



July 19, 2011

Mary Nichols
Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95814

**Re: Joint CHP Parties' Comments to CARB's Supplement to Scoping Plan
Functional Equivalent Document**

Dear Ms. Nichols:

These comments are issued on behalf of the Energy Producers and Users Coalition¹ (EPUC), the Cogeneration Association of California (CAC)², and the California Cogeneration Council (CCC)³, collectively the Joint CHP Parties. The Joint CHP Parties fully support the Scoping Plan's goals of achieving 6.7 MMTCO₂E of greenhouse gas reductions by 2020 through increased reliance on combined heat and power (CHP) resources. The June 13, 2011 Supplement to the Scoping Plan Functional Equivalent Document (Supplement) provides additional information on the fulfillment of targets, taking note of the CPUC-adopted QF/CHP Settlement. The revisions unfortunately misconstrue the Settlement, concluding that it will result in the addition of 3,000 MW of new CHP. As explained below, the Settlement does not assure the installation of any new CHP in California and may even result in a reduction in the size of the existing CHP fleet.⁴ These comments recommend clarifications to the Supplement to accurately reflect the details of the QF/CHP Settlement. Most importantly, these comments highlight CARB's critical role in fostering the development of new, incremental California CHP resources.

¹ EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, BP West Coast Products LL, ConocoPhillips Company, ExxonMobil Power and Gas Services Inc., Shell Oil Products US, THUMS Long Beach Company, and Occidental Elk Hills, Inc., ConocoPhillips Company, Shell Oil Products US, THUMS Long Beach Company, and Occidental Elk Hills, Inc.

² CAC represents the combined heat and power and cogeneration operation interests of the following entities: Coalinga Cogeneration Company, Mid-Set Cogeneration Company, Kern River Cogeneration Company, Sycamore Cogeneration Company, Sargent Canyon Cogeneration Company, Salinas River Cogeneration Company, Midway Sunset Cogeneration Company and Watson Cogeneration Company

³ CCC is an *ad hoc* association of natural gas-fired cogenerators located throughout California. CCC projects serve on-site electrical and thermal loads at industrial, commercial, and institutional facilities across the state and are located in the service territories of California's three major investor-owned electric utilities. CCC member projects are "qualifying facilities" (QFs) that sell power to the IOUs under the provisions of the Public Utilities Regulatory Policies Act (PURPA) of 1978. The CCC represents a significant share of the distributed combined heat and power (CHP) projects now operating in California.

⁴ It is noteworthy that current utility filings in the CPUC's Long Term Procurement Proceeding (R. 10-05-006) do not reflect the procurement of any new, incremental CHP capacity.



Background

Members of EPUC and CAC own and operate approximately 2,000 megawatts (MWs) of existing combined heat and power (CHP) generation in California. CCC members own and operate more than 30 different CHP projects in California that collectively generate about 1,300 MWs. The Joint CHP Parties are signatories to the Qualifying Facility and Combined Heat and Power Program Settlement Agreement (QF/CHP Settlement). The CPUC approved the QF/CHP Settlement in December 2010 (Decision 10-12-035). The effective date of the Settlement is subject to some additional conditions, but all the QF/CHP Settlement parties anticipate a July 18, 2011 effective date. Implementation actions are ongoing, and key actions will take place in the last quarter of 2011 and first quarter of 2012, including the initiation of a CHP-only competitive solicitation.

It is crucial to appreciate and incorporate accurately the CHP capacity procurement and GHG reduction attributes of the QF/CHP Settlement in its Supplement. CARB's plan regarding the 6.7 MMTCO₂E of GHG reductions from CHP is a pivotal driver for the procurement of any new California CHP resource under the QF/CHP Settlement. As clarified herein, the only promised procurement of CHP under the QF/CHP Settlement is to maintain, for a period of time, existing capacity levels associated with current CHP project development. Moreover, there is no promise to procure the same existing CHP resources; the Settlement targets 3,000 MW of capacity to sustain existing CHP capacity levels, which approximates the expiration of CHP contracts. New and incremental CHP resource development is dependent upon CARB's forward-looking Scoping Plan directives regarding the 6.7 MMTCO₂E GHG reductions from new and incremental CHP resources.

Concerns with the Supplement's Clarity Regarding the QF/CHP Settlement

CARB's Supplement reflects several details of the QF/CHP Settlement; unfortunately, these details are imprecise and imply a misunderstanding of the features of the settlement. The Supplement addresses shortcomings in the FED's analysis of project alternatives arising from litigation challenging CARB's earlier analysis of alternatives for the Scoping Plan. In CARB's analysis of alternatives to a cap-and-trade program, the Supplement, specifically on pages 27 and 69, contains ambiguous statements related to the CHP procurement and emission reduction targets from the QF/CHP Settlement. In summary, the Supplement warrants clarification of the following points:

1. The 3,000 MW target in the QF/CHP Settlement related to existing CHP capacity is distinct from the 6.7 MMTCO₂ E of GHG reductions from CHP procurement for new and incremental CHP facilities contemplated by the CARB Scoping Plan.
2. The Settlement apportions the responsibilities for the 6.7 MMTCO₂ E of incremental reductions of GHG resulting from CHP resources between Investor Owned Utilities (IOUs), energy service providers (ESPs), community choice



aggregators (CCAs) and Publicly Owned Utilities (POUs) to meet the Scoping Plan's CHP emission reduction target.

