UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Small Generator Interconnection Agreements and Procedures	Docket No. RM13-2-000

COMMENTS OF THE ELECTRICITY CONSUMERS RESOURCE COUNCIL (ELCON), AMERICAN CHEMISTRY COUNCIL (ACC), AMERICAN FOREST & PAPER ASSOCIATION (AF&PA), AMERICAN IRON AND STEEL INSTITUTE (AISI), CHP ASSOCIATION (CHPA), AND COUNCIL OF INDUSTRIAL BOILER OWNERS (CIBO)

ELCON, ACC, AF&PA, AISI, CIBO and CHPA ("ELCON *et al.*") appreciate the opportunity to comment on the Commission's January 17, 2013 *Notice of Proposed Rulemaking* (NOPR) to revise the *pro forma* Small Generator Interconnection Agreements and Procedures.

ELCON is the national association representing large industrial consumers of electricity. ELCON member companies produce a wide range of products from virtually every segment of the manufacturing community. ELCON members operate hundreds of major facilities and are consumers of electricity in the footprints of all organized markets and other regions throughout the United States. In many cases, ELCON members generate electricity using combined heat and power (CHP) systems. Many of ELCON's member companies make use of the Small Generator Interconnection Procedures (SGIP) and Small Generator Interconnection Agreement (SGIA), which establish the terms and conditions under which public utilities must provide interconnection service to small generation facilities of not more than 20 MW.

ACC represents the leading companies engaged in the business of chemistry. ACC members apply the science of chemistry to make innovative products and services that make people's lives better, healthier and safer.

AF&PA is the national trade association of the forest products industry, representing pulp, paper, packaging and wood products manufacturers, and forest landowners in the United States. AF&PA members make products essential for everyday life from renewable and recyclable resources that sustain the environment. The forest products industry accounts for approximately 4.5 percent of the total U.S. manufacturing GDP, manufactures approximately $200 billion in products annually, and employs nearly 900,000 men and women.

AISI serves as the voice of the North American steel industry in the public policy arena and advances the case for steel in the marketplace as the preferred material of choice. AISI also plays a lead role in the development and application of new steels and steelmaking technology. AISI is comprised of 24 member companies, including integrated and electric furnace steelmakers, and 125 associate members who are suppliers to or customers of the steel industry. AISI's member companies represent over three quarters of both U.S. and North American steel capacity.

CHPA, formerly the U.S. Combined Heat and Power Association, is the voice of the combined heat and power industry. CHPA is a trade association whose membership includes manufacturers, suppliers, and developers of CHP systems.

CIBO is a trade association of industrial boiler owners, architect-engineers, related equipment manufacturers, and University affiliates with over 100 members representing 20 major industrial sectors. Since its formation, CIBO has been active in the development of technically sound, reasonable, cost-effective energy and environmental regulations for industrial boilers. CIBO supports regulatory programs that provide industry with enough flexibility to modernize - effectively and without penalty - the nation's aging energy infrastructure, as modernization is the key to cost-effective environmental protection.

SUMMARY OF COMMENTS

The more than 82 GW of CHP in the U.S. is a highly efficient energy resource. Benefits of CHP include reduced energy costs, more efficient fuel use, lower

environmental impacts, improved reliability and power quality, reduced transmission losses, and support of utility transmission and distribution systems. A substantial proportion of CHP is small generation facilities of not more than 20 MW, but there also a number of CHP facilities of greater size where interconnection issues also are significant.[1]

ELCON, *et al.* share the widely-held view that the *pro forma* SGIP and SGIA should be revised and updated, and their availability expanded, to reflect changes in the marketplace and to ensure that the time and cost to process small generator interconnect requests will be just and reasonable and not unduly discriminatory. Accordingly, ELCON, *et al.* broadly support the NOPR. ELCON, *et al.* also urge FERC to consider additional opportunities to facilitate generator interconnection requests, regardless of size. These initiatives would be consistent with the President's recent Executive Order to reduce barriers to CHP development.

I. THE PRESIDENT'S AUGUST 2012 EXECUTIVE ORDER BROADLY SUPPORTS ELIMINATION OF BARRIERS TO CHP DEVELOPMENT

The current action to revise and expand availability of the *pro forma* SGIP and SGIA had its genesis in the February 2012 rulemaking petition of the Solar Energy Industries Association (SEIA). Since then, on August 30, 2012, the President issued an Executive Order on Accelerating Investment in Industrial Energy Efficiency.[2] The Executive Order not only supports the reforms identified in the current NOPR but also expeditious, more expansive efforts to facilitate increased use of CHP by manufacturing

[1] USCHPA developed considerable information and analysis of CHP projects, including details about their size – many are in the low single-digit MW range but are "gridlocked" sites that have not interconnected under the FERC SGIP to date. See USCHPA Motion to Intervene, FERC Docket No. RM12-10 (Mar. 27, 2012), and USCHPA Supplemental Comments, FERC Docket No. RM12-10 (Aug. 13, 2012), which are incorporated by reference in this filing. Of the more than 82 GW of CHP in the U.S. as of 2012, USCHPA reported that there are 3075 CHP projects of <20 MW that total 6.7 GW in installed capacity, many of which are gridlocked and have not interconnected under the SGIP. The remaining 74.9 GW of CHP represent 651 projects of $\geq$ 20 MW. USCHPA Supplemental Comments, *supra*, at p. 6.

