

120 FERC 61,135
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Carson Cogeneration Company

Docket Nos. EL07-76-000
QF85-305-008

ORDER GRANTING REQUEST FOR LIMITED WAIVER OF QF
OPERATING AND EFFICIENCY STANDARDS

(Issued August 6, 2007)

1. This order addresses a request by Carson Cogeneration Company (Carson Cogeneration) for a limited waiver of the Commission's operating and efficiency standards¹ applicable to qualifying cogeneration facilities (QF) for calendar year 2007. Carson Cogeneration's request results from the temporary loss of its current steam host, Mountain Water Ice Company. The steam host will complete equipment upgrades during the last three months of 2007, during which time it will take no thermal output from Carson Cogeneration. Following completion of the thermal host's upgrades, Carson Cogeneration will begin delivery of useful thermal output to its thermal host. As discussed below, the Commission will grant Carson Cogeneration's waiver request.

¹ The operating and efficiency standards are contained in section 292.205 of the Commission's regulations. *See* 18 C.F.R. § 292.205 (2007). For any qualifying topping-cycle cogeneration facility, the operating standard requires that the useful thermal energy output of the facility (*i.e.*, the thermal energy made available to the host) must, during the applicable period, be no less than five percent of the total energy output. The efficiency standard requires that the useful power output of the facility plus one-half the useful thermal energy output must, during the applicable period, be no less than 42.5 percent of the total energy input of natural gas and oil to the facility or no less than 45 percent if the useful thermal energy output is less than 15 percent of the facility's total energy output.

I. Background

A. Factual Background

2. Carson Cogeneration owns and operates a 42 MW natural gas-fired, combined cycle cogeneration facility (Facility) located in Carson, California. The Facility consists of a combustion turbine-generator, a two-level heat recovery boiler and an extraction steam turbine engine. The Facility also includes interconnection equipment that connects it directly to Southern California Edison (SoCal Edison).

3. The Facility was certified by the Commission as a qualifying cogeneration facility² on March 18, 1985, and became operational in 1988. Carson Cogeneration represents that it has maintained QF status from 1988 through calendar year 2006. Carson Cogeneration sells all of its electrical output to SoCal Edison pursuant to a Purchase Power Agreement dated June 10, 1985, as amended.

4. The thermal host for the Facility has been an ice-making facility, Mountain Water Ice Company. Carson Cogeneration has used the steam from its recovery boiler and extraction engine to supply the host's absorption refrigeration equipment, which provides refrigeration at the host facility.

B. Request for Waiver

5. On June 22, 2007, Carson Cogeneration filed a petition for limited waiver of the Commission's operating and efficiency standards set forth in 18 C.F.R. § 292.205(a)(2) (2007) for calendar year 2007. Carson Cogeneration states that the waiver is necessary to complete equipment upgrades.

6. Carson Cogeneration states that it plans to install a new lithium bromide chiller system to replace the ammonia refrigeration plant that is currently at the host site. During installation, Carson Cogeneration will not provide useful thermal energy because the chiller will be out of service. The power plant will be in service during this time, but will not supply steam to the host. Although the equipment upgrade is expected to take only three months, Carson Cogeneration expects that it will be unable to comply with the applicable operating and efficiency standards for calendar year 2007.

² On May 14, 1985, the Commission certified the Facility as a qualifying facility. *Carson Energy, Inc.*, 31 FERC ¶ 62,209 (1985). The facility was subsequently self-recertified and Commission-recertified a number of times.

7. Carson Cogeneration argues that waiver of the operating and efficiency standards is warranted because (1) it has never sought such a waiver prior to the instant request; (2) the waiver period is limited to three months; (3) its waiver request was filed as soon as reasonably practicable after it became certain that there exist no economically viable, alternative chiller solutions that would allow it to satisfy the Commission's operating and efficiency standards for calendar year 2007 while also meeting the needs of the host; and (4) the Facility's equipment upgrades are the result of unexpected events beyond its control. Carson Cogeneration further argues that granting the limited waiver request would fulfill the Public Utility Regulatory Policies Act of 1978 (PURPA) goal of encouraging cogeneration and the development of alternative generation technologies. Finally, Carson Cogeneration states that it has been authorized to state that SoCal Edison does not oppose the requested waiver; Carson Cogeneration thus expects no opposition to the waiver request.

II. Notices, Interventions, and Protests

8. Notice of this filing was published in the Federal Register, 72 Fed. Reg. 36,693 (2007), with interventions, protests, or comments due on or before July 23, 2007. None was filed.

III. Discussion

9. Section 292.205(a) of the Commission's regulations provides that a QF must satisfy applicable operating and efficiency requirements "during . . . any calendar year." Section 292.205(c) of the Commission's regulations provides that the Commission may waive any of its operating and efficiency standards "upon a showing that the facility will produce significant energy savings."³ The Commission has exercised its waiver authority in a number of cases based on a balancing of factors such as the limited duration of the requested waiver; whether non-compliance was confined to the start-up and testing stage and whether further waivers would therefore be unnecessary; the timeliness of the submission of the waiver request; whether non-compliance was the result of an unexpected and one-time operational event outside the applicant's control; whether the request was intended to remedy specific problems associated with an innovative technology; the amount of opposition, if any; and whether granting

³ 18 C.F.R. § 292.205(c) (2007); *see also* 16 U.S.C. § 825h (2000) (general authority to waive regulations as the Commission "may find necessary or appropriate").

waiver would fulfill PURPA's goal of encouraging cogeneration and the development of alternative generation technologies.⁴

10. Taking into account all the relevant factors, we will grant Carson Cogeneration's request for waiver for calendar year 2007. First, while Carson Cogeneration's equipment upgrades are not unexpected, they are inevitable operational events, which, in that sense, are beyond Carson Cogeneration's control. Second, Carson Cogeneration anticipates that it will not require any additional waivers in the future,⁵ so further waivers should be unnecessary. Third, the requested waiver is limited to one calendar year. In addition, Carson Cogeneration has not received any prior waivers and this waiver request is unopposed and timely. The filing was made shortly after Carson Cogeneration became certain that no economically viable, alternative chiller solutions exist that would allow Carson Cogeneration to satisfy both the Commission's operating and efficiency standards for 2007 while also meeting the needs of the host. While Carson Cogeneration may fail to meet the Commission's operating and efficiency standards for a short period, the 20 years during which it has operated and the years it intends to again operate in compliance with those standards will result in considerable energy savings. Finally, there is no opposition to the requested waiver. A grant of limited waiver under these circumstances is thus consistent with the PURPA goal of encouraging cogeneration and alternative generation technologies.

The Commission orders:

Carson Cogeneration's request for temporary waiver of the operating and efficiency standards, 18 C.F.R. § 292.205(a) (2007), is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.

⁴ See, e.g., *PowerSmith Cogeneration Project Limited Partnership*, 118 FERC ¶61,021 (2007); *Oildale Energy LLC*, 103 FERC ¶ 61,060 (2003); *Kamine/Besicorp Allegany L.P.*, 73 FERC ¶ 61,290 at 61,808-09 (1995), *reh'g denied*, 74 FERC ¶ 61,094 (1996); *Gordonsville Energy, L.P.*, 72 FERC ¶ 61,160 at 61,790-91 & n.7 (1995), and the cases cited therein.

⁵ Application at 6 ("The installation of the new equipment is expected to take approximately three months and should only happen one time.").