

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

Order Instituting Rulemaking to Oversee the
Resource Adequacy Program, Consider
Program Refinements, and Establish Forward
Resource Adequacy Procurement Obligations.

R.19-11-009
(Filed on November 7, 2019)

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION
REPLY COMMENTS ON TRACK 2 PROPOSALS**

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Pursuant to the February 28, 2020, *Administrative Law Judge’s Ruling Modifying Track 2 Schedule*, and the March 6, 2020 *Email Ruling Granting Extension to File Track 2 Reply Comments*, the California Community Choice Association (“CalCCA”)¹ respectfully submits these reply comments on the Track 2 Resource Adequacy (“RA”) proposals submitted by the Energy Division Staff (“Staff”) and other parties on February 21, 2020, to address issues raised in the *Assigned Commissioner’s Scoping Memo and Ruling*.²

I. INTRODUCTION AND SUMMARY

CalCCA appreciates the opportunity to offer reply comments in response to opening comments by the California Independent System Operator (“CAISO”), Southern California Edison Company (“SCE”), Pacific Gas and Electric Company (“PG&E”), San Diego Gas & Electric Company (“SDG&E”), the Public Advocates Office (“Cal Advocates”), the Alliance for

¹ California Community Choice Association represents the interests of 19 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, and Valley Clean Energy.

² *Assigned Commissioner’s Scoping Memo and Ruling*, Jan. 22, 2020 (“Scoping Memo”).

Retail Energy Marketing (“AReM”), the Joint Environmental Parties, the Solar Energy Industry Association and Large Scale Solar Association (“SEIA/LSA”), Western Power Trading Forum (“WPTF”) and Calpine Corporation (“Calpine”). Responding to these parties, these comments urge the Commission to address Track 2 issues by:

- ✓ Adopting CalCCA’s proposed system and flexible RA waiver process;
- ✓ Adopting SCE’s hybrid Qualifying Capacity (“QC”) counting proposal for hybrid resources limited by Investment Tax Credit (“ITC”) charging restrictions for 2021-2024, revisiting its suitability thereafter as more experience is gained with these resources;
- ✓ Transitioning from an average to a marginal Effective Load Carrying Capability (“ELCC”) methodology for solar and wind resources accounting for further technology differentiation;
- ✓ Clarifying and further refining the Staff proposal for Maximum Cumulative Capacity (“MCC”) buckets prior to taking action;
- ✓ Adopting a positive incentive for LSEs to fill deficiencies between the Year-Ahead and Month-Ahead filings by retroactively lowering the penalty amount; and
- ✓ Focusing escalation of non-compliance consequences only on LSEs that repeatedly fail to take commercially reasonable efforts to procure their RA requirements.

CalCCA requests that the Commission adopt these proposals, along with other proposals advanced in CalCCA’s opening comments, in framing an approach to Track 2 issues.

II. ADOPT A SYSTEM/FLEXIBLE RA WAIVER PROCESS

CalCCA submitted a late-filed proposal for a system/flexible waiver process, reiterating the request made in the *California Community Choice Association Petition for Modification of Decision 19-06-026*, filed on October 30, 2019 (“Petition”). CalCCA appreciates the statement from Shell in its Opening Comments that the CPUC should consider a waiver process that applies to any LSE that is unable to meet its obligations due to market and availability-related reasons. CalCCA also appreciates the responses of WPTF and Calpine and addresses their

concerns regarding process and the interpretation of “commercially reasonable” in the context of prices and compliance efforts.

As an initial matter, WPTF raises concerns that CalCCA’s proposal was not raised for discussion earlier in Track 2.³ While further discussion may have been beneficial in the context of workshops, CalCCA expected that the Commission would in time address its Petition. In addition, SCE made the same proposal in 2019, and CalCCA’s proposal has been pending since October 30, 2019, as noted above. CalCCA further observes that WPTF filed no opposition to CalCCA’s original proposal in its Petition. Thus there is no justification for the Commission to reject the proposal on procedural grounds.

Both WPTF⁴ and Calpine⁵ argue that the proposal does not specifically define “commercially reasonable” in the context of prices and procurement efforts, and Calpine urges additional process to define this term. A definition is unnecessary for several reasons:

- ✓ “Commercially reasonable” is a well-understood legal term used frequently in industry and contracting.
- ✓ “Commercially reasonable efforts” is used in the context of the local RA waiver process with no explicit definition;⁶ the CalCCA system and flex waiver proposal goes even a step further than this by specifying several actions an LSE must take.
- ✓ The local waiver process also requires the Staff to determine what are “reasonable terms and/or conditions.”
- ✓ An explicit definition of “commercially reasonable price” could have the undesirable result of suppliers offering all resources at the defined price.

³ *Western Power Trading Forum Comments on Track 2 Proposals*, Mar. 23, 2020 (“WPTF Comments”) at 3.

⁴ WPTF Comments at 4.

⁵ *Comments of Calpine Corporation on Track 2 Proposals*, Mar. 23, 2020 (“Calpine Comments”) at 14-15.

⁶ D.06-06-064 at 73.

