

**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)

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION
COMMENTS ON PROPOSED DECISION ON CENTRAL PROCUREMENT OF THE
RESOURCE ADEQUACY PROGRAM**

Evelyn Kahl
General Counsel
CALIFORNIA COMMUNITY CHOICE
ASSOCIATION
One Concord Center
2300 Clayton Road, Suite 1150
Concord, CA 94520
(415) 254-5454
Regulatory@cal-cca.org

April 15, 2020

Table of Contents

I. INTRODUCTION1

II. THE HYBRID MODEL DOES NOT REPRESENT A REASONABLE BALANCE BETWEEN THE RESIDUAL AND FULL PROCUREMENT MODELS2

 A. In Effect, the PD Model Is a Full Procurement Model2

 B. The PD Model Reduces Incentives to Develop Preferred or Energy Storage Resources in Constrained Local Areas Impairing Both Reliability, Local Resilience and Climate Goals3

 1. A Residual Model Creates Incentives for an LSE to Develop Preferred Resources in Local Areas.....3

 2. The PD Model Ignores Commercial Realities4

 C. The PD Model Does Not Advance the Commission’s Original Objective for a Central Buyer: Reducing “Out of Market” CAISO Procurement5

 D. The PD Violates Public Utilities Code §380(b)(5) and §380(h)(5).....7

 E. The Record Does Not Support the Conclusion that “Leaning” Is an Actual or Material Problem That Justifies Undermining Local Development Incentives.....8

 F. The CPE Oversight Process Lacks Clear Boundaries and Reasonable Protections for CCAs and Their Customers.....9

 G. The PD Leaves Unanswered Questions11

III. THE COMMISSION SHOULD REJECT THE PD IN FAVOR OF MODEL THAT BALANCES CENTRAL PROCUREMENT WITH INCENTIVES FOR SELF-PROCUREMENT OF PREFERRED AND ENERGY STORAGE RESOURCES12

 A. The Commission Should Adopt the Settlement as a Detailed, Workable Model That Will Drive Development Consistent with the State’s Reliability and Climate Goals12

 B. If the Settlement is Not Adopted, the Commission Should Modify the PD to Strike a Reasonable Balance between the Full and Residual Models.....13

Table of Contents continued

1. The Commission Should Adopt a Direct Crediting Mechanism Providing Compensation for LSEs Who Show Their Local RA to the CPE13

2. The Commission Should Modify the Cost Recovery Mechanism to Reflect Cost Causation.....14

IV. THE IOUS SHOULD BE PLACED IN THE CPE ROLE ONLY ON AN INTERIM BASIS WHILE A BROADER, MORE DURABLE FRAMEWORK IS DEVELOPED14

V. OTHER CLARIFICATIONS15

VI. CONCLUSION.....15

ATTACHMENT A.....1

SUMMARY OF RECOMMENDATIONS

1. Adopt a Central Procurement Model That Fully Incentivizes LSE Procurement of Local Preferred Resources or Energy Storage. Adopt the Settlement Agreement as a detailed, implementable residual central procurement model that will advance progress toward the Commission’s reliability and climate goals. In the alternative, modify the PD to incorporate a financial crediting mechanism for LSEs that “show” local RA resources to the CPE to avoid undermining incentives for the development of local preferred or energy storage resources by LSEs.

2. Improve the CPE Procurement Process. To bring greater clarity to the CPE procurement process and protection for non-IOU LSEs and their customers:

- *Direct*, rather than encourage, CCA representation on the PRG and permit the CCA community – not other PRG members – to select the representative.
- Limit CPE contracts to three years and to RA-only products, prohibiting the CPE from any broader procurement without a full application and a Commission-administered public review process.
- Direct a holistic examination of the IE/PRG approach to procurement oversight to ensure its integrity in the context of central procurement on behalf of other LSEs’ customers and to ensure that these mechanisms operate as more than a rubber stamp for CPE procurement choices.
- Direct the CPE to give LSEs notice of CPE awards not fewer than six months before the annual system and flexible RA compliance deadlines and notice of the system and flexible RA allocation by the CPE not fewer than five months before these deadlines to enable LSEs to procure resources efficiently to meet their requirements.

3. Adopt a Cost Allocation Mechanism That Reflects LSE-Specific Cost Causation. Employ an LSE-specific generation-side charge using the methodology developed for purposes of the IRP procurement track in the central procurement process.

4. Limit the Term of the IOU as CPE. Adopt an IOU-CPE model as an interim measure pending development of a more permanent, durable, multi-attribute RA framework with a non-IOU CPE.

**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)

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION
COMMENTS ON PROPOSED DECISION ON CENTRAL PROCUREMENT OF THE
RESOURCE ADEQUACY PROGRAM**

The California Community Choice Association (“CalCCA”)¹ respectfully submits these comments pursuant to Rule 14.3 of the Rules of Practice and Procedure on the March 26, 2020, proposed *Decision on Central Procurement of the Resource Adequacy Program* (“PD”).