[2] www.whitehouse.gov/the-press-office/2012/08/30/executive-order-accelerating-investment-industrial-energy-efficiency. In addition, in support of the Executive Order, the Department of Energy and the Environmental Protection Agency released a new report *Combined Heat and Power: A Clean Energy Solution*. http://www1.eere.energy.gov/manufacturing/distributedenergy/pdfs/chp_clean_energy_solution.pdf.

facilities. The Executive Order observes that the benefits of encouraging investment in CHP and other efficiency initiatives include reduced costs for industrial users, improved U.S. competitiveness, job creation, and reduction in air emissions.

The Executive Order notes that there are "numerous barriers" to implementation of CHP and broadly directs action to address those barriers, including (i) convening stakeholders "to identify, develop, and encourage the adoption of investment models and State best practice policies for industrial energy efficiency and CHP," (ii) "technical assistance to States and manufacturers to encourage investment in industrial energy efficiency and CHP," (iii) provision of "public information on the benefits of investment in energy efficiency and CHP," and (iv) use of existing Federal authorities, programs, and policies to support investment in energy efficiency and CHP."

Although the Executive Order was not directed at FERC, action to facilitate interconnection of CHP and other generation at manufacturing facilities would support the policies underlying the Executive Order. Furthermore, those policies are not limited to interconnections of small size. Accordingly, ELCON, *et al.* support both the current NOPR respecting small generator interconnection and prompt action to facilitate interconnection by larger generators such as CHP and similar facilities.

II. ELCON, *ET AL.* SUPPORT THE NOPR'S SGIP AND SGIA REFORMS

ELCON, *et al.* support the NOPR's four proposed modifications to the SGIP. The NOPR would: (i) provide the interconnection customer the option of requesting a pre-application report from the transmission provider for a fee of $300; (ii) expand access to the fast track process, revising the current 2 MW threshold to a set of eligibility criteria based on individual system and generator characteristics, up to a limit of 5 MW; (iii) revise the customer options meeting and the supplemental review following failure of the fast track screens so that the supplemental review is performed at the discretion of the interconnection customer and includes minimum load and other screens to determine if a small generating facility may be interconnected safely and reliably; and (iv) revise the *pro forma* SGIP facilities study agreement to allow the interconnection

customer the opportunity to provide written comments to the transmission provider on the upgrades required for interconnection, similar to the procedure available for large generator interconnection customers..

Non-discriminatory generator interconnection is integral to the proper functioning of competitive wholesale electricity markets. Accordingly, ELCON, *et al.* support each of these reforms and further appreciates that the Commission has moved beyond the scope of the initial SEIA petition for rulemaking by proposing their applicability to all forms of distributed generation (including CHP), and not just solar. ELCON, *et al.* believe that the proposed reforms are needed to reduce the time, cost and other entry barriers to all types of generator interconnection, including obstructions to interconnection approval that are imposed by entities that for whatever reason are hostile to distributed generation. DOE and EPA have observed, for example, that "interconnection processes can delay the [CHP] project development process and add expenses by requiring costly studies, onerous technical requirements, or significant delays in the process."[3] Implementation of the proposed reforms also may have an important precedential value in that similar reforms may thereafter get promoted at the state level.[4]

ELCON, *et al.* agree that the proposed reforms are warranted by the changes that have occurred since original implementation of the current procedures in 2006. These changes include the growth of interconnection requests, the increased applicability of state renewable portfolio standards, and the demonstrated effectiveness of state interconnection rules.[5] ELCON, *et al.* note that Order No. 2006 was explicitly based on the assumption that it could be reopened based on changed and evolving circumstances.[6]

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[3] *Combined Heat and Power: A Clean Energy Solution, supra*, at p. 18.

[4] See, e.g., NOPR at ¶23; Order No. 2006, FERC Stats. & Regs. ¶31,180 at ¶¶ 4, 8.

[5] [5] See, e.g., NOPR at ¶¶1923; California Electric Rule 21

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[6] Order No. 2006 at ¶118.

