

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking on the
Commission's Own Motion into combined
heat and power Pursuant to Assembly Bill
1613

Rulemaking 08-06-024
(Filed June 26, 2008)

**COMMENTS OF THE CALIFORNIA CLEAN DG COALITION
IN RESPONSE TO AMENDED SCOPING MEMO AND RULING
OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE**

Ann L. Trowbridge
DAY CARTER & MURPHY LLP
3620 American River Drive, Suite 205
Sacramento, California 95864
Telephone: (916) 570-2500, ext. 103
FAX: (916) 570-2525
E-mail: atrowbridge@daycartermurphy.com
**Attorneys for California Clean DG
Coalition**

September 29, 2010

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Pursuant to the Amended Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge (Ruling), the California Clean DG Coalition (CCDC) files these comments.¹ The Ruling amends the scope of this proceeding to include the questions set forth in sections 4.1 through 4.4 of the Ruling and allows parties the opportunity to comment on those questions. Consistent with the requirements of the Ruling, CCDC does not address any other aspects of the AB 1613 program adopted in Decision (D.) 09-12-042, as amended by D.10-04-055. Following are CCDC's responses to the questions in the Ruling.

4.1 Management of Greenhouse Gas (GHG) Allowance Procurement and Reimbursement

In their petition for modification of D.09-12-042, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company (Joint Utilities) request removal of the AB 1613 contract provision requiring that the utilities purchase GHG allowances on behalf of combined heat and power (CHP) Sellers. CCDC agrees with the Joint Utilities that they should not be required to "procure allowances on behalf of the Seller" instead of reimbursing the Seller for allowance costs, but that they should have the option to do so.²

¹ CCDC is an ad hoc group interested in promoting the ability of distributed generation ("DG") system manufacturers, distributors, marketers and investors, and electric customers, to deploy DG. Its members represent a variety of DG technologies including CHP, renewables, gas turbines, microturbines, reciprocating engines, and storage. CCDC is currently comprised of Capstone Turbine Corporation, Caterpillar, Inc., Cummins Inc., DE Solutions, Elite Energy Systems, EPS Corporation, GE Energy, Holt of California, NRG Energy, Peterson Power Systems, SDP Energy, and Tecogen, Inc.

² Response of CCDC to Joint Petition for Modification of Joint Utilities of Commission Decision 09-12-041 (Joint Petition), p. 7 (Mar. 4, 2010).

- (1) *If Sellers require reimbursement for GHG allowance costs, at what intervals should invoices be submitted to the Buyers?*

CCDC recommends that Sellers who buy GHG allowances submit the related invoices to Buyer as soon as practicable following Seller's receipt thereof. Buyer should then be required to reimburse Seller within thirty days of receipt of an invoice from Seller. This will eliminate uncertainty for Buyers and Sellers and allow Buyers to plan for GHG allowance costs.

- (2) *Is a test (market based or some other method) needed to ensure that the invoices submitted by the Seller leave the ratepayer no worse off than if the Buyer had managed these compliance costs?*

As the Joint Utilities noted in their Joint Petition for Modification and several parties commented, substantial work remains to develop and implement the GHG regulatory framework.³ Accordingly, it is premature to establish a test to ensure that the Seller's GHG allowance procurement leaves ratepayers no worse off than if Buyer had managed compliance costs. Additionally, under the Joint Utilities' GHG allowance proposal, the utilities will retain the option to purchase GHG allowances on behalf of Sellers, if doing so reduces customer costs.⁴

4.2 Line Loss Factor Calculation

What is an appropriate calculation for line losses associated with moving the CHP project's power from the Delivery Point to the grid controlled by the California Independent System Operator?

It is important to define the line loss factor. CCDC has reviewed the comments of San Joaquin Refining. CCDC agrees that it would be appropriate to use the distribution loss factors that apply to QFs that interconnect to the distribution system and supports San Joaquin Refining's proposal for a distribution loss factor.

³ Joint Petition, p. 8; Response of CCDC to Joint Petition, p. 7; Response of FuelCell Energy to Joint Petition, p. 6.

⁴ Joint Petition, p. 8.

4.3 Contract Changes Reflection QF Requirements

- (1) *What changes are necessary to the contracts approved under D.09-12-042 to reflect the requirement for QF certification in addition to the already mandated certification from CEC?*

It is important to note that the July 15, 2010 Federal Energy Regulatory Commission (FERC) order referred to in the Ruling recognizes that certain sellers of energy are not within FERC's jurisdiction, namely public entity sellers.⁵ Thus, consistent with the FERC order, such sellers need not obtain certification as a QF in order to participate in the AB 1613 program, although a public entity seller could choose to be so certified.

Based on the foregoing, the Commission should not impose a universal requirement for all Sellers to obtain QF certification. Instead, the Commission could revise Section 2.01 as follows, in recognition of the FERC order (new language is underlined):

Before the Term Start Date, Seller must demonstrate to Buyer that Seller has satisfied all of the requirements necessary for Seller to Operate the Generating Facility in accordance with the terms of this Agreement (including Section 7.10), Applicable Law, the CAISO Tariff (to the extent applicable), and any other applicable tariff, legal, and regulatory requirements, including, if applicable, any requirement to obtain QF status under PURPA.

