

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

**Order Instituting Rulemaking to Oversee  
the Resource Adequacy Program, Consider  
Program Refinements, and Establish  
Annual Local and Flexible Procurement  
Obligations for the 2019 and 2020  
Compliance Years.**

**R.17-09-020  
(Filed September 28, 2017)**

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**COMMENTS OF THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION  
IN RESPONSE TO OCTOBER 5, 2018,  
RULING OF ADMINISTRATIVE LAW JUDGE ALLEN**

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## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	CALCCA SUPPORTS SEVERAL ELEMENTS OF SCE’S PROPOSAL .....	3
	A. Central Buying Should Be Limited to Local RA Capacity .....	3
	B. SCE’s Framework Should be Viewed as an Interim Solution.....	3
	C. SCE’s Framework Should Be Limited to a Three-Year Period.....	4
	D. The Framework Should Facilitate Local RA Procurement Flexibility. ....	4
	E. The Local RA Showing Should Be Voluntary. ....	5
	F. Cost Allocation Should Be on a Monthly Ex Post Basis.....	5
	G. The Compliance Timeline Should Be Shifted. ....	6
	H. Planning Processes Must Be Coordinated. ....	6
	I. CAISO Backstop Procurement May Still Be Necessary. ....	6
III.	CERTAIN ELEMENTS OF SCE’S PROPOSAL ARE PROBLEMATIC AND REQUIRE MODIFICATION. ....	7
	A. The Framework Must Provide a Reasonable Opportunity for LSE Local RA Procurement.....	7
	B. The CB Procurement Mechanism Requires Further Consideration.....	8
	C. Limitations Must Be Placed on the IOU as CB. ....	10
	D. A Three-Year Contract Should Not Be Required .....	11
	E. CB Procurement Should Be on a Rolling 100% Basis.....	12
	F. IOU Sales Must Specify Resources for a Multi-Year Period. ....	12
IV.	CONCLUSION .....	13

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Pursuant to the email ruling of Assigned Commissioner and Administrative Law Judge Allen (ALJ) dated October 5, 2018 (Ruling), the California Community Choice Association (CalCCA) submits these Comments on the Local Resource Adequacy (RA) central buyer framework proposed by Southern California Edison Company (SCE).

**I. INTRODUCTION**

CalCCA supports adoption of a multi-year Local RA requirement for all jurisdictional serving entities (LSEs). CalCCA’s Transition Proposal, framed in testimony and comments,<sup>1</sup> relies on continued California Independent System Operator (CAISO) procurement of Essential Reliability Resources (ERRs) under its existing backstop procurement authority plus any “residual” volume of procurement for needed resources that are not procured competitively by LSEs. While most of the proposed frameworks will ensure reliability, CalCCA’s Transition Proposal is superior to other approaches in four ways. This approach: (1) relies primarily on an existing central buyer and procurement structure that can mitigate locational market power of needed resources;

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<sup>1</sup> [citation]

(2) eliminates the risk of utility self-dealing in its multiple roles of RA resource owner, retail service provider and transmission owner; (3) minimizes the risk of over-procurement of Local RA and (4) maximizes the ability of each LSE in structuring its portfolio to meet the needs of its customers. Moreover, the concerns that appear to be driving the Commission’s interest in removing the CAISO as central buyer – a perception that Capacity Procurement Mechanism (CPM) prices are “too high” and a perceived risk of loss of jurisdiction to the Federal Energy Regulatory Commission (FERC) – are misplaced. There is no evidence that a central buyer other than the CAISO could achieve prices that are lower than recent CPM prices for resources with local capacity market power. The Commission appears to be assuming that all capacity can be acquired for the same price when it is the unique local attributes that are driving the price differentials being addressed here. And the Commission has yet to explain how it is unreasonable to pay a resource that has market power its cost of service; cost-based rates are indeed what the Commission asks ratepayers to pay for the resources the utilities own or procure.<sup>2</sup> Likewise, there is no clear connection between continuing to allow the CAISO to play a residual central buyer role and FERC action to more broadly regulate California’s RA framework. As CalCCA noted in its August 8, 2018, comments, the risk of FERC intervention is already present as a result of actions taken by merchant generators at FERC.<sup>3</sup>

In response to the Ruling, however, CalCCA has further considered and provides these comments on SCE’s proposed “residual” central buyer framework. CalCCA

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<sup>2</sup> The Commission has continued to authorize new resources focused on resource adequacy at costs well above those reported in RA market transactions. [citation]

<sup>3</sup> See CXA La Paloma, LLC v. CAISO, FERC Docket EL18-177-000, filed June 19, 2018.

agrees with and supports several elements of SCE’s proposal, as discussed in Section II. In fact, SCE’s approach addresses gaps remaining in the CalCCA Transition Proposal, such as load migration. Certain elements, however, create unnecessary complexities and risks, and CalCCA offers proposals to address these elements in Section III.

