

**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 13-12-010
(Filed December 19, 2013)

Comments of the
California Cogeneration Council
on Preliminary Scoping Memo

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On behalf of
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The California Cogeneration Council (CCC) respectfully presents the following opening comments on the Preliminary Scoping Memo describing the issues to be considered in this 2014 long term procurement planning (LTPP) proceeding. The CCC submits these comments in accordance with the directions contained in the Order Instituting Rulemaking (OIR), issued on December 30, 2013.

The CCC represents the interests of companies that own and operate gas-fired combined heat and power (CHP) facilities in California. The CCC's interests in this proceeding focus on the continuing implementation of the QF/CHP Program Settlement (CHP Settlement) and the role that CHP units can play to meet the future system needs of the California investor-owned utilities (IOUs).

Specifically, the CCC concurs with the Preliminary Scoping Memo that the issues to be considered in the 2014 LTPP include the future targets and solicitations for CHP capacity, as provided in the CHP Settlement and as set forth in Decision (D.) 10-12-035. Page 12 of the Preliminary Scoping Memo states:

“The issues include, but may not be limited to, the following:....

4. Combined Heat and Power (CHP) Targets – The CHP Settlement, as set forth in D.10-12-035, directed the CPUC to review IOU progress toward the settlement's dual CHP targets of 3,000 MW CHP capacity by 2015 and 4.8 million metric tons of Greenhouse Gas (GHG) emissions reductions by 2020. In this proceeding, we may choose to consider, based on

the IOUs' progress toward their respective goals, an additional CHP MW target, CHP RFOs, and/or revised GHG targets for 2015-2020, per D.10-12-035.”

The CCC comments address the scope, issues, and process for the 2014 LTPP, and recommend that a separate track be established to consider the CHP Settlement issues enumerated in the CHP Settlement and the Preliminary Scoping Memo.

The CHP Settlement and the Commission's CHP Program. In D. 10-12-035 the California Public Utilities Commission (Commission) approved, and is now overseeing the implementation of, the CHP Settlement, whose key features include a comprehensive program to enable both the continued operation of existing CHP units and the development of new CHP facilities. Under the CHP Settlement the utilities are to conduct CHP requests for offers (RFOs) from which they are to both re-contract with existing CHP under 7-year contracts and sign new, long-term (12 year) contracts with new or repowered CHP projects larger than 20 Megawatts (MWs). There are also bilateral and other options under the settlement to obtain contracts with the State's investor-owned utilities (IOUs), including a must-take power purchase agreement for CHP facilities under 20 MW. The CHP Settlement also adopted the term, pricing structure, and other key provisions of the contracts under which the IOUs will procure energy and capacity from CHP projects.

Although a primary purpose of the 3,000 MW target for the Initial Program Period (48 months from the CHP Settlement's effective date, ending November 22, 2015) was to encourage re-contracting with existing CHP capacity, new or repowered CHP projects also count toward this goal. The GHG emissions reduction goals and objectives also adopted in the CHP Settlement include (i) maintaining existing GHG benefits in the IOUs' portfolios attributable to CHP, and (ii) achieving additional GHG emissions reductions beyond those benefits already provided by the existing CHP fleet toward the California Air Resources Board (CARB) Scoping Plan's statewide target goal of 6.7 million metric tons (MMT) of incremental GHG reductions from efficient CHP.¹ The CHP Settlement adopted an initial allocation of the CARB CHP emissions reduction measure as 4.3 MMT for the IOUs' bundled service customers and 0.5

¹ Section 1.2.6, CHP Program Settlement Agreement Term Sheet (CHP Term Sheet), at page 7.

MMT for the non-IOU load serving entities, for a total GHG emissions reduction goal of 4.8 MMT.²

The CHP Settlement established three periods: (i) Transition Period, (ii) Initial Program Period, and (iii) Second Program Period. The Transition Period and Initial Program Period overlap, ending July 1, 2015 and November 22, 2015, respectively. The Second Program Period will commence November 23, 2015 and end December 31, 2020. As pointed out in the Preliminary Scoping Memo, the CHP Settlement directs the Commission to consider additional CHP capacity (MW targets) for the Second Program Period. Specific sections of the CHP Settlement refer to the Second Program Period, including the following:

2.3.2 For CHP procurement in the Second Program Period, the IOUs will procure the following:

2.3.2.1 Any portion of the IOUs' MW Targets that was not attained in the Initial Program Period.

2.3.2.2 SDG&E shall procure an additional 51 MW.

2.3.2.3 Additional CHP capacity to meet the IOUs' GHG Emissions Reduction Targets as established by the CPUC in the Long Term Procurement Planning (LTPP) proceeding, taking into account the progress toward the MW Targets in the Initial Program Period.³