I. INTRODUCTION

The PD rewinds the central buyer debate back to November 2018, when the Commission issued a proposed decision adopting a full central procurement model with the investor-owned utilities (“IOUs”) as the central procurement entities (“CPE”).² Recognizing that a “broad range of parties” opposed this model³ and acknowledging the “lack of a consensus as to a central procurement mechanism,”⁴ the Commission deferred its decision and directed parties to explore “workable implementation solutions” for central procurement.”⁵ Despite the investment of hundreds if not thousands of hours of time by private and public sector parties over the past year to develop alternatives, and a coherent integrated proposal presented by the Settlement Parties, the PD dusts off the prior proposed decision and adds a bit of window dressing.

¹ California Community Choice Association represents the interests of 20 community choice electricity providers in California: Apple Valley Choice Energy, CleanPowerSF, Clean Power Alliance, Desert Community Energy, East Bay Community Energy, Lancaster Choice Energy, Marin Clean Energy, Monterey Bay Community Power, Peninsula Clean Energy, Pioneer Community Energy, Pico Rivera Innovative Municipal Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Jacinto Power, San Jose Clean Energy, Silicon Valley Clean Energy, Solana Energy Alliance, Sonoma Clean Power, Valley Clean Energy, and Western Community Energy.

² *Proposed Decision Refining the Resource Adequacy Program*, Nov. 21, 2018, at 7-19.

³ D.19-02-022 at 14.

⁴ *Id.* at 17.

⁵ *Id.*, Ordering Paragraph 4 at 45.

While purporting to strike a “reasonable balance between the residual and full procurement models,”⁶ the PD’s “hybrid” model is in effect a full procurement model with IOUs in the central role. The PD model fails to achieve the objectives that originally drove the development of a central buyer, contravenes statutory directives, ignores commercial realities, and leaves many questions – particularly the CPE procurement process – unanswered. Most critically, the PD undermines incentives for load serving entities (“LSEs”) to develop resources in constrained local areas, including preferred or energy storage resources; this failure does not align with the state’s reliability or climate objectives.

CalCCA urges the Commission to reject the PD and, instead, adopt the Settlement Agreement to correct these errors. The Settlement Agreement presents an integrated, detailed model designed to address the issues identified by the Commission in D.19-02-022. If the Commission declines to adopt the Settlement Agreement, *it is critical to modify the PD to preserve the incentives for LSEs to locate new resources in constrained local areas* (1) adopting a financial crediting mechanism for LSEs that chose to “show” preferred resources or energy storage to the CPE, and (2) adopting a cost allocation mechanism that reflects LSE-specific cost causation. In addition, the Commission should:

- ✓ Improve the CPE procurement process to add oversight to IOUs’ choices and conduct to add transparency and reduce the CPE’s discretion to provide a layer of additional protection for other LSEs and their customers;
- ✓ Adopt a cost allocation mechanism that reflects LSE-specific cost causation; and
- ✓ Limit the duration of the adopted program to the earlier of the implementation of a more permanent, durable multi-attribute resource adequacy (“RA”) central procurement structure or three years of CPE operation.

Proposed Conclusions of Law, Findings of Fact and Ordering Paragraphs are provided in Appendix A to support these recommendations.

II. THE HYBRID MODEL DOES NOT REPRESENT A REASONABLE BALANCE BETWEEN THE RESIDUAL AND FULL PROCUREMENT MODELS

A. In Effect, the PD Model Is a Full Procurement Model

The PD advances a “hybrid” local RA central procurement model, which it claims represents “an appropriate, reasonable balance between the residual and full procurement models.”⁷ The PD’s model is neither a hybrid nor a reasonable balance. In practical effect, the

⁶ PD at 24.

⁷ *Id.*

PD presents a “full” procurement model that forfeits the key benefits of a “residual” procurement model.

Key distinctions among central procurement models lie in two areas: (1) the ability of LSEs to determine the generation resources used to serve their customers, and (2) cost allocation. In these respects, the PD and full models are effectively the same. In both models:

- The CPE procures 100 percent of collective local RA requirements;
- An LSE’s only option to monetize local RA value for the benefit of its customers is to bid the resource to the CPE; and
- All customers, by rate class, pay the same rate for local RA resources regardless of the LSE that serves them.

The only difference between the PD and full models is that an LSE may “show” local RA resources to the CPE to reduce the CPE’s procurement on behalf of all LSEs, with the value of the resource socialized among all customers. As discussed below, this is a distinction without a difference, since there is virtually no economic incentive or rational reason for an LSE to make such a showing. Providing LSEs an opportunity to gift their resources as a subsidy to other LSEs’ customers does not create a reasonable compromise between residual and full procurement models.

B. The PD Model Reduces Incentives to Develop Preferred or Energy Storage Resources in Constrained Local Areas Impairing Both Reliability, Local Resilience and Climate Goals

1. A Residual Model Creates Incentives for an LSE to Develop Preferred Resources in Local Areas

From an LSE’s perspective, a residual model offers two critical benefits that a full model cannot. First, a residual model ensures that an LSE can monetize the *full* value stream of its resource in a market where local RA commands a premium. It achieves this end by providing an LSE *direct* credit for the local RA resources it procures for its load. Without this assurance, a new local preferred or energy storage resource pursued for other reasons –renewable portfolio value, resiliency or system RA – may not pencil out. Under these circumstances, and contrary to California’s reliability and climate objectives, an LSE may elect not to pursue resources in a local area, including preferred and energy storage resources.

A local RA premium may play a material role in an LSE’s decision whether to locate a project in a local area. In determining whether a project is economic, an LSE will look at the full value stream for the resource (i.e., energy, system/flex RA, local RA, renewable portfolio

standard (“RPS”) and resiliency). The local RA premium, while varying in time and location, can be significant and carries the potential to be the determining factor in a project decision. The Energy Division’s 2018 Resource Adequacy Report shows that average local RA prices were 25 percent to 38 percent higher than the system RA value.⁸ As discussed below, the PD places this value at risk by leaving uncertainty about whether the CPE will select the LSE’s local resource in its solicitation.

In addition to this explicit value component for in-front-of-the-meter (“IFOM”) resources, a residual model provides a second benefit for behind-the-meter (“BTM”) resources. A residual model, like the Settlement Agreement’s model, assigns requirements or costs based on an LSE’s peak load share. Consequently, a customer’s cost will be affected by the LSE’s load shape and, more specifically, its peak load. If an LSE reduces its peak load under a residual model, its customers’ costs will decline because the LSE is obligated to buy relatively less local RA. Because peak load is the primary driver of the need for local capacity resources, a cost allocation mechanism linked to peak load is crucial.

This effect, combined with an LSE’s procurement of resources to serve its customers, results in the customers paying for local RA based on their LSE’s individual performance. Incentives are not muted through a socializing of costs, as they are with the PD model. The potential to reduce California electric customer costs and achieve cost effective greenhouse gas reductions and reliability should be front and center when the Commission deliberates the value of adopting a new CPE model.

2. The PD Model Ignores Commercial Realities

Parties, including CalCCA, contend that a full procurement model cannot adequately incentivize the development of local resources.⁹ The PD states that it “does not believe that a hybrid procurement model reduces the incentives for LSEs to develop new local resources,”¹⁰ yet expressly acknowledges that “an LSE may not get the full local value for itself.” The PD justifies undermining incentives by suggesting that socializing costs among all customers is somehow “equitable” and that eliminating leaning -- a questionable goal, as discussed in Section II.E. -- is more important than procurement incentives.¹¹

⁸ See 2018 Resource Adequacy Report, August 2019, Table 9. Capacity Prices by Local Area, 2018-2022 at 30.

⁹ See PD at 25.

¹⁰ *Id.*

¹¹ *Id.*

The PD’s unsubstantiated policy rhetoric ignores commercial realities in the electricity sector. The primary way in which the full and PD models permit monetization of local RA value is for the LSE to bid its local resource into the CPE. Two problems arise with this option: there is no assurance that the resource will be taken by the CPE and, if it is, the LSE must also give up the resource’s system or flexible RA to the CPE because the RA attributes are bundled.¹² The full and PD models also permit an LSE to retain its local resource to meet its system and flexible RA requirements; this approach, however, sacrifices any local RA premium in the value stream.

The full and PD models differ only in one respect: the PD allows an LSE to “show” its local resource to the CPE. This feature, however, is a distinction without a difference. Because “shown” local RA will only reduce the collective requirement the CPE must meet, and the LSE will receive no *individual* credit needed to finance the procurement, there is virtually no incentive for an LSE to make this choice. Indeed, to give credibility to the PD’s illusion of choice would require a belief that an LSE will make a showing because it trusts that all other LSEs will do the same – a naïve view of a competitive market. In fact, by crediting the benefit of expenditures by an LSE to all customers, this structure creates a significant cost shift and subsidy by the LSE customers bearing costs of the resource and express “leaning.”

Not only do the full and PD models fail to provide LSEs *individual* credit for their procurement, they fail to assign costs based on the costs an LSE actually causes on behalf of its customers. Both models contemplate fully socializing all of the CPE’s purchases, resulting in a uniform Cost Allocation Mechanism (“CAM”) charge for all customers – regardless of LSE -- distinguished only by customer class. Consequently, if an LSE makes efforts to reduce its peak load through behind the meter preferred or energy storage resources – today the allocation factor for RA requirements – its customers receive no direct benefit, including cost reduction. The benefit accrues only to all customers collectively as the CPE’s procurement requirement is reduced. Moving away from the central principle of cost causation reduces important incentives present in today’s residual model and the Settlement Agreement’s model.

C. The PD Model Does Not Advance the Commission’s Original Objective for a Central Buyer: Reducing “Out of Market” CAISO Procurement

The 2018 Scoping Memo initiated the formal public debate regarding central procurement. It identified a central buyer as one approach “to reduce further out-of-market RA

¹² PD at 37.

procurement, such as multi-year Local RA program and/or one or more central buyers (e.g., the large investor-owned utilities)...¹³ It provided no additional reasoning for examining central procurement. Two problems have caused the California Independent System Operator (“CAISO”) “out of market” backstop in the past – collective deficiency and market power exercise -- and the PD does not solve either problem.

The PD purports to address collective deficiency as a driver for CAISO backstop procurement but does no better in this regard than the Settlement Agreement. The reality is that collective deficiency – whether under a full or residual procurement model -- can be assessed by the CAISO only after procurement has been completed and the local resources of all California LSEs, not just CPUC-jurisdictional LSEs, have been shown to the CAISO.¹⁴ The Settlement Agreement provided the RA-CPE the opportunity to procure resources to address collective deficiencies and to socialize the costs of that procurement following any determination by the CAISO that a deficiency remains.¹⁵ In contrast, the PD does not discuss exactly how the CPE will anticipate and preempt collective deficiencies. Presumably, however, if a collective deficiency remained, the CPE would procure the needed resources to cure the collective deficiency and socialize the costs. Thus, the Settlement more clearly addresses the procedure for addressing these circumstances. At worst, there is no difference in the potential to avoid backstop procurement to address collective deficiencies.

The PD also does nothing to limit the potential need for CAISO backstop procurement to address market power. The PD gives “the CPE discretion to defer procurement of a local resource to the CAISO’s backstop mechanisms, rather than through the solicitation process, if bid costs are deemed unreasonably high.” This construct is no different than today: if LSEs cannot procure local RA at prices that are reasonable, they can seek a waiver and, implicitly, default the procurement to CAISO backstop. In other words, while the buyer has changed, the market conditions that buyers may face, such as an exercise of market power, have not. The best that can be said is that the Commission would collect information on generator bidding under

¹³ *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge*, Jan. 18, 2018 (2018 Ruling), at 4; *see also id.* at 6 (citing a central buyer as a solution for “reducing potentially costly backstop procurement”).

¹⁴ *See generally CAISO Business Practice Manual for Reliability Requirements*, §8.2.3.

¹⁵ Joint Motion for Adoption of a Settlement Agreement, Aug. 30, 2019, at 4 and Term Sheet, §III.E. at 4.

this approach.¹⁶ However, such information gathering cannot be the basis for fundamentally abrogating the rights of LSEs to control procurement of resources to serve their customers. And, critically, there is no basis in the record for the PD’s implicit conclusion that the CPE will be able to procure resources at a price that is lower than the price LSEs would pay procuring on their own customers’ behalf.

D. The PD Violates Public Utilities Code §380(b)(5) and §380(h)(5)

The Legislature made abundantly clear – not once, but twice in §380 – that a key objective of the Commission’s reliability oversight is to preserve CCAs’ self-procurement autonomy. Section 380(b)(5) requires the Commission to “[*m*]aximize the ability of community choice aggregators to determine the generation resources used to serve their customers.” Further, §380(h)(5) requires the Commission to ensure “community choice aggregators can determine the generation resources used to serve their customers.” The PD fails to meet these requirements.

Under the PD, CCAs cannot choose “the resources used to serve their customers.” Instead, the CPE makes that choice by building a single portfolio that will serve all customers, and the CCA’s customers will have their local RA needs met by that portfolio. And by naming the IOU as CPE, the Commission effectively takes control of resource selection in lieu of local governments. The PD fails the statutory requirement on its face.

The CCA’s ability to offer or “show” its resources to the CPE does not change this equation because the CPE, not the CCA, will be making the choices to build the portfolio to serve the CCA’s customers. Moreover, as discussed in Section II.B., even those rights – to offer and show – present risk to the CCA and substantial economic downside.

While §380(f) permits the Commission to “consider a centralized resource adequacy mechanism,” it does not permit the Commission to ignore all other requirements in the statute in implementing a central buyer. Any central buyer mechanism must, like the Settlement Agreement proposed, enable a CCA to choose the resources that will serve its customers. The PD does not comport with the Legislature’s directives.

¹⁶ PD at 54.

E. The Record Does Not Support the Conclusion that “Leaning” Is an Actual or Material Problem That Justifies Undermining Local Development Incentives

The desire to prevent “leaning” by LSEs on more effective procurement by other LSEs appears to have been an important driver of the PD’s approach. The PD notes parties’ criticisms that a residual model does not account for resource effectiveness in addressing local constraints.¹⁷ It also concludes:

the hybrid model ensures that all LSEs (and the customers they serve) pay equitably for the portfolio of local resources needed to run the grid reliably, eliminating the incentive to lean on the portfolio of other LSEs, which may also lead to costly backstop procurement.¹⁸

The importance of the issue has never been quantified, nor does the record present actual evidence of LSE “leaning.” It has been a purely rhetorical argument from the outset, starting with Energy Division’s conclusion that “[i]t would be inefficient and unnecessarily expensive to procure resources that are not effective in meeting the contingency” because it could lead to procurement “over and above the requirement.”¹⁹ While directionally the incentives argument makes intuitive sense, is this issue sufficiently important to depart substantially from the current residual framework and limit LSEs’ self-procurement autonomy? The record simply does not support a trade-off between theoretical leaning and statutorily protected LSE self-procurement autonomy.

In addition, effectiveness factors are not certain or predictable. As the CAISO’s operating procedures explain, “[e]ffectiveness factors must be considered in conjunction with other factors affecting current system conditions and overall efficiencies,” which include (but are not limited to) specific unit availability, transmission outages, impact on congestion to other paths, and relative costs.²⁰ As a result, as the Settlement Parties explained (and the CAISO did not rebut) “[t]he CAISO does not believe that it can clearly articulate a single ranking of resources with respect to a multiplicity of contingencies.”²¹ Finally, even if the assumption-driven effectiveness factors were reliable and predictable, the CAISO does not provide three-

¹⁷ PD at 13, 33.

¹⁸ *Id.* at 25.

¹⁹ *Track 2 Energy Division Staff Proposals: Multi-Year RA Requirement*, Jul 12, 2018, at 24

²⁰ *See, e.g.*, CAISO Operating Procedure No. 2210Z, Version No. 27.5, Dec. 17, 2019, §1.1.

²¹ Joint Motion for Adoption of a Settlement Agreement, Aug. 30, 2019, Appendix A at 6, n.2.

year forward effectiveness factors²² that would be needed to support consideration of effectiveness in a central procurement model.

Finally, the PD is internally inconsistent. The PD raises leaning as a concern over potentially higher costs for ratepayers.²³ At the same time, the PD authorizes (and arguably invites) excess procurement stating that it “does not preclude the CPE from ...procuring in excess of the adopted percentages.”²⁴ If the Commission is truly concerned about costs, it must modify the PD to prevent excess procurement and the resultant increased ratepayer costs.

F. The CPE Oversight Process Lacks Clear Boundaries and Reasonable Protections for CCAs and Their Customers

The PD contemplates a preapproval process for CPE procurement with “achievable standards and criteria for cost recovery.”²⁵ In addition, in a departure from current requirements, the PD does not expressly require the advance review and approval of *any* contract – including contracts in excess of five years. Instead, it relies on an Independent Evaluator and the Procurement Review Group to oversee the CPE’s solicitation and contract execution process,²⁶ “encouraging,” but not mandating, CCA representation in the PRG.²⁷ While the PRG may make recommendations on the CPE’s procurement choices, it has no authority to deny, change or approve any contract. Thus, the Commission will be ceding its approval authority – along with ratepayer protection -- to the CPE itself.

The procurement directives also lack any boundaries on what the CPE may procure. There is no limitation on the term of any commitment, raising the specter of the accumulation of long-term obligations and costs that will be borne by IOU and CCA customers for years to come. The magnitude of the current above-market PCIA costs suggest that the result could be devastating economically to the IOUs’ competitors.

The CPE may also procure any attributes it chooses bundled with local RA. The CPE’s choice will thus impact an LSE’s system and flexible RA portfolio through the proposed attribute allocation. This will in turn alter the quantity of system and flexible RA LSEs need to procure. If the CPE selects RPS resources, it could also put LSEs in the position of bearing the market

²² See *supra* Section II.E.

²³ PD at 25.

²⁴ *Id.* at 39.

²⁵ *Id.* at 48-49.

²⁶ *Id.* at 47.

²⁷ *Id.* at 46.

risk; LSEs' customers will pay for the RPS attribute through the CAM and presumably receive offsetting revenues if the CPE sells the attributes, leaving them at risk for changes in market value of the RPS attribute over time.

The Commission is not only unlawfully substituting the judgment of executives at for-profit IOUs for the judgment of the local elected officials that govern CCAs, it is doing so with minimal boundaries. CCAs are thus asked to "trust" the IOU (its competitor) and "oversight" by Independent Evaluator ("IE") (an unregulated third party). There is no requirement that the procurement undertaken by the CPE be in the CCA's best interest. This restricts CCA's procurement autonomy for local RA and provides minimal safeguards to protect against the massive stranded costs the IOUs – particularly PG&E – have accumulated in the PCIA.

The PD also gives short shift to the RA timeline, failing to clarify when the CPE solicitation or notification of award will occur and when an LSE will have notice of its allocated system and flexible RA attributes. The failure to address these issues introduces material uncertainty into the system and flexible RA procurement process; LSEs will not know how much RA they should expect to count towards their system and flexible requirements until they learn whether the CPE accepted their bid. Furthermore, the PD states that LSEs will not receive their final CPE procured system and flexible RA allocations until late September or early October.²⁸ This late allocation would leave LSEs with only a few short weeks to fill their remaining system and flexible RA positions prior to the October 31 compliance deadline. This compressed timeline is unreasonable, particularly given that the amount of flexible RA procured by the CPE is entirely unpredictable. LSEs would face significant Commission penalties for system and flexible RA deficiencies despite having had only a few weeks to fill positions after the CPE's allocation. LSEs attempting to avoid such penalties would risk over-procurement and added ratepayer costs.

Changes are required to bring greater clarity to the process and protection for non-IOU LSEs and their customers.

- The Commission should undertake a holistic examination of the IE/PRG approach to procurement oversight prior to ceding its authority; it is unclear to the public that these participants have ever operated as more than a rubber stamp for IOU procurement choices.
- Commission must *direct*, rather than encourage, CCA representation on the PRG and should permit the CCA community – not other PRG members – to select the

²⁸ PD at 56.

representative provided the holistic examination approach addressed above occurs.

- To prevent another long-term accumulation of stranded costs, contracts should be limited to three years and to RA-only products. The CPE should not be permitted to procure resources beyond these boundaries absent a full application and review process in which CCAs and other LSEs may participate.
- The Commission should establish the principle that LSEs must be given notice of CPE awards not fewer than six months before the annual system and flexible RA compliance deadlines and notice of the system and flexible RA allocation by the CPE not fewer than five months before these deadlines to enable LSEs to procure resources efficiently to meet their requirements. The Commission should immediately initiate coordination with all relevant stakeholders, including the Energy Commission, to achieve this timeline.

While these changes will improve the PD, they are not a substitute for the development of a more permanent, durable multi-attribute RA central procurement framework with a third-party CPE.

G. The PD Leaves Unanswered Questions

The Settlement Parties went to great lengths to consider the potential impact and equity of the Settlement model. The PD brushes over this detail and, instead, defaults back to the original full procurement model proposed in 2018 that engendered substantial opposition. It further takes a casual approach to analysis and design, perhaps too comfortable in its reach for existing mechanisms, such as the CAM, IE and PRG, that may not be suited to this particular purpose. What may be appropriate for an IOU's procurement on behalf of its own bundled customers might not make equal sense when the IOU is procuring on behalf of competing LSEs. The PD also fails to answer numerous foundational questions.

- The PD acknowledges the need to ensure competitive neutrality yet relies on neutrality rules that arose under different circumstances, depends heavily on the effectiveness of the IE and PRG, and calls on the CPE, IE, PRG and Energy Division to create a new code of conduct.²⁹ In short, competitive neutrality – a pivotal factor in the PD's choice of CPE – is left without resolution.
- The CAISO concluded that changes to CAISO processes and tariffs would be required to provide a list of essential reliability resources and effectiveness factors on a three-year forward basis.³⁰ Ignoring the CAISO guidance, the PD proceeds as if these factors are a reliable, predictable tool and directs the CPE to use effectiveness factors in selecting resources for its portfolio.³¹

²⁹ PD at 51-53.

³⁰ *Comments of the California Independent System Operator*, Sept. 30, 2019, at 3.

³¹ PD, Ordering Paragraph 9.b., at 66.

- The PD’s explanation of IOU bidding into the CPE solicitation lacks clarity and certainty.³² The PD does not explain how the “PPA price” determined which costs are “fixed” for this purpose and how are they levelized. It also fails to address how any energy and ancillary service value of toll agreements would be handled.

Finally, the PD does not make a serious effort to address the primary issue that drives most parties toward a residual approach: how to monetize the local RA value of resources in which an LSE invests. For all of the reasons described above, the PD should be rejected as a permanent solution.

III. THE COMMISSION SHOULD REJECT THE PD IN FAVOR OF MODEL THAT BALANCES CENTRAL PROCUREMENT WITH INCENTIVES FOR SELF-PROCUREMENT OF PREFERRED AND ENERGY STORAGE RESOURCES

The PD fails to strike a reasonable balance between the full and residual procurement model and, consequently, fails to capture key incentives to drive development of preferred and energy storage resources by LSEs in local areas. The Commission should reject the PD in favor of the Settlement Agreement, which captures those incentives. Alternatively, it should modify the PD to incorporate direct financial credit for local preferred resources or energy storage shown to the CPE to provide the right incentives for development. It should further modify the PD to commit to restructuring central procurement charges to more accurately reflect cost causation and provide transparency and comparability to customers of the costs an LSE incurs to serve their load.

A. The Commission Should Adopt the Settlement as a Detailed, Workable Model That Will Drive Development Consistent with the State’s Reliability and Climate Goals

The Settlement presents a detailed workable model for residual procurement, enhancing today’s framework with the addition of a CPE. CalCCA observes that the Settlement had more unified support than any other proposal advanced in this process, including the full procurement model and Southern California Edison Company’s hybrid model, which appears to be the basis for the PD model. The Settlement also examined key issues, such as load migration, the RA timeline, and cost allocation, with enough detail to provide an implementable solution. Most critically, however, the Settlement addressed the two critical features the PD lacks: (1) an incentive for LSEs to develop new preferred or energy storage resources in local areas, and (2) cost allocation that follows cost causation.

³² PD at 38.

CalCCA will not use its limited comment space to reiterate all of the benefits of the Settlement model, which are discussed extensively in the *Joint Motion for Adoption of Settlement*, submitted on August 30, 2019. CalCCA urges the Commission, however, to reject the PD in favor of the Settlement to encourage procurement actions that enhance local reliability and California's climate goals.

B. If the Settlement is Not Adopted, the Commission Should Modify the PD to Strike a Reasonable Balance between the Full and Residual Models

1. The Commission Should Adopt a Direct Crediting Mechanism Providing Compensation for LSEs Who Show Their Local RA to the CPE

The single most critical change the Commission can make to mitigate the PD's impact on LSE self-procurement of local resources is to approve a direct credit to individual LSEs who self-procure local resources – including existing, preferred or energy storage resources - and show the resources to the CPE. This mechanism is a simple modification from the PD's proposal, where LSEs can elect to show their local resources to reduce the overall local resource procurement need of CPE, while maintaining the system and flex attributes for their own compliance. This modification will avoid undermining the existing incentives driving LSEs to invest in local preferred resources or energy storage and also avoid stranding costs for LSEs who already procured resources at a premium price to meet future local RA requirements.

