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**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

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S
COMMENTS ON THE PROPOSED DECISION ON TRACK 3.A ISSUES: LOCAL
CAPACITY REQUIREMENT REDUCTION COMPENSATION MECHANISM AND
COMPETITIVE NEUTRALITY RULES**

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SUMMARY OF RECOMMENDATIONS

CalCCA requests that the Commission modify the PD as follows:

1. Expand eligibility for the local capacity requirement reduction compensation mechanism (LCR RCM) to include all preferred and energy storage resources to encourage not only the development of new resources but re-contracting of existing preferred and energy storage resources by load-serving entities (LSEs).
 2. At a minimum, expand LCR RCM eligibility to include (a) all new preferred and energy storage resources not included in the baseline resources underlying Decision (D.) 19-11-016 and (b) new contracts for procurement of existing preferred resources executed on or after November 13, 2019, to ensure that LSEs executing contracts before D.20-06-002 to meet their procurement track requirements are not penalized for early action.
 3. Ensure that an investor-owned utility's showing of local resource adequacy (RA) from the Power Charge Indifference Adjustment (PCIA) portfolio results in a financial credit to the PCIA rate, whether through valuation at the market price benchmark or by imputing the LCR RCM value to the local RA. This change will prevent what would otherwise be a cost shift from pre-2009 Direct Access (DA) customers to investor-owned utility bundled customers and Community Choice aggregation (CCA) customers.
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OPENING COMMENTS ON THE PROPOSED DECISION ON TRACK 3.A ISSUES:
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AND COMPETITIVE NEUTRALITY RULES**

The California Community Choice Association (CalCCA)¹ submit these comments pursuant to Rule 14.3 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure on the October 23, 2020 proposed *Decision On Track 3.A Issues: Local Capacity Requirement Reduction Compensation Mechanism And Competitive Neutrality Rules* (PD).

I. INTRODUCTION

CalCCA appreciates the PD’s adoption of CalCCA’s “Option 2” local capacity requirement reduction mechanism (LCR RCM) with limited modifications. In this respect, the PD reasonably balances CCAs’ interests in maintaining an economic incentive to locate new resources in local reliability areas with the goal of preventing “leaning” by one load-serving

¹ California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Baldwin Park Resident Owned Utility District, CleanPowerSF, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, Desert Community Energy, East Bay Community Energy, Lancaster Choice Energy, Marin Clean Energy, Peninsula Clean Energy, Pico Rivera Innovative Municipal Energy, Pioneer Community Energy, Pomona Choice Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Diego Community Power, San Jacinto Power, San José Clean Energy, Silicon Valley Clean Energy, Solana Energy Alliance, Sonoma Clean Power, Valley Clean Energy, and Western Community Energy.

entity (LSE) on the procurement of other LSEs. CalCCA's comments thus are limited to two areas of concern.

First, the PD inadvertently penalizes early actors by limiting LCR RCM eligibility to preferred or energy storage resources contracted on or after June 17, 2020 (date of D.20-06-002 issuance). CalCCA proposes an expansion of eligibility to include all non-large hydro preferred or energy storage resources regardless of their contract execution date. Broadening the eligibility will provide a financial incentive to load-serving entities not only to make new investments in such resources but to recontract with existing preferred and energy storage resources. Removing large hydro resources from the mix should address the concern regarding the number of resources that would be eligible for the LCR RCM. At a minimum, however, the Commission should expand eