

# California Legislature

June 17, 2019

The Honorable Michael Picker  
President, California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Dear President Picker:

We are writing to express concern over two energy market challenges on Resource Adequacy (RA) that are having disproportionate impact on Community Choice Aggregators (CCAs) and encourage the California Public Utilities Commission (CPUC) to address these issues through expedited regulatory proceedings to address the 2019 sales cycle that will impact RA markets through 2022.

The first is a concern that there exists an energy market failure for CCAs having the ability to obtain RA contracts with Investor Owned Utilities (IOUs). The role of the CPUC in maintaining system reliability in electricity market includes overseeing and certifying the sale and purchase of RA products by IOUs, Direct Access (DA) providers, and CCAs to meet state reliability requirements. The California Independent System Operator (CAISO) identifies RA needs, while the California Energy Commission (CEC) calculates the expected load (power demand) of each California load serving entity (LSE). Currently, the IOUs hold the majority of RA and have market power in certain local sub-areas.

Due to substantial load migration of IOUs' load to CCA and DA providers, the IOUs hold excess capacity that is needed by CCA's to meet their RA obligations. The failure of IOUs to offer excess RA to the market in a timely manner appears to have caused certain CCA's to seek compliance waivers and face CPUC penalties for noncompliance with 2019 compliance obligations.

Because the CPUC does not direct timely sales of excess RA to the market and at the same time punishes entities required to meet RA obligations, these actions enable an artificial shortage of RA supply which is increasing the price of RA costs offered into the market. For instance, RA pricing has doubled between 2018 and 2019, despite sufficient RA availability overall. This dramatic price increase negatively impacts all parties and is counter to the CPUC's responsibility to minimize costs to ratepayers. Since CCAs already serve over 10 million residential and commercial electric customers in California and the CPUC expects CCAs will develop almost 90% of new renewable resources needed to meet state climate goals by 2030, timely RA sale and cost management policies must be addressed.

The second concern is specific to Pacific Gas and Electric (PG&E) and their stated refusal to sell critical local RA to the market in a timely manner. PG&E has significant market power in five of the seven local RA areas in Northern California. In January 2019, the CPUC changed certain rules governing the RA program to further disaggregate PG&E into six additional RA sub-areas and increased LSE RA procurement obligations to three years, beginning in 2020. All Northern California CCAs now have an obligation to procure three years of RA from generation primarily controlled by PG&E. Longer RA procurement obligations without clear regulations requiring IOU's to sell excess RA supply increases the risk of RA market constraints, higher pricing, and lack of available products.

In April 2019, PG&E communicated to CCAs that they do not plan any RA sales until late summer, at the earliest, two months prior to RA procurement compliance deadlines.<sup>12</sup> This compressed timeline is insufficient and creates considerable risk that one or more CCAs may be unable to procure local or system RA at any price, even though there is enough physical RA available. Since all RA sellers are now seeking three year commitments, if PG&E fails to make local RA products available and CCA's are forced to buy higher priced RA from other market participants, the resulting higher RA costs will be locked in for 3 years.

Failing to sell RA in a timely manner also results in over procurement and increased Power Charge Indifference Adjustment (PCIA) costs. CPUC rules authorize IOUs to treat RA overcapacity as a PCIA eligible cost they may pass onto CCAs. PG&E and other IOU's ability to not sell in a timely manner and under reasonable market terms impose unnecessary costs and barriers to meet RA compliance deadlines on local governments and CCA ratepayers. State law requires the CPUC to establish non-biased rules that allow CCAs to equitably participate in California's RA markets.<sup>3</sup> The failure to require timely IOU RA sales and to allow IOU's to pass the costs of unsold RA onto CCAs in the form of increased PCIA exit fees is a fundamental RA market design flaw the CPUC must address quickly.

Additionally, the CPUC RA waiver and penalty process should be modified to recognize that the CAISO has a backstop RA procurement process in place that will assess capacity procurement charges to LSEs that are short. CPUC assessed penalties should be reduced or waived, to the extent that a CCA has made good faith procurement efforts as CCA's are already required to pay the CAISO for backstop capacity procurement for any actual RA shortfall.

We respectfully urge the California Public Utilities Commission to expeditiously direct California investor-owned utilities to sell excess reliability resources. Specifically, we would like to take this opportunity to provide the following recommendations:

1. The CPUC should immediately direct IOU's to issue solicitations to sell RA this Spring or early Summer under a standard agreed to contract to address 2020-2022 RA needs.
2. The CPUC should expand the waiver process to include waivers for system and flexible RA procurement, in addition to local RA waivers, in recognition of limited IOU sales of all three RA products.

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[http://www.caiso.com/Documents/EvaluationReport\\_LoadServingEntitiesCompliance\\_2019Local\\_SystemResourceAdequacyRequirements.pdf](http://www.caiso.com/Documents/EvaluationReport_LoadServingEntitiesCompliance_2019Local_SystemResourceAdequacyRequirements.pdf)

<sup>2</sup> PG&E Portfolio Manager communication via email to NCPA Procurement Manager, April 16, 2019

<sup>3</sup> SB 790 (Leno), 2011

3. The CPUC should work with the CEC and CAISO to issue clear and timely RA forecasts and refund penalties and revise vilolations if CPUC mid-year RA true-ups eliminate forecasted underprocurement by LSE's. In addition, to improve accountability, the CPUC should consider development of a system to reimburse LSE's for procurement and staff costs related to RA overprocurement if forecast errors are found to be the reason for overprocurement.

Thank you to your attention to this critical issue and we look forward on working with the Commission on ways to ensure the state's energy market is reliable, fair, and equitable.

Sincerely,



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Assemblymember Ash Kalra  
27<sup>th</sup> Assembly District



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State Senator Scott Wiener  
11<sup>th</sup> Senate District



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State Senator Jim Beall  
15<sup>th</sup> Senate District



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State Senator Steven Glazer  
7<sup>th</sup> Senate Distrcit



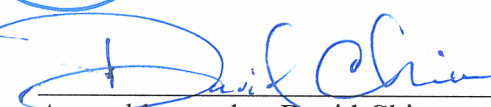
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State Senator Mike McGuire  
2<sup>nd</sup> Senate District



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State Senator William Monning  
17<sup>th</sup> Senate District



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Assemblymember David Chiu  
17<sup>th</sup> Assembly District



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Assemblymembly Kansen Chu  
25<sup>th</sup> Assembly District



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Assemblymember Evan Low  
28<sup>th</sup> Assembly District



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Assemblymenber Mark Stone  
29<sup>th</sup> Assembly District



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Assemblymember Philip Ting  
19<sup>th</sup> Assembly District