3. Encouragement of new CHP will be driven by the Scoping Plan's 6.7 MMTCO₂E CHP emission reduction target.

Accounting for GHG Reductions and MW Targets

The QF/CHP Settlement includes several tiers of procurement and emission reduction targets to ensure CHP retention and expansion. The QF/CHP Settlement divides these targets between two program periods (the First and Second Program Periods) and between two different procurement metrics or standards, i.e., MWs of capacity and MMT of GHG reductions. It is important to understand at the outset that the QF/CHP Settlement is a "settlement." As a settlement it reflects material tradeoffs and concessions to arrive at certain integrated results. It is not reasonable to unravel selected features of the settlement from the integrated whole and reach conclusions related to any singular component. In short, it is a mistake to rely on the QF/CHP Settlement for conclusions regarding the MW procurement or GHG reductions of the state's desired CHP resources. These important policies remain the domain of agency determinations, like the Scoping Plan.

The starting point for CHP procurement under the QF/CHP Settlement is the established target of 3,000 MW of CHP by July 17, 2015 (the First Program Period). The 3,000 MW target applies to IOUs (and ESPs and CCAs serving former IOU customers). As noted, the 3,000 MW procurement target is a settlement figure agreed to in order to sustain the existing amount of CHP capacity. It does not reflect the procurement of incremental CHP capacity. The goal of this target is to secure existing GHG benefits from existing CHP; i.e., the estimated 1.9 MMTCO₂E of GHG emission reductions.

The second point for CHP procurement under the QF/CHP Settlement is to reflect the incremental 6.7 MMTs of GHG reduction from CHP resources. The QF/CHP Settlement adopts a December 31, 2020 emissions reduction target of 4.8 MMTCO₂E from the IOUs (and related ESPs and CCAs). This allocated portion of the incremental 6.7 MMTs of GHG reduction from CHP reflects CARB's Scoping Plan CHP measure. In addition to the IOU (and related ESPs and CCAs) 4.8 MMTCO₂E target, publicly-owned utilities are responsible for securing the remaining 1.9 MMTCO₂E for a total Scoping Plan objective to reduce emissions by 6.7 MMTCO₂E.

Absent independent action by the CPUC, the QF/CHP Settlement will only promote the procurement of new, incremental CHP resources if CARB's Scoping Plan sustains the IOU GHG reduction target of 4.8 MMTCO₂E. The Joint CHP Parties anticipate the procurement of new CHP and the associated GHG savings will occur in the Second Program Period, and is dependent upon CARB and the CPUC maintaining and affirming the state's commitment to the CARB Scoping Plan CHP measure. Accordingly, CARB's role in the development of new CHP for California is critical.



Specific Clarifications to the Supplement

For all of these reasons CARB should clarify the Supplement to accurately reflect pertinent terms of the QF/CHP Settlement. Two passages warrant revisions in the Supplement, at pages 27 and 69.

Page 27 discusses Alternative 1, the no project alternative. This scenario assumes existing conditions and CARB's existing efforts. As currently drafted the section does not acknowledge the objective to retain existing *and* procure incremental GHG reductions from new CHP. The passage should also point out the allocation of GHG emission reductions from CHP to ESPs and CCAs. The following specific edits and modifications would clarify and improve the current discussion in the Supplement:

Page 27

The California Public Utilities Commissions (CPUC) recently promulgated a Decision to approve a settlement on CHP that had been negotiated by utilities and CHP proponents. The settlement requires investor owned utilities (IOUs), electrical service providers (ESPs), and community choice aggregators (CCAs) to reduce emissions from the electrical sector by retaining existing CHP and contracting with new CHP to secure their allocated portion of the 6.7 MMTs of GHG reductions from CHP. The ~~subject utilities IOUs, ESPs and CCAs~~ have until 2020 to meet ~~the~~ their allocated share of the overall target, meaning the Settlement's 4.8 MMTCO₂E emission reduction targets. One of the purposes of the settlement was to develop a method for CPUC jurisdictional utilities to achieve their portion of the Proposed Scoping Plan CHP measure. The electricity demand forecast in the 2011 Integrated Energy Policy Report being prepared by the California Energy Commission will include GHG reductions from CHP.

Page 69 of the Supplement discusses Alternative 3, the direct regulations scenario, to harmonize the discussion with the QF/CHP settlement. The passage should incorporate the following modifications to clarify procurement targets and other policy objectives from the settlement.

Page 69

Progress has been made recently to ~~increase~~ encourage the development and installation of efficient CHP. The CPUC has adopted a ~~measure that is expected to increase CHP at IOUs by 3000 MW, which is expected to decrease GHG emissions by 4.8 MMTCO₂E~~ settlement that establishes a State CHP Program designed to preserve resource diversity, fuel efficiency, GHG emissions reductions, and other benefits and contributions of CHP.⁵ Through July 17,

⁵ CPUC Decision (D.) 10-12-035, at 2.



2015, a large portion of the GHG emission reduction benefits of the existing CHP fleet will be retained through the procurement of approximately 3,000 MW of existing CHP. Consistent with the 2008 Scoping Plan, the CHP Program also establishes an incremental GHG emission reduction target of 4.8 MMTCO₂E for the IOUs, ESPs, and CCAs that requires the installation of 3000 MW of new CHP by 2020. Assuming the IOUs represent approximately three-quarters of electricity sales, ARB staff estimates that POUs could contribute an additional reduction of 4.6-1.9 MMTCO₂E, resulting in a total reduction of 6.7 MMTCO₂E and the installation of 4,000 MW of new CHP.

The Joint CHP Parties are available to discuss these and other CHP issues with CARB staff. Please do not hesitate to inquire or seek additional clarification regarding matters raised in these comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Beth Vaughn'.

Beth Vaughn
Executive Director
California Cogeneration Council

A handwritten signature in blue ink, appearing to read 'Michael Alcantar'.

Michael Alcantar
Executive Director and Counsel
Cogeneration Association of California

A handwritten signature in black ink, appearing to read 'Evelyn Kahl'.

Evelyn Kahl
Seema Srinivasan
Counsel for the
Energy Producers and Users Coalition