In particular, the proposed reforms would benefit CHP, which is used by many manufacturing facilities at present and which warrants action that would facilitate its use at additional facilities. Encouraging generator interconnection would support the policies expressed in the Executive Order and, by facilitating the export of power would to applicable energy, capacity and ancillary markets, would enable the many beneficial effects of CHP to be achieved, including lowered demand on the electricity delivery system, reduced reliance on traditional energy supplies, lowered energy costs that will increase the competitiveness of U.S. businesses, reduced greenhouse gas and other air pollutant emissions, and enhanced opportunities to refocus infrastructure investments toward next-generation energy systems.[7]

III. FERC SHOULD PROMPTLY TAKE FURTHER ACTION TO FACILITATE INTERCONNECTION BY CHP AND SIMILAR LARGER GENERATORS

Although the proposed reforms to the small generator interconnection procedures are an important current step, many CHP projects are large generators of 20 MW or more. FERC last revised the standard interconnection procedures and agreements for large generators in Order No. 2003, issued on July 23, 2003.[8] Since then, there have been a number of developments in the regulatory landscape, including enactment of Section 201(m) of the Federal Power Act in the Energy Policy Act of 2005 and FERC's Order No. 688 thereunder, and in the marketplace. The time, expense and other barriers to interconnection have continued to result in significant queues for projects waiting approval and decisions by CHP projects not to pursue interconnection approval.

ELCON, *et al.* therefore urge FERC to initiate a Notice of Inquiry to identify existing barriers to the development of large CHP projects. A first step might be a

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[7] *See, e.g., Combined Heat and Power: A Clean Energy Solution, supra*, at p. 3.

[8] Order No. 2003 became effective January 20, 2004, and the final rehearing order in the docket, Order No. 2003-C, issued on June 16, 2005. On December 11, 2007, FERC held a technical conference in Docket No. AD08-2 to discuss possible methods to address the challenges with queue issues that have arising since the issuance of Order No. 2003, primarily related to interconnection of solar and wind projects.

technical conference that would focus on developments since FERC last looked into this issue in the technical conference that it convened in Docket No. AD08-2.

In a technical conference, FERC could seek to identify solutions to barriers that emanate from FERC's regulations and policies as well as highlight barriers outside of its control that impede the goals of the President's Executive Order to promote CHP projects. The following outlines some of the issues that ELCON, *et al.* believe appropriate for consideration.[9]

Barriers to Large CHP Projects

- Section 210(m) and Order No. 688 have placed the burden on CHP generators to prove discrimination in the implementation of an Open Access Transmission Tariff (OATT). Under the OATT, all non-utility users of the transmission system are to be afforded access under the same terms and conditions as utility users. Such access does not happen in practice because utilities have the right to reserve transmission capacity for future native load.

- In practice, access to organized markets has not served as a sufficient replacement for PURPA's must-buy/must-sell mandates because the bidding process forces the CHP customer to compromise its production scheduling.

- The termination of the must-buy/must-sell mandates, which were typically implemented under long-term contracts or tariffs, also has created a substantial financial barrier to CHP by eliminating long-term price certainty.

- The lengthy process for completing interconnection studies and identifying estimates of facility and system upgrade costs is a significant entry barrier for CHP projects. "Queue hogging and projects dropping out of the queue late in the study process often result in the need to redo studies and cost estimates." CEC Staff Study, page 44. Also see page 51 of same report.

- Standby power rates and rate designs remains a chronic problem. Some states continue to authorize excessive rates for these essential services. ISOs and RTOs also continue to attempt to recovery their transmission, ancillary service and

[9] Many of these issues are highlighted in a recent staff paper issued by the California Energy Commission entitled "*A New Generation of Combined Heat and Power: Policy Planning for 2030*" (Sept. 2012). The staff paper was issued to identify the factors that influence the viability of CHP projects in view of California's goal to develop 6,500 MW of additional CHP capacity by 2030.

administrative costs from CHP customers on a "Gross Load" basis and not on actual "net" capacity and energy withdrawals.[10]

- The deliverability requirement of ISOs/RTOs requires CHP projects to prove that their output is deliverable to load and if not, they are required to finance the upgrades necessary to make the power deliverable. This requirement is unreasonably burdensome and unnecessary -- before a CHP project is operated, there was no question that purchased power was "delivered" to the load.

- CHP has very little or no siting flexibility. It has to be sited in close proximity to the steam host. This is not true for utility or merchant generators.

- Many existing CHP projects were forced into the NERC Compliance Registry and subjected to burdensome NERC Reliability Standards without any technical justification that such units were necessary for the reliability of the bulk electric system.

