

**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)

**COMMENTS OF THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION
ON INFORMAL WORKSHOP REPORTS**

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Decision 19-02-022 (Track 2 Decision) requires participants to “undertake a minimum of three workshops over the next six months to identify workable CPE and central procurement structure proposals.”¹ Pursuant to Ordering Paragraph 7 of the Track 2 Decision, each of the facilitators of the workshops (the Joint IOUs, Shell Energy, and CalCCA) filed informal reports on their respective workshops on July 17, 2019.

By email dated July 22, 2019 Administrative Law Judge Chiv provided all parties with the opportunity to file comments on these reports. The California Community Choice Association (CalCCA) timely files these comments on the informal workshop reports.

I. INTRODUCTION

Workshop #1 and #2 addressed whether a proposed central procurement entity would follow either a “full procurement” or “residual” model. Workshop #3 and #4 were to consider issues surrounding the concept of a central procurement entity. Workshops #5 and #6 considered

¹ D.19-02-022, Ordering Paragraph 3, at 45.

implementation and other issues related to the proposal. Workshops #6 and #7 were to be a wrap-up and proposal based on consensus reached.

CalCCA commends all of the parties who participated in the workshop process to discuss these complex issues. Although many parties spent considerable time and effort participating in these workshops, however, little consensus was reached. Many proposals were put up for consideration and many challenges were discussed, but a consensus proposal did not emerge.

CalCCA reviewed the comments and reports filed, and in response has developed a proposal based on the information gleaned from the workshop process. CalCCA submits the following proposal for the establishment and operation of a central procurement entity, taking into account each of the topics addressed in the workshops.

II. PROPOSAL

A. Identity of the CPE - (Workshops #3 and #4)

CalCCA has reviewed and considered the jurisdictional issues, governance issues and structure anticipated for a central procurement entity (CPE). CalCCA proposes that the CPE be established to procure on behalf of all LSEs otherwise subject to Section 380. CalCCA recommends the establishment of a new state entity, or an expansion of the role of any existing state entity, to serve as CPE.

A state entity will be preferable to either an IOU or a for-profit entity in this role. A state entity will provide the cleanest approach from a jurisdictional standpoint. Unlike an IOU or a for-profit entity, a state entity has a categorical exemption from the Federal Power Act.²

² Section 201(f) of the FPA provides an explicit exemption from Part I of the Act to “a State or any political subdivision of a State...or any agency, authority, or instrumentality...or any corporation which is wholly owned, directly or indirectly, by any one...of the foregoing, unless such provision makes specific reference thereto.” 16 U.S.C. § 824(f). The Court of Appeal for the Ninth Circuit concluded this

Moreover, a state entity structure will ensure competitive neutrality in both wholesale and retail electric markets. Putting an IOU in the role of CPE presents an unfair opportunity for self-dealing and an inherent conflict between a market participant's duty to its shareholders and the CPE's competitive neutrality, transparency and independence. It is questionable whether these problems can be overcome entirely through the imposition of self-implemented IOU protocols and other affiliate rules. Structural separation of the CPE from any one market competitor eliminates these inherent risks.

B. Procurement Model - (Workshops #1 and #2)

CalCCA proposes adoption of a residual procurement model. The CPE will procure resource adequacy (RA) products on a multi-year basis in the service territories of the investor-owned utilities (IOUs), beginning in 2021 for the 2022 Resource Adequacy year. As a result of the CPE's primary responsibility, the existing LSE compliance obligation will shift from individual LSEs to the CPE, although individual LSEs will be entitled to procure on their own behalf.

1. Mechanics of CPE Procurement

CalCCA proposes that the CPE work with the CAISO and the Commission to identify the pool of eligible effective resources, taking into account RFO offer prices, the effectiveness of resources in addressing local area constraints, state energy objectives, resource performance characteristics, and other selection criteria using a methodology developed by the Commission through a public process.

provision creates a blanket exemption for these "State Entities" from FERC jurisdiction under sections 205 and 206 of the FPA. *Bonneville Power Admin. v. FERC*, 422 F.3d 908 (9th Cir. 2005).

The products procured by the CPE will be subject to California Independent System Operator (CAISO) must offer obligations. The CPE will not procure dispatch rights or impose requirements beyond CAISO must-offer obligations on the energy market participation of procured capacity.

The CPE will meet its compliance requirement by contracting for resources for a period not to exceed three years. The CPE will purchase RA only products, on an annual basis. The CPE will contract on a rolling three-year basis, ensuring that the aggregate of (a) RA self-procurement by LSEs plus (b) the CPE’s procurement of the remainder of the Collective Requirement, total RA Requirement as shown in Table 1.

**Table 1:
Percentage of Collective RA Requirements
Procured on a Multi-Year Basis**

	Year 1	Year 2	Year 3
System RA	100%	75%	50%
Local RA	100%	100%	75%
Flex RA	100%	75%	50%

2. CPE Showing of Self-Procurement

Each LSE will continue to receive the CEC’s individualized forecast of its load share and may show Local, System and Flexible resources to the CPE on an annual basis. The CPE will show its procured resources, by month, on a year ahead basis, to the CPUC and CAISO sufficient to demonstrate that the amount procured by the CPE and capacity self-procured by LSEs in aggregate meet the collective requirements. There will be no month-ahead showings required.

Following the CPE’s showing, the CAISO will identify any resource deficiency for the upcoming year for System and Flexible RA products and two years forward for Local RA

products. The CPE will then bilaterally negotiate additional procurement to eliminate the deficiency prior to the CAISO conducting backstop procurement. To the extent any deficiency still exists following CPE procurement, the CAISO will continue its backstop procurement role in accordance with its then-applicable tariff.

3. Cost Responsibility and Allocation

CalCCA proposes that the CPE calculate each LSE's respective cost allocation, and recover its costs from the LSEs through a Resource Adequacy Charge. Each LSE will bear Cost Responsibility for its share of the RA procured by the CPE on its behalf, which will be determined on an ex post facto basis. Cost allocation must leave the CPE revenue neutral.

The CPE, in coordination with the Commission, will determine on an ex post facto basis each LSE's share of the collective requirement on a monthly basis.

The LSE will allocate its total CPE cost to its customers as a part of the generation rate identified by the LSE and recovered by the IOU through a customer's monthly bill. The LSE will be responsible for balancing resulting over/under-collections throughout the year and adjust generation rates as necessary. LSEs' payment to the CPE will be secured by agreements between the LSE and the CPE, based on creditworthiness and collateral protocols to be developed by the CPE. Each LSE agreement will include a provision that, in the event of default by an individual LSE, CPE revenue neutrality shall be maintained through appropriate cost recovery from remaining LSEs.

C. Other Issues (Workshops \$5 and #6)

1. Transparency

CalCCA proposes that the CPE publicly report in detail all formation and annual administrative costs. CalCCA also proposes that CPE solicitations be publicly noticed and

available. CalCCA proposes the CPE confidentially report to the CPUC the specific prices of its solicitations to the CPUC, and the Commission report publicly the average price for all products and months procured, aggregating in local RA areas or subareas where the capacity procured from fewer than three sellers to prevent disclosure of individual resource price information. The CPE will report the monthly volume of procurement by product and local area and publish actual volumes annually on an ex post facto basis.

2. Program Review

CalCCA proposes the Commission, in coordination with the CAISO and CEC, review the continuing need for the CPE not later than January 1, 2027.

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Respectfully submitted,

/s/ Evelyn Kahl

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