## **II. CALCCA SUPPORTS SEVERAL ELEMENTS OF SCE’S PROPOSAL**

CalCCA agrees with certain of SCE’s conclusions and supports elements of SCE’s central buyer proposal. These areas of agreement are detailed below.

**A. Central Buying Should Be Limited to Local RA Capacity.** SCE proposes to limit central buying to Local RA, maintaining full flexibility for LSEs in the procurement of system and flexible RA capacity.<sup>4</sup> CalCCA agrees that LSEs should have maximum flexibility, and there has been no demonstration that central buying is needed for system and flexible RA capacity.<sup>5</sup>

**B. SCE’s Framework Should Be Viewed as an Interim Solution.** SCE envisions its central buyer (CB) proposal as “as an interim solution as additional policy guidance unfolds through the Commission’s ‘California Customer Choice Project,’ as well as a number of legislative efforts currently in progress.”<sup>6</sup> SCE also notes the ability for “a gradual reveal of how the electric system performs with a substantially different set of reliability resources” in response to the once-through-cooling (OTC) compliance schedule. Designing the initial program as an interim proposal also comports with CalCCA’s longer term vision of efficiently reducing the constraints that create Local RA

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<sup>4</sup> Comments of Southern California Edison Company (U 228-E) on the Process, Scope, and Scheduling for Track 2 and Substantive Responses to the Opening Testimony and Proposals Served on July 10, 2018 (SCE Comments) at 4, 12.

<sup>5</sup> [CalCCA Comments]

<sup>6</sup> *Id.* at 5.

requirements through the CAISO Transmission Planning Process (TPP) and implementation of clean non-wires alternatives (NWA).

**C. SCE’s Framework Should Be Limited to a Three-Year Period.** In addition to the perspectives offered by SCE on adopting an interim framework, SCE observes that “there will likely be more LSE-controlled resources eligible to participate in a voluntary three-year forward Local RA obligation than a five-year forward RA obligation.”<sup>7</sup> The importance of the three-year period has been heightened by the Commission’s final decision in the Power Charge Indifference Adjustment (PCIA) in R.17-06-026, which contemplates a new phase focused, in part, on reducing the investor-owned utility (IOU) portfolios on a long-term basis through sales and auction mechanisms.<sup>8</sup>

**D. The Framework Should Facilitate Local RA Procurement Flexibility.** SCE proposes “a central residual procurement framework rather than a full procurement framework to facilitate procurement flexibility for load-serving entities...”<sup>9</sup> SCE explains its definition of “residual”:

LSEs would continue to procure RA to meet their System and Flexible requirements with the assumption that their procurement objective will be to secure the least-cost resources to meet their RA needs. If these least-cost resources also meet local area needs, then they would reduce the quantity of Local RA that the central procurement entity needs to procure to meet the residual Local RA need.<sup>10</sup>

SCE’s proposal aligns conceptually with CalCCA’s Transition Proposal in carving out a role for LSEs in Local RA procurement. Practically, however, SCE’s proposal does not

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<sup>7</sup> *Id.*  
<sup>8</sup> [Citation to final PCIA decision].  
<sup>9</sup> SCE Comments at 4.  
<sup>10</sup> *Id.* at 6.

provide sufficient incentives to advance LSE procurement, particularly for new preferred resources, as discussed in Section III.

**E. The Local RA Showing Should Be Voluntary.** SCE contemplates a voluntary showing of Local RA, allowing an LSE to procure and show Local RA procurement “up to 100% of established requirements.”<sup>11</sup> In other words, an LSE could choose not to procure Local RA without penalty. SCE explains that “[i]f the LSE is not willing to make a voluntary Local RA showing for the full three-year period, then they would have the option to retain the resource for their own System and/or Flexible RA requirements, or bid the resource to the central procurement entity and not retain its System and/or Flexible RA attributes.”<sup>12</sup> SCE’s approach eliminates the need to think about penalties or other enforcement mechanisms and allows greater flexibility for LSEs that do not have load in any Local Capacity Area (LCA) to procure resources local to their own area. As noted below in Section III, however, it is critical that the CAISO Local Capacity Requirements (LCR) studies provide sufficient information for LSEs to do technically informed procurement of Local RA.