Because LSEs would have no local RA requirement, the credit would not take the form of a MW credit against a requirement, as it does today. Instead, the credit would be a financial credit to the LSE to enable it to monetize the local RA value of its resource. The simplest design of this mechanism would be to count the LSE's resource toward the collective local RA requirement only – without including the resource's system or flexible attributes -- and pay the LSE the premium of the local RA value for the resource over the most current system RA market price. The local RA value would be measured as the weighted average price of the resources procured by the CPE in the relevant local area or sub-area, if sub-area prices are available. If a price is not available for a particular local area, the weighted average price for all the local areas with a price could be used. The system value would be measured as the most recent 12-month weighted average system RA price reported to the Energy Division pursuant to D.19-10-001.³³

³³ D.19-01-001 requires LSEs to report their RA prices to the Energy Division as frequently as quarterly to enable calculation of the Power Charge Indifference Adjustment. D.19-01-00, Ordering Paragraph 5, at 56.

2. The Commission Should Modify the Cost Recovery Mechanism to Reflect Cost Causation

The PD adopts the CAM as the cost allocation and recovery mechanism.³⁴ In selecting this mechanism, the PD appears to equate “equitable” cost allocation, as required by §380(h)(4), with “equal” or fully socialized cost allocation. This approach ignores California’s decision to provide for competition in the provision of retail electric service, where customers pay prices for service based on their suppliers’ procurement strategies. More importantly, it ignores the reduction in incentive that occurs for BTM resource development, as discussed in Section II.B.

Traditional CAM cost recovery is not the only solution. The Commission should be striving not to continue to socialize all costs, as if there were no distinctions among service providers or products, but to facilitate charges and bill presentations that reflect cost causation. The idea is not new to the Commission, as it is currently developing an LSE-specific cost allocation mechanism to address IOU backstop costs under an LSE-based procurement structure in the IRP procurement track.³⁵

CalCCA proposes that the Commission adopt the principle that the allocation of CPE costs should reflect the cost causation on an LSE-by-LSE basis, subject to further refinement through a workshop process. At a minimum, the Commission should direct a holistic examination of the allocation of centrally procured costs in the context of a competitive retail market, along with the implications of bill presentation on transparency for customers.

IV. THE IOUS SHOULD BE PLACED IN THE CPE ROLE ONLY ON AN INTERIM BASIS WHILE A BROADER, MORE DURABLE FRAMEWORK IS DEVELOPED

CalCCA opposes placing the IOUs in the role of CPE. As noted above, the result will be to increase the portion of the generation resources serving CCA customers *procured by the CCA’s competitor*. And, at this point, the PD does not provide measures that will ensure complete separation between the CPE and IOU procurement.

CalCCA is particularly concerned about placing PG&E in this role. PG&E’s procurement costs will go up after emerging from bankruptcy. PG&E has testified in the bankruptcy investigation that it anticipates needing to post higher collateral as compared to pre-Chapter 11.³⁶ Higher costs associated with procurement by PG&E as the CPE could have been

³⁴ PD at 43.

³⁵ *Id.* at 26.

³⁶ PG&E’s Plan of Reorganization OII 2019, January 31, 2020 at 2-26—27, 3-5

avoided by individual LSE procurement with a residual model. Moreover, the Commission is asking CCAs to place their trust in an entity whose actions –*despite Commission oversight*— have not been in the public interest, including criminal liability for gas line explosions, wildfire damage, Public Service Power Shutoffs, bankruptcy and a litany of other offenses.

While IOUs as CPEs may be an acceptable near- and short-term approach, the Commission should clarify that the PD model is only a bridge to a more permanent, durable multi-attribute model that employs a competitively neutral third-party CPE. CalCCA recommends limiting the IOUs' term as CPE to the earlier of the implementation of a replacement model or three years.

V. OTHER CLARIFICATIONS

The PD states that “[t]he hybrid approach also allows individual LSEs to voluntarily procure local resources to meet their system and flexible RA requirements **and** count them towards the collective local RA requirements, providing LSEs flexibility and autonomy to procure local resources.”³⁷ If, despite all of the contrary reasons presented in these comments, the Commission adopts the PD's hybrid approach unchanged it should carry this intent in Ordering Paragraph 4a.

VI. CONCLUSION

The California Community Choice Association appreciates the opportunity to submit these comments and request adoption of the recommendations proposed herein. For all the foregoing reasons, the Commission should modify the proposed decision as provided in Appendix A.

Respectfully submitted,



Evelyn Kahl
General Counsel to the
California Community Choice Association

April 15, 2020

³⁷ PD at 24 (emphasis supplied); *see also* PD at 35 (“If the LSE shows the resource to reduce the CPE's local RA procurement (either in advance of the solicitation or as an offer that is not selected by the CPE), the LSE may still use the resource to fulfill its system and flexible needs.”).

