

## **The Commission Approves Gilroy Contract and Rejects LMEC Contract for SCE**

As discussed in detail above, the Commission finds both Los Medanos Energy Center (“LMEC”) and Gilroy facilities meet the eligibility requirements of the IOUs’ CHP Request for Offer (“RFO”) eligibility requirements per the QF/CHP Settlement Term Sheet.<sup>1</sup> In summary, both the LMEC and Gilroy facilities are larger than 5 MWs; meet the definition of cogeneration under California Public Utilities Code §216.6 and the Emissions Performance Standard established by Public Utilities Code §8341; meet the federal definition of a qualifying cogeneration facility under 18 § CFR §292.205 implementing PURPA;. Additionally, while the QF/CHP Settlement does not specifically indicate that capacity-only contracts are allowed, it does not exclude such contracts either.

However, the Commission is concerned with the portion of total procurement that these large contracts comprise. The total of all three RA-only contracts submitted by SCE and PG&E is 691 MW.<sup>2</sup> The entire MW goal for the QF/CHP Settlement is 3,000 MW. These three contracts, if approved, would account for nearly one-fourth of the entire QF/CHP Settlement goal in the first CHP RFOs of PG&E and SCE. While there will most likely be additional MW signed to meet the QF/CHP Settlement’s GHG goals, the Commission is concerned with approving such a large amount of capacity-only deals so early in the program. Rather, it is prudent to approve some of these contracts today to provide market certainty and send the signal to market participants that these types of deals are acceptable, but not to approve all of them. This will give the market time to mature and to allow other participants an opportunity to obtain a contract with one of the IOUs.

In consideration of which contracts to approve, the Commission reviewed the amount of MW both PG&E and SCE procured and submitted for approval from their respective first RFOs. PG&E’s target in the first RFO is 630 MW and they have procured 783 MW, including the LMEC contract. Without LMEC they would be well below their goal. SCE, on the other hand, had a target of 630 MW and procured 832 MW, including their LMEC contract, well above their goal. Without LMEC, SCE would only be 78 MW below their goal and could potentially procure more MW in track two of their first RFO or through bilateral contracts. Accordingly, rather than trying to determine a new MW amount that would be acceptable for SCE and PG&E to procure from LMEC, which would likely be arbitrary and capricious in addition to delaying the approval of the contracts while the parties renegotiate and the regulatory process is extended, the prudent path forward is to approve Gilroy for SCE and PG&E’s 280.5 MW portion of LMEC and deny SCE’s portion LMEC. Both utilities will obtain an RA-only contract to the benefit of their customers, the market will have certainty, and PG&E will not fall below its MW target.<sup>3</sup>

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<sup>1</sup> QF/CHP Settlement Term Sheet Section 4.2.2.1 at 13.

<sup>2</sup> See PG&E Advice 4074-E (PG&E’s LMEC RA-only contract is for 280.5 MW).

<sup>3</sup> To the extent SCE or PG&E fall below their MW target due to one of these contracts being rejected, it will not trigger a CPUC audit of their CHP-RFO program.