- ISOs, RTOs and some vertically-integrated utilities continue to insist that CHP units comply with operational rules intended for utility or merchant generation. They seek operational control of customer-owned CHP without providing compensation (including asset ownership). Absent such compensation, CHP projects are developed to exclusively to serve the host load's requirements per the terms of the interconnection agreement and other applicable regulations. "If utilities are serious about changing the way CHP operates so it supports system operations, they should look into joint funding of projects with third parties that are in locations where the benefits of CHP can be optimized." CEC Staff Study, p.50

Barriers that are Beyond FERC's Ability to Directly Control

- State CHP policies are moving targets; there are no long-term policies for encouraging long-term investments.

- Pro forma contracts apply a square peg to a round hole; any requirement to negotiate with utilities exposes investor to utility's hostility to customer generation.

- Nonbypassable and departing load charges ("exit fees") seriously burden the cost effectiveness of CHP projects and shift investments to less efficient asset management efforts. These charges are discriminatory because other loads are

[10] *A New Generation of Combined Heat and Power: Policy Planning for 2030, supra,* at pp. 45-46.

not subject to the same requirements when they stop purchasing any amount of utility-generated power.[11]

- While under State and Federal policies CHP is deemed a solution to climate change, State carbon policies (*e.g.*, California) may create economic disincentives for replacing utility power purchases with natural-gas or waste heat fired CHP because self-generation increases the number of allowances that must be surrendered to cover the new direct emissions. The customer cannot capture the allowances that would have been used to cover purchases from utilities.[12]

CONCLUSION

CHP lowers demand on the electricity delivery system, reduces reliance on traditional energy supplies, makes businesses more competitive by lowering their energy costs, reduces greenhouse gas and criteria pollutant emissions, and refocuses infrastructure investments toward next-generation energy systems. Already harnessed by many industrial, commercial, and institutional facilities, CHP is a proven and effective energy resource that can help address current and future energy needs by using commercially available, domestically produced technology. Policies to facilitate more efficient interconnection are essential to realizing the potential contributions that CHP can make.

For the reasons presented in these comments, and to reduce barriers to CHP development pursuant to the President's recent Executive Order, FERC should (i) proceed to issuance of a final rule implementing the reforms to the pro forma SGIP and SGIA set out in the NOPR, and (ii) expeditiously initiate consider additional reforms to facilitate and expedite efficient generator interconnections, regardless of size.

[11] *A New Generation of Combined Heat and Power: Policy Planning for 2030, supra,* at pp. 44-45.

[12] *A New Generation of Combined Heat and Power: Policy Planning for 2030, supra,* at pp. 4, 32-35, 41-42.

NOTICES AND COMMUNICATIONS

Notices and communications with regard to these proceedings should be addressed to:

John P. Hughes
Vice President, Technical Affairs
ELECTRICITY CONSUMERS RESOURCE COUNCIL
1111 Nineteenth Street, NW, Suite 700
Washington, DC 20036
Email: jhughes@elcon.org
Phone: (202) 682-1390

Owen A. Kean
Senior Director, Regulatory and Technical Affairs
AMERICAN CHEMISTRY COUNCIL
700 Second Street, NE
Washington, DC 20002
Email:
owen_kean@americanchemistry.com
Phone: (202) 249-7000

Jerry Schwartz
Senior Director, Energy & Environmental Policy
AMERICAN FOREST & PAPER ASSOCIATION
1111 Nineteenth Street, NW, Suite 800
Washington, DC 20036
Email: jerry_schwartz@afandpa.org
Phone: (202) 463-2700

W. Richard Bidstrup
CLEARY GOTTLIEB STEEN & HAMILTON LLP
2000 Pennsylvania Avenue, NW, Suite 900
Washington, DC 20006
Email: rbidstrup@cgsh.com
Phone: (202) 974-1500

Kevin M. Dempsey
Senior Vice President, Public Policy and
General Counsel
AMERICAN IRON AND STEEL
INSTITUTE
25 Massachusetts Avenue, NW, Suite 800
Washington, DC 20001
Email: kdempsey@steel.org
Phone: (202) 452-7118

Dale Louda
Executive Director
CHP ASSOCIATION
1050 Thomas Jefferson Street, 6th Floor
Washington, DC 20007
Email: dalelouda@chpassociation.org
Phone: (202) 298-3719

Robert D. Bessette
President
COUNCIL OF INDUSTRIAL BOILER
OWNERS
6801 Kennedy Road, Suite 102
Warrenton, VA 20187
Email: bessette@cibo.org
Phone: (540) 349-9043

Respectfully submitted,

/s/ W. RICHARD BIDSTRUP

W. Richard Bidstrup
CLEARY GOTTLIEB STEEN & HAMILTON LLP
2000 Pennsylvania Avenue, N.W., Suite 900
Washington, D.C. 20006
Counsel for ELCON

Dated: May 30, 2013

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary of this proceeding.

Dated at Washington, D.C.: May 30, 2013

/s/ W. RICHARD BIDSTRUP
W. Richard Bidstrup