For these reasons, the Commission should not adopt a specific definition of a “commercially reasonable price.”

Additionally, Calpine’s concern regarding “commercially reasonable actions” is addressed in the Petition. CalCCA proposes that the commercially reasonable actions to obtain the needed RA resources include:⁷

- ✓ Documented, robust efforts to procure system RA through bilateral contracts;
- ✓ Participation in multiple utility or third-party solicitations; and
- ✓ The LSE’s issuance of an RFO for RA products before August 31 of the year preceding the compliance year.

For this reason, CalCCA suggests that no further examination is required to interpret “commercially reasonable action” for purposes of the waiver proposal.

The Commission should adopt the framework proposed by CalCCA for system/flexible RA waivers. There is no dispute that the system RA market is tightening, and individual LSEs cannot address the scarcity until more resources are installed in response to the IRP procurement track directives.

III. ADOPT SCE’S HYBRID COUNTING PROPOSAL FOR ITC-LIMITED HYBRID RESOURCES

Hybrid resources will be an increasingly significant share of new resources coming online in the near- and mid-term planning horizon, in large part due to their increased reliability contributions relative to standalone solar and wind resources. CalCCA agrees with the CAISO,⁸

⁷ CalCCA Petition at 8.

⁸ *California Independent System Operator Corporation Consolidated Comments on All Workshops and Proposals*, Mar. 23, 2020 (“CAISO Comments”) at 15.

PG&E,⁹ Cal Advocates,¹⁰ and other parties¹¹ that SCE’s proposed methodology strikes an appropriate balance between the conservative interim methodology and the proposed additive methodology.

As noted by CAISO and other parties, this methodology may require revision as the industry gains greater understanding of the potential and limitations of hybrid resources. To facilitate market stability and promote much-needed near-term investment in flexible preferred resources, the Commission should adopt SCE’s proposed counting methodology while indicating its expectations for the durability and longevity of this methodology. CalCCA proposes a three-year window, from 2021 through 2023, during which the hybrid methodology would remain unchanged and performance would be analyzed by stakeholders, with revisions to the methodology (if necessary) taking effect in 2024. This would align with the current tranche of new resource development directed by the procurement track in D. 19-11-016.

⁹ *Comments on Pacific Gas and Electric Company (U39 E) on Track 2 Proposals, March 5 Track 2 Workshop, and March 11 Working Group Reports* (“PG&E Comments”) at 14 (supporting the SCE proposal as an interim methodology until data are available to establish an exceedance method).

¹⁰ *Comments of the Public Advocates Office on Track 2 Resource Adequacy Proposals* (“Cal Advocates Comments”), Mar. 23, 2020, at 8.

¹¹ *Hybrid Counting Working Group Final Report* at 10.

IV. TRANSITION TO A MARGINAL APPLICATION OF ELCC FOR SOLAR AND WIND RESOURCES AND CONSIDER OTHER INTRA-TECHNOLOGY DIFFERENTIATION

SCE,¹² SDG&E,¹³ AReM,¹⁴ Calpine,¹⁵ and the Joint Environmental Parties¹⁶ generally support the transition to a marginal ELCC framework for solar and wind resources, with some parties also calling for differentiation by technology and geography within resource classes.¹⁷ CalCCA agrees with these parties that a marginal ELCC valuation will send a better economic signal for new resource development and should be used not only within the IRP for planning purposes, but also for RA compliance purposes. As the CAISO¹⁸ points out, however, an average ELCC factor may be necessary for some planning processes, such as the proposed portfolio assessment. In addition, as SDG&E¹⁹ and Calpine²⁰ explain, to the extent aggregate RA value attributed through a marginal ELCC valuation substantively differs from the results of an average valuation, it may be necessary to revise the valuation to maintain the integrity of the RA program.

¹² *Southern California Edison Company's (U 338-E) Comments on Workshop on Track 2 Proposals, Track 2 Proposals, and Track 2 Working Group Reports*, Mar. 23, 2020, at 15.

¹³ *San Diego Gas & Electric Company (U 902 E) Comments on Track 2 Proposals, Workshop and Working Group Reports*, Mar. 23, 2020 ("SDG&E Comments") at 15-18.

¹⁴ *Comments of the Alliance for Retail Energy Markets on Track 2 Proposals, Proposed Revisions to Maximum Cumulative Capacity Buckets, and Working Group Reports*, Mar. 23, 2020 ("AReM Comments"), at 13.

¹⁵ Calpine Comments at 4.

¹⁶ *Sierra Club, California Environmental Justice Alliance, and Union of Concerned Scientists Track 2 Comments*, Mar. 23, 2020 ("Joint Environmental Parties Comments"), at 4 (suggesting additional work "be done to develop marginal ELCC values").

¹⁷ *See, e.g.*, SCE Comments at 15.

¹⁸ CAISO Comments at 5-6.

¹⁹ SDG&E Comments at 17.

²⁰ Calpine Comments at 5-6.

V. CLARIFY AND FURTHER REFINE THE MCC BUCKETS PROPOSAL PRIOR TO TAKING ACTION

Despite general support for Staff’s proposed Option 4B, numerous parties seek clarification on important details of the MCC proposals, signaling uncertainty regarding the application of the proposal to different resource technologies and categories. Further, several parties comment on the structural significance of the MCC bucket proposal in the context of the broader efforts to realign the RA program to address the increasing role of preferred resources. To the extent the Commission intends to make further structural refinements of the RA program related to preferred resource integration in Track 3 or Track 4 of this proceeding, CalCCA agrees with SEIA-LSA,²¹ the Joint Environmental Parties,²² and others that it would be better to take such action as part of a broader structural change within those later tracks than to make piecemeal changes within each track.

VI. ADOPT A POSITIVE INCENTIVE FOR LSES TO FILL DEFICIENCIES BETWEEN YEAR-AHEAD AND MONTH-AHEAD FILINGS BY RETROACTIVELY LOWERING THE PENALTY AMOUNT

In opening comments, Calpine,²³ AReM,²⁴ and CalCCA²⁵ all proposed that the CPUC should incentivize LSEs to fill deficiencies between the Year-Ahead and Month-Ahead filings by retroactively lowering the penalty amount for deficiencies successfully filled. SCE²⁶ and Shell²⁷ also opposed the imposition of a redundant Month-Ahead penalty for deficiencies already

²¹ *Comments of the Solar Energy Industries Association and the Large-Scale Solar Association on Track 2 Issues Concerning the Commission’s Resource Adequacy Program*, Mar. 23, 2020, at 14-15.

²² Joint Environmental Parties Comments at 5-6.

²³ Calpine Comments at 14.

²⁴ AReM Comments at 6-7

²⁵ CalCCA Comments at 19-20.

²⁶ SCE Comments at 21-22.

²⁷ *Opening Comments of Shell Energy North America (US), L.P. on Track Two Proposals*, Mar. 23, 2020, at 3-4.

penalized in the Year-Ahead. Specifically, AReM proposed that LSEs who cure a Year-Ahead deficiency before the Month-Ahead filing should be returned 50 percent of the deficiency penalty.²⁸ CalCCA supports AReM's proposal and urges the Commission to adopt a positive incentive to cure deficiencies between the Year-Ahead and Month-Ahead filings, rather than a redundant penalty that will unnecessarily harm ratepayers.

VII. FOCUS ESCALATION OF NON-COMPLIANCE CONSEQUENCES ONLY ON LSES THAT CONSISTENTLY FAIL TO TAKE COMMERCIALY REASONABLE EFFORTS TO PROCURE RA

CalCCA agrees with SCE²⁹ and PG&E³⁰ that further exploration of consequences for non-compliant LSEs warrants additional exploration. CalCCA also supports Cal Advocates' direction toward making transparent the identities of non-compliant LSEs, the efforts they undertook to procure, and the categories of non-compliance.³¹ Greater transparency will facilitate better understanding of the drivers behind non-compliance and will support the development of a framework for assessing the intent and efforts of non-compliant LSEs. A system and flexible RA waiver process, as proposed by CalCCA,³² will support this direction, enabling the Commission to differentiate non-compliance as an intentional procurement strategy from non-compliance resulting from market shortages.

CalCCA further agrees with AReM that expeditious resolution of the PCIA Working Group 3 proposal on Portfolio Optimization will better rationalize RA compliance among LSEs. The allocation and market offer proposals included in the Power Charge Indifference Adjustment

²⁸ AReM Comments at 6.

²⁹ SCE Comments at 20.

³⁰ PG&E Comments at 7.

³¹ Cal Advocates Comments at 29

³² *See supra* Section VI.

Working Group 3³³ will ensure that IOUs, CCAs, and ESPs have equal access to the RA resources procured by the IOU on behalf of their customers.

Finally, CalCCA agrees with SCE³⁴ that increasing penalties may have the unintended effect of increasing the potential for market power exercise in light of market scarcity.

CalCCA's proposal for a system and flexible RA waiver, combined with escalating penalties for repeated noncompliance, will ensure that higher penalties directly address non-compliance without increasing costs for the customers of LSEs making every effort to comply.

VIII. CONCLUSION

CalCCA requests adoption of the proposals advanced in its opening and reply comments, including:

- ✓ Adopting CalCCA's proposed system and flexible RA waiver process;
- ✓ Adopting SCE's hybrid QC counting proposal for hybrid resources limited by ITC charging restrictions for 2021-2024, revisiting its suitability thereafter as more experience is gained with these resources;
- ✓ Transiting from an average to a marginal ELCC methodology for solar and wind resources accounting for further technology differentiation;
- ✓ Clarifying and further refining the Staff proposal for MCC buckets;
- ✓ Adopting a positive incentive for LSEs to cure deficiencies between the Year-Ahead and Month-Ahead filings by retroactively lowering the penalty amount; and

³³ See generally R.17-06-026, *Final Report of Working Group 3 Co-Chairs*, Feb. 21, 2020.
³⁴ SCE Comments at 20.

- ✓ Focusing escalation of non-compliance consequences only on LSEs that repeatedly fail to take commercially reasonable efforts to procure their RA requirements.

Respectfully submitted,



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