**F. Cost Allocation Should Be on a Monthly Ex Post Basis.** SCE contemplates allocation of costs for CB procurement on an ex post basis, using each LSE’s actual metered load as the basis for allocation.<sup>13</sup> SCE believes that this approach is both durable and equitable. CalCCA also supports this approach as a good solution to the load migration concern – an enhancement that would benefit CalCCA’s Transition proposal — and offers the additional comment that cost allocation would need to be done

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 8-9.

on a monthly basis to accurately reflect load migration throughout the year. To illustrate, in February 2021 the CB would invoice LSEs for the cost of the Local RA it procured for the January 2021 operations month, and that invoice would be based on the LSE's share of total January 2021 TAC Area load, adjusted for LSE showings of Local RA for the same month. (CalCCA offers further details on this adjustment in Section III.B below.)

**G. The Compliance Timeline Should Be Shifted.** SCE observes that “[i]t is likely the existing RA compliance timeline will need to change to accommodate a centralized procurement mechanism, as such, proposals on potential RA compliance timeline changes (e.g., a new compliance timeline from April through March) should be considered....”<sup>14</sup> CalCCA agrees, although it recognizes that the shift may need to occur for 2021 compliance, to allow for 15-month procurement for January 2020 through March 2021.

**H. Planning Processes Must Be Coordinated.** SCE agrees with CalCCA that “the variety of planning processes (e.g., IRP, TPP, IDER, etc.) need to be coordinated with the multi-year RA structure to enable California to meet its objectives to provide clean, reliable, and affordable electric service.”<sup>15</sup> While this will be a complex undertaking, CalCCA has offered some initial observations in its August 8, 2018, comments and discusses the TPP briefly in Section III.

**I. CAISO Backstop Procurement May Still Be Necessary.** SCE recognizes that “if the central entity is not able to procure to meet the entire residual need, the CAISO will still require time for its backstop procurement functionality.”<sup>16</sup>

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<sup>14</sup> *Id.* at 11.

<sup>15</sup> *Id.* at 6.

<sup>16</sup> *Id.* at 11.

CalCCA fully agrees and, in fact, the problem of locational market power of pivotal suppliers for any non-CAISO central buying solution may lead to continued reliance on the CAISO in this role.

### **III. CERTAIN ELEMENTS OF SCE'S PROPOSAL ARE PROBLEMATIC AND REQUIRE MODIFICATION.**

SCE's proposal for treatment of LSE-provided resources unnecessarily minimizes incentives for LSEs to procure and show Local RA. First, SCE proposes that an LSE showing will only reduce the CB's procurement, thereby reducing costs for all LSEs, but undermining the ability of the individual showing LSE to capture the full value of its procurement. Second, SCE would require the LSE to show the same resource for the full three years, which will conflict with and diminish the incentive for LSEs to develop new preferred resources for the later years of the compliance period and into the future. Third, if the LSE instead bids the resource into the CB procurement, the LSE foregoes the System and Flex value of the resource as well. This may be fair if the LSE earns a sufficient price for the resource through the CB, but because the rules of CB procurement have yet to be designed and tested, this would impose a high degree of financial risk on the LSE. Again, this risk likely would discourage LSE investment in new projects. In short, although SCE proposes "residual" procurement by the CB, the incentives inherent in their proposal will deter LSEs from Local RA procurement and development.

CalCCA's proposed remediation for these shortcomings is discussed below.

**A. The Framework Must Provide a Reasonable Opportunity for LSE Local RA Procurement.** While SCE's framework permits LSE self-provision of Local RA, the self-providing LSE would not receive full value for the procurement. SCE states: "If these least-cost resources also meet local area needs, then they would reduce

the quantity of Local RA that the central procurement entity needs to procure to meet the residual Local RA need.”<sup>17</sup> In other words, the self-providing LSE would benefit only from its load-ratio proportionate share of the reduction resulting from that self-provision which would be much smaller than full credit for acquired resource. This approach provides little, if any, incentive for an LSE to procure RA for the Local RA attribute.