The Second Period CHP Program. The Commission's review of the CHP Program to date should extend beyond simply whether the IOUs will or will not reach the numerical MW and GHG reduction targets adopted as part of the CHP Settlement. The Commission also should investigate the types of CHP resources that the IOUs have acquired in the Initial Program Period and in the design of the Second Program Period ensure that the IOUs procure the most efficient CHP capacity – the CHP capacity that will provide the greatest reductions in GHG emissions and the most benefits for the California economy. This includes existing efficient CHP that will count as neutral (according to the Term Sheet accounting rules), but would add to the IOUs' GHG target if not re-contracted.

² Section 6.3.1, CHP Term Sheet, at page 31.

³ Section 2.3, CHP Term Sheet, at page 8.

The IOUs' CHP procurement efforts to date have focused heavily on CHP units converting to utility-prescheduled-facilities (UPFs), CHP units that burn coal, and merchant CHP units offering RA-only capacity. With the exception of the RA-only capacity, this procurement has been consistent with the CHP Settlement. However, in the first round of CHP RFOs the IOUs procured comparatively little capacity from existing, efficient CHP units or from new/repowered CHP projects. These efficient CHP units provide significant GHG reductions, and the large amounts of thermal energy which they produce support important elements of the State's manufacturing and resource processing economy. In short, the Commission's review of the CHP Program in this docket should consider both the quality and quantity of the CHP capacity that the IOUs have procured. If necessary, the Commission should consider how the CHP Program should be structured going forward to achieve the State and Commission goals – including pricing structure, contract terms, and bid evaluations.

Recommend Separate LTPP Track for CHP Issues. The CCC agrees that the scope of the LTPP should include the CHP issues identified in the Preliminary Scoping Memo. Further, due to the complexity and specificity of the issues, as evidenced by the 15 month long QF CHP Settlement negotiations, the CCC recommends that a separate track be established in the LTPP to address the CHP Program and CHP procurement issues, specifically the design of the Second Program Period should be determined to allow the Commission to achieve its CHP Program goals. The CCC also recommends that CHP cost allocation mechanism (CAM) related issues be included in this track and encourages the active participation of parties concerned about those related matters.

The discussion and design of the Second Program Period with respect to MW and GHG targets, CHP RFOs, and CHP pricing and contract issues will be complex and will require an understanding of the Settling Parties'⁴ intent, the details of the term sheet, and the identification and interpretation of CHP facility data. A separate LTPP track will enable parties to research, analyze and discuss issues efficiently and effectively.

⁴ Referred to as Joint Parties in D.10-12-035, and includes PG&E, SCE, SDG&E, CCC, CAC, EPUC, IEP, TURN and ORA.

The Commission, Settling Parties, and other interested parties are facing difficult timing issues associated with the CHP Program that will need to be taken into account during the course of this proceeding. Specifically, the CHP Settlement Agreement imposes some hard deadlines, which are now problematic due to the delay experienced in 2011 in reaching the CHP Settlement effective date. The term of the Transition power purchase agreements (Transition PPAs) ends on July 1, 2015 while the Initial Program Period ends 48 months from the Settlement Effective Date, i.e. on November 22, 2015. The purpose of the Transition PPA was to provide CHP facilities with expired or expiring qualifying facility (QF) contracts sufficient time to bid into all nine CHP RFOs (three per IOU in Initial Program Period) and to determine if they would be able to continue to operate under contracts with the IOUs as a part of the CHP Program, or if they would need to make alternate arrangements prior to the end of the Transition Period. Due to the unanticipated delay in the settlement effective date, the RFOs commenced in 2012 and not in the first or second quarters of 2011, as originally anticipated. The IOUs also made controversial procurement choices in the initial RFOs that required a lengthy process at the Commission to resolve. It is now questionable whether all nine CHP RFO solicitations can be completed during the Initial Program Period. The following is the current status of the IOUs' nine CHP RFOs for the Initial Program Period:

PG&E:

- CHP RFO #1: Completed: results recorded and advice letters approved
- CHP RFO #2: RFO launched, and bidders notified, but no advice letters filed, and no Commission approvals
- CHP RFO #3: RFO launched, bids due February 2014

SCE:

- CHP RFO #1: Completed: results recorded and advice letters approved
- CHP RFO #2: RFO launched, anticipate contracts awarded in Spring 2014, but no advice letters filed or approved.
- CHP RFO #3: RFO not yet launched

SDG&E:

- CHP RFO #1: Completed: results recorded and advice letters approved
- CHP RFO #2: RFO launched, anticipate contracts awarded in Spring 2014, but no advice letters filed or approved.
- CHP RFO #3: RFO not yet launched

The Initial Program Period is already 26 months into its 48 month time frame; each IOU is at a different stage in the procurement process; and only PG&E appears to have a chance to complete three CHP RFOs by July or November of 2015. Consequently, the Transition PPAs will expire 17 months from now, July 1, 2015, prior to the completion of (1) the Initial Program Period, (2) the nine RFOs, and (3) the fulfillment of the IOU MW targets. Unfortunately, this will leave CHP facilities not successful in obtaining IOU contracts prior to the July 2015 expiration stranded. One possible remedy for this circumstance would be an extension of the expiration date for Transition PPAs until all nine CHP RFOs have been completed. Alternatively, if the Initial Program Period and the term of the Transition PPAs is not extended, a decision on the design of the Second Program Period is required as soon as possible so that the CHP facilities without long term contracts will know what MW targets will be in place for the Second Program Period. This will allow them to make informed decisions about their options after July 1, 2015. This comports to what was to have occurred in the Transition Period and is particularly important for existing CHP projects that support ongoing thermal needs associated with manufacturing, processing, or institutional operations. Simply put, existing CHP facilities that service on-going thermal requirements must have timely certainty as to the Commission's CHP Program going forward. Likewise, for businesses with new or increasing thermal requirements, clear and reliable Commission policies and programs must be in place on a timely basis to allow them the certainty required to ensure continued and uninterrupted business operations. Absent such clear and reliable policies and programs, businesses will install conventional boilers, unfortunately this will result in an unwarranted forfeiture of the State's opportunity to capture the benefits of CHP and a compromise in its ability to reach its CHP-related goals.

A further complication is that data resulting from procurement in the Initial Program Period is needed to inform the determination of MW and GHG targets and additional CHP RFOs for the Second Program Period. Section 6 of the Term Sheet described the methodology to be applied to the calculation of any "shortfall" or "surplus" in the IOUs' progress toward the GHG emissions reduction target in the Initial Program Period, and it was anticipated that this information would be considered in the 2014 LTPP when structuring the Second Program

Period.⁵ The Commission’s Energy Division publishes a CHP semi-annual report in April and October of each calendar year, as per Section 8 of the CHP Settlement. The data in this report is essential to the analyses required in this proceeding; however, the current report includes only the results of the first round of IOU RFOs and other forms of CHP procurement identified in Section 4 of the Settlement Term Sheet, as of September 30, 2013. The next semi-annual CHP report is due to be published in April 2014 and may contain additional data for PG&E and SCE if PPAs resulting from their second RFOs have been executed by that time. .

The CCC suggests that, it would be prudent to convene, in the very near future, the Settling Parties⁶ and other interested parties in a session that is facilitated by Commission Energy Division and/or Legal Division staff and conducted under the Commission’s settlement rules. The purpose of this meeting would be to discuss these timing and data-related issues, and to determine if there are ways to accommodate these constraints.

Process: Proposed Schedule. As discussed above, the CCC recommends that the CHP issues be considered in a separate track due to the complexity of the CHP Settlement and the unique timing considerations, which may require interim decisions under tight time constraints. Reviewing past LTPP proceedings, it appears that these cases often take longer than 18 months to reach a final decision. In the case of the hard deadlines in the CHP Settlement, that will be too long. In the past, the implementation of separate tracks for well-defined issues has expedited the LTPP process, and the CCC strongly recommends that the Commission adopt such a process for the CHP-related issues in this LTPP case.

The CCC proposes the following schedule for a CHP track:

Proceeding Milestone	Date
Prehearing Conference	February 25, 2014
Final Scoping Memo establishes CHP Track	April 2014
Energy Division Publishes CHP Semi-Annual Report	April 2014
File Testimony	July 2014

⁵ Section 6.4, CHP Program Settlement Agreement Term Sheet, at page 32.

⁶ Referred to as Joint Parties in D.10-12-035, and includes PG&E, SCE, SDG&E, CCC, CAC, EPUC, IEP, TURN and ORA.

Hearings	September 2014
Briefs	October 2014
Proposed Decision	December 2014
Final Decision	January 2015

Adoption of all or part of this schedule should not preclude the ability of Commission staff, the Settling Parties, and other interested intervenors to meet and confer on CHP Settlement issues, specifically the design of the Second Program Period.

The CCC appreciates the Commission's consideration of these comments on the Preliminary Scoping Memo for the 2014 LTPP, as it relates to CHP issues and the CHP Settlement.

Respectfully submitted,



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