- (2) *If a QF already certified for and participating in the feed-in-tariff program loses its CEC certification under AB 1613 but maintains QF certification by FERC, what should the contract provide as the alternative rate for the QF (e.g. should the QF receive short run avoided cost pricing)?*

In general, a QF should be eligible for the Commission-approved pricing available to QFs at the point in time the QF seeks to sell power to a utility.

4.4 Very Small (less than 500 kilowatt (kW)) Contract Option

- (1) *What changes are required from the adopted contracts to make a less than 500 kW contract more streamlined?*

CCDC appreciates the Commission's consideration of a simplified contract for very small CHP. Consistent with earlier filings, CCDC requests that the Commission find that certain terms of the simplified contract where the As-Available Contract Capacity is less than 5 MW do not apply to very small CHP. At a minimum, CCDC proposes that the following requirements not apply to very small CHP, any one of which would make participation in an excess sales

⁵ 132 FERC ¶ 61,047 at ¶ 71.

CERTIFICATE OF SERVICE

I, Barb Taylor, hereby certify that I served a copy of the **COMMENTS OF THE CALIFORNIA CLEAN DG COALITION IN RESPONSE TO AMENDED SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE** on September 29, 2010, on all known parties to Service List for **R.8-06-024** via electronic mail to those whose addresses are available and via U.S. mail to those who do not have an electronic address.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on this 29th day of September 2010, at Sacramento, California.

/s/ Barb Taylor

Barb Taylor

VIA ELECTRONIC MAIL:

jordan.white@pacificorp.com; jims@vea.coop; SDPatrick@SempraUtilities.com;
jrathke@capstoneturbine.com; douglass@energyattorney.com; carol.schmidfrazee@sce.com;
rkmoore@gswater.com; ek@a-klaw.com; sha@cpuc.ca.gov; mflorio@turn.org; crmd@pge.com;
mpa@a-klaw.com; epoole@adplaw.com; alho@pge.com; regrelcpuccases@pge.com;
wbooth@booth-law.com; tomb@crossborderenergy.com; dcarroll@downeybrand.com;
abb@eslawfirm.com; lmh@eslawfirm.com; Ann Trowbridge; Ralph Nevis; dansvec@hdo.net;
clamasbabbini@comverge.com; HYao@SempraUtilities.com; tciardella@nvenergy.com;
mrw@mrwassoc.com; EGrizard@deweysquare.com; Jennifer.Barnes@Navigantconsulting.com;
jon.fortune@energycenter.org; sephra.ninow@energycenter.org; sue.mara@rtoadvisors.com;
chilen@NVEnergy.com; DAKinports@SempraUtilities.com; klatt@energyattorney.com;

sendo@ci.pasadena.ca.us; akbar.jazayeri@sce.com; amber.wyatt@sce.com;
Case.Admin@sce.com; laura.genao@sce.com; marci.burgdorf@sce.com;
mike.montoya@sce.com; Jcox@fce.com; bjl-lec@sbcglobal.net; liddell@energyattorney.com;
DNiehaus@SempraUtilities.com; LSchavrien@SempraUtilities.com;
thomas.r.del.monte@gmail.com; mramirez@sfwater.org; srovetti@sfwater.org;
tburke@sfwater.org; marcel@turn.org; filings@a-klaw.com; MWZ1@pge.com; nes@a-
klaw.com; sls@a-klaw.com; taj8@pge.com; smb4@pge.com; bcragg@goodinmacbride.com;
rafi.hassan@sig.com; robertgex@dwt.com; cem@newsdata.com; CPUCCases@pge.com;
ECL8@pge.com; ELL5@pge.com; beth@beth411.com; ralf1241a@cs.com;
Sean.Beatty@mirant.com; timea.Zentai@navigantconsulting.com;
jody_london_consulting@earthlink.net;

bmcc@mccarthyllaw.com; sberlin@mccarthyllaw.com; joyw@mid.org; roger@mid.org;
brbarkovich@earthlink.net; dgrandy@caonsitegen.com; davidmorse9@gmail.com;
wamer@kirkwood.com; dennis@ddecuir.com; gcollord@arb.ca.gov; blair@cipa.org;
kroderic@arb.ca.gov; mgarcia@arb.ca.gov; norm@pzallc.com; blaising@braunlegal.com;
jjg@eslawfirm.com; karen@klindh.com; californiadockets@pacificorp.com; dws@r-c-s-
inc.com; yuliya.schmidt@cpuc.ca.gov; ayk@cpuc.ca.gov; bwm@cpuc.ca.gov;
cjm@cpuc.ca.gov; clu@cpuc.ca.gov; dbp@cpuc.ca.gov; dot@cpuc.ca.gov; eks@cpuc.ca.gov;
hym@cpuc.ca.gov; jmk@cpuc.ca.gov; kar@cpuc.ca.gov; mbe@cpuc.ca.gov; mc3@cpuc.ca.gov;
rmm@cpuc.ca.gov; tcr@cpuc.ca.gov; tbo@cpuc.ca.gov;

lkelly@energy.state.ca.us; glemei@energy.state.ca.us; 'mp1@cpuc.ca.gov'.

BY MAIL:

Commissioner Michael R. Peevey
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

The Honorable Amy C. Yip-Kikugawa, ALJ
Division of Administrative Law Judges
California Public Utilities Commission
505 Van Ness Avenue Room
San Francisco, CA 94102

Jessica Nelson
Energy Services Manager
Plumas Sierra Rural Electric Coop.
73233 State RT 70
Portola, CA 96122-7069