ATTACHMENT A

Proposed Changes to Findings of Fact, Conclusions of Law and Ordering Paragraphs

FINDINGS OF FACT

8. ~~A hybrid central procurement framework strikes~~ To strike a reasonable balance between the residual and full procurement models and ~~best addresses~~ ensure reasonable incentives for an LSE to develop preferred or energy storage resources in local areas, the known challenges identified in the local RA market, the central procurement model must (1) provide a financial crediting mechanism for LSEs who self-procure and show their preferred or energy storage resources to the CPE and (2) allocate costs based on the LSE cost-causation.

13. The requirements pertaining to an all-source solicitation process adopted in past Commission decisions may not be reasonable in the context of broader procurement by the IOUs on behalf of other LSEs – their competitors – and therefore further review of the processes, including the IE and PRG, in this context is necessary. ~~are reasonable guidance for procurement by a CPE.~~

16. It is reasonable to require a distribution utility that is serving as the CPE to bid its own resources into the solicitation at their levelized fixed costs, and the Energy Division should conduct a workshop to clarify the definition of “levelized fixed costs.”

20. The CAM methodology is a cost recovery mechanism that does not follow principles of cost causation for individual LSEs and their customers. ~~allows the CPE to efficiently procure local resources and recover costs incurred.~~

NEW. Reasonable limitations on the CPE’s procurement discretion, including a limit to 3-year contracts for RA only transactions, will better protect LSEs and their customers from the potential stranded costs that could arise if the CPE procures excess long-term resources.

NEW. Any contract that goes beyond the three-year, RA-only construct must be examined by the Commission through a full application in a public process.

25. ~~A portfolio approval process, similar to that adopted in D.07-12-052, satisfies the Commission’s objectives for a preapproval process.~~

30. ~~It is reasonable to maintain the current RA timeline with adjustments for hybrid central procurement.~~

30. The RA timeline must provide LSEs adequate notice of whether their resources have been selected by the CPE in its solicitation and how much system and flexible RA will be allocated by the CPE on their behalf.

CONCLUSIONS OF LAW

5. PG&E and SCE should be designated as the central procurement entities for their respective distribution service areas on an interim basis pending development of a permanent, durable, multi-attribute central procurement model.

15. The CAM methodology does not adequately reflect the costs caused by each LSE and its load, and an LSE-specific generation-side charge should be adopted as the cost recovery mechanism to cover procurement costs associated with serving the central procurement function.

NEW. The CCA community shall identify a CCA representative to participate in any PRG that participates in review of CPE transactions.

ORDERING PARAGRAPHS

4.a. If a load serving entity's (LSE) procured resource also meets a local Resource Adequacy (RA) need, the LSE may choose to: (1) show the resource ~~to reduce the central procurement entity's (CPE) overall local procurement obligation and~~ receive a direct financial credit for any preferred or energy storage resource shown, (2) bid the resource into the CPE's solicitation, or (3) elect not to show or bid the resource to the CPE and only use the resource to meet its own system and flexible RA needs.

4.a. (See Section V of Comments) If a load serving entity's (LSE) procured resource also meets a local Resource Adequacy (RA) need, the LSE may choose to: (1) show the resource to reduce the central procurement entity's (CPE) overall local procurement obligation and use the resource to meet its own system and flexible RA needs, (2) bid the resource into the CPE's solicitation, or (3) elect not to show or bid the resource to the CPE and only use the resource to meet its own system and flexible RA needs.

NEW 6.f. CPE procurement is limited to three-year contracts for RA-only resources unless seeking Commission approval through a full application and public review process.

11. CPE costs, including administrative costs, shall be allocated based on cost-causation, differentiating costs caused by each LSE and its load, and shall be recovered through a generation-side charge. ~~The Cost Allocation Mechanism methodology is adopted as the cost recovery mechanism to cover procurement costs incurred in serving the central procurement function. The administrative costs incurred in serving the central procurement function shall be recoverable under the Cost Allocation Mechanism.~~

13. The Cost Allocation Mechanism (CAM) Procurement Review Group (PRG), as adopted in Decision 07-12-052, is authorized to advise the central procurement entity (CPE). The CPE shall consult with CAM PRG members (including Energy Division and an independent evaluator) to outline procurement plans, draft solicitation bid documents, and collect feedback regarding the solicitation process. The PRG shall include a CCA representative selected collectively by CCAs.

17. The central procurement entity shall establish a rule or procedure that will govern how confidential, market-sensitive information received from third-party market participants during

the solicitation process will be protected and what firewall safeguards will be implemented to prevent the sharing of information beyond those employees involved in the solicitation and procurement process. The central procurement entity shall file and serve the proposed rule into the successor Resource Adequacy proceeding, Rulemaking 19-11-009, and the proposal shall be subject to review and comment by parties.

21. The Resource Adequacy timeline outlined in Section 3.9 is adopted in anticipation of the 2023 compliance year and future years, subject to the following requirements: the CPE shall give LSEs notice of CPE awards not fewer than six months before the annual system and flexible RA compliance deadlines and notice of the system and flexible RA allocation by the CPE not fewer than five months before these deadlines to enable LSEs to procure resources efficiently to meet their requirements.