Any adopted framework must provide a meaningful opportunity for LSEs to maintain the value of their existing investments in LCAs and to develop or procure new Local RA projects. There are at least two possible means of incentivizing LSE procurement:

- ✓ Modify SCE’s proposal by giving a self-providing LSE credit for 100 percent of the compliant Local RA it procures. The CB would credit the LSE’s monthly charges in an amount equal to the LSE’s “share” of resource obligation in a given LCA or sub-area multiplied by the average price of resources procured by the CB in that LCA or sub-area.
- ✓ Create a reverse auction to be administered by the entity overseeing the CB that would optimize Local RA procurement and allow LSEs to monetize the value of their investments through the reverse auction.

These and other possible means of ensuring LSEs capture the value of their existing or future investments should be further explored through a workshop.

**B. The CB Procurement Mechanism Requires Further Consideration.**

SCE’s proposal appears to contemplate bilateral negotiation of Local RA contracts by the CB.<sup>18</sup> Particularly if the IOU takes on the CB role, this approach increases the subjectivity of procurement and leaves ample room for self-dealing by the IOU. In addition, there is no demonstrated price advantage through negotiated transactions over

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<sup>17</sup> *Id.* at 6.

<sup>18</sup> *Id.* at 17.

competitive solicitations.<sup>19</sup> However, the competitive solicitations have an advantage in transparency and price discovery that can improve liquidity and robustness in a multi-participant market of the type that now characterizes California's RA market.<sup>20</sup> Moving to bilateral markets is only desirable where transaction and search costs are high and/or attributes are highly unique. For example, real estate markets rely on brokered bilateral negotiations due to high individual search costs, complex negotiations and unique attributes in each dwelling (although auctions are becoming more common with better information access.) Neither of those aspects is necessarily apparent here as discussed below.

CalCCA recommends that any final framework maximize the use of an open and transparent market mechanism and minimize the use of bilateral negotiations. Local RA procurement could be optimized through a reverse auction process administered by a third-party consultant. Any party, including the IOU for its non-CAM resources, could bid into the reverse auction. Locational prices within each LCA would be set by a constrained optimization algorithm that uses an accurate model of the transmission grid, comparable to the locational marginal pricing (LMP) market operated by the CAISO. Such an optimization inherently considers the effectiveness of each resource on all relevant constraints driving the needs of the LCA. If the Commission elects the IOUs to

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<sup>19</sup> See for example: Randall Pozdena, Eric Fruits, James Booth, Richard Smith, "A Comprehensive Evaluation of the Comparative Cost of Negotiated and Competitive Methods of Municipal Bond Issuance," <https://www.sifma.org/wp-content/uploads/2017/05/a-comprehensive-evaluation-of-the-comparative-cost-of-negotiated-and-competitive-methods-of-municipal-bond-issuance.pdf>, January 8, 2007.

<sup>20</sup> See for example: Richard J. McCann, "Environmental Commodities Markets: 'Messy' Versus 'Ideal' Worlds," *Contemporary Economic Policy*, Vol. XIV, pp. 85-97, July 1996.

operate as CB, their participation in the reverse auction process would be limited in the ways discussed below in Section C.

**C. Limitations Must Be Placed on the IOU as CB.** While SCE does not squarely propose to serve as the CB for its Transmission Access Charge (TAC) area, it “does not object to performing the procurement” on an interim basis while a more comprehensive solution is developed through the Commission’s exploration of customer choice or legislative action.<sup>21</sup> CalCCA continues to believe that placing the IOU in this role, while convenient in some ways, presents a conflict of interest. The IOUs have market power in many LCAs in their TAC areas as they control or own the set of “pivotal supplier” units. It is likely that due to the migration of bundled load, the IOUs hold Local RA capacity well in excess of their bundled requirements. As contemplated by the recent PCIA Decision,<sup>22</sup> the IOUs will likely be selling their excess – through whatever selling process is ultimately defined – into the market. Placing the IOU in the role of identifying needs and acting as central buyer, at the same time it is selling RA in the market, could present an obvious conflict of interest and enable self-dealing to the benefit of the IOU’s bundled service, or even its shareholders if transmission solutions are in scope for the central buyer.

