ignored the economic dislocation of these existing generation investments.

The Solid Fueled Cogens are in the process of pursuing fuel conversion options to move from high carbon content solid fuels to lower carbon sources such as natural gas, biomass, solar or some combination of technologies.[3] In the case of the Rio Bravo projects, they are presently test co-firing with higher biomass content fuel sources, and are investigating conversion to RPS-eligible biomass facilities, actions that would be sustainable if the QF/CHP Settlement had provided a fixed-price option for these facilities. ACE Cogeneration is investigating a significant project repowering to natural gas coupled with a solar thermal technology with thermal storage in the context of the CHP RFOs that were recently initiated. The fuel/technology conversion investments will significantly reduce those facilities' existing greenhouse gas emission profiles, while allowing these CHP units to continue generating reliable baseload electricity for California retail sellers and providing steam for industrial purposes. Moreover, conversion of these existing

[3] Further detail on ACE and Rio Bravo's facilities, operations and contractual concerns is available in ACE and Rio Bravo's comments on the July 25, 2011 version of the cap-and-trade regulation, available at:
http://www.arb.ca.gov/lists/capandtrade10/1532-110811_ace_and_rio_bravo_comments_on_carbs_cnt_regulation__00017266_.pdf

facilities will keep well-paying jobs in some of California's most economically stressed counties. However, in the interim, they must meet their existing commercial commitments and continue economic operations to support any conversion opportunity. This is where their locked-in contract problems become acute.

The Solid Fueled Cogens had anticipated that the Commission's response to the IEP Motion would have provided an opportunity to raise these issues in the context of their unique locked-in contract concerns. They have attempted to work with CARB for the last two years, and have also approached the utilities for contract renegotiations. However, no avenue has been productive to date.

B. The QF Settlement Did Not Address Locked-In Contract Concerns.

The Proposed Decision cites the QF/CHP Settlement for the proposition that the negotiated price revisions adopted there address GHG compliance cost issues for QFs.[4] While the QF/CHP Settlement includes some pricing options with nominal GHG cost recovery applicable to natural gas fired projects, there is no pathway provided for high carbon solid-fueled facilities to convert to lower carbon content fuels within the context of their existing contracts. So, for those facilities subject to a very high CARB GHG compliance burden, neither the eventual move to CAISO-based market pricing nor the interim GHG treatment will support project viability. The Commission should address this very narrow issue either in the context of this Proposed Decision or within the GHG docket, as it has been made clear by CARB that its program will not be adjusted to provide a conversion to lower emissions fuels.

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[4] PD, page 56.

III. Conclusion

The Solid Fueled Cogens appreciate the opportunity to comment on the Proposed Decision in the LTPP proceeding. Unfortunately, for the reasons explained herein, the Proposed Decision represents another instance where the state agencies are failing to provide a meaningful transition pathway to environmental improvement for the handful of solid-fueled generating facilities in the state, while providing that very same type of assistance to a variety of other industries affected by the new regulations. The Commission should reverse this course by having the IOUs engage with these projects to achieve the GHG reduction goals through interim fixed price arrangements under their existing contracts while the fuel transition efforts can be completed.

Dated: March 12, 2012

Respectfully submitted,

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VERIFICATION

I am the attorney for the respondent corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the forgoing is true and correct.

Executed on March 12, 2012 at Sacramento, California.

Andrew B. Brown