CalCCA does not support placing the IOU in this role. If the Commission moves in this direction, however, stringent guidelines and oversight must be imposed. At a minimum:

- ✓ The role should be on a limited term basis (three years), consistent with SCE’s “interim” framework approach and transmission solutions should be excluded

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<sup>21</sup> *Id.*

<sup>22</sup> [Citation to PCIA Decision]

- ✓ New commitments entered into by the CB must be for no more than three years to prevent further accumulation of stranded costs;
- ✓ Resources allocated under the Cost Allocation Mechanism should not be eligible for bidding into the central buyer, but should be counted by the CB in determining the residual LCA and sub-area needs;
- ✓ The IOUs must be required to offer 100 percent of Local RA capacity held in the PCIA portfolio in the auction or to an individual LSE (who might choose to assume the risk of auction prices as a hedge strategy against a cost allocation from the CB procurement);
- ✓ Prices of utility RA sales and CB purchases must be made public (similar to affiliate rules);
- ✓ The CB would not be permitted to procure Local RA from resources at prices above the otherwise applicable CPM price; a need to procure any resources bidding above this level would default to the CAISO's CPM.
- ✓ CB procurement should be determined as a result of the auction, discussed in Section B, which would be conducted by a third-party consultant retained and supervised by the Commission.
- ✓ Products procured by the CB should be limited to RA only; tolls and/or green attributes of energy significantly increase complexity of offer evaluation.

**D. A Three-Year Contract Should Not Be Required.** SCE's proposal appears to contemplate that only a three-year contract for a single resource would meet the three-year compliance requirement. It states: "[i]n order to allow the LSE-specific RA procurement in a local area to reduce the centrally procured Local RA quantity, the LSE would need to have procured the resource for the duration of the three-year compliance period and agree to show the resource as RA in each month of all three years."<sup>23</sup> CalCCA submits that neither an individual LSE nor the CB should be required to procure each resource for a three-year period.

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<sup>23</sup> *Id.* at 6.

Any showing or bid by an LSE into a reverse auction would be in full-year increments from one to three years of the compliance period. Similarly, the CB procurement should be structured to allow the possibility of different resources, each in full-year increments, making up the requirement for the LCA. An LSE or CB could, for example, stack three successive one-year contracts for 10 MW of Local RA from different resources to satisfy a three-year, 10 MW obligation. There is no reason that the three-year commitment for a certain portion of requirements must be met by the same resource, and providing greater flexibility in term will better encourage LSE procurement of Local RA. Three-year contracts would still be permitted where necessary, for example to prevent early retirement of an essential resource.

**E. CB Procurement Should Be on a Rolling 100% Basis.** SCE's proposal for three-year procurement term seems to assume that the CB would procure 100 percent of LCRs for all three years. This approach unnecessarily constrains LSE procurement. CalCCA continues to advocate 100 percent CB procurement of the residual for only year one, leaving a margin of headroom for years two and three to allow for new procurement by LSEs to be used to meet LCR in a subsequent showing. In addition, load growth uncertainty requires that future procurement requirements be less than 100% to reduce the risk of over procurement and the attendant excess costs. CalCCA proposes that the CB procure 90 percent of LCR for year two, and 80 percent for year three. As with the point of Section III.C above, this also does not preclude the possibility of three-year procurement for certain resources, e.g., to prevent early retirement.

**F. IOU Sales Must Specify Resources for a Multi-Year Period.** The SCE framework contemplates that an LSE will specify its resource in its showing for three-

year compliance.<sup>24</sup> In order to facilitate this showing, a Local RA seller must specify the resources underlying the capacity sale with sufficient time for the purchaser to make its showing. Since the IOUs could be the dominant sellers in the market, the Commission should require that the IOUs specify resources in any Local RA sale prior to the time the three-year showing is required.

#### **IV. CONCLUSION**

CalCCA continues to support its Transition Proposal as the simplest and most effective approach to designing a multi-year Local RA framework. This approach relies on an existing CB and regulation and brings none of the complexities and risks arising from designation of an IOU as CB. Recognizing the call of the Ruling, however, CalCCA proposes that if the Commission proceeds along the lines SCE has proposed, it must address the critical details identified by CalCCA in Section III. The complexity of these issues requires public workshops to explore and develop the details of the CB procurement process before the Commission issues its decision on these matters.

Respectfully submitted,



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<sup>24</sup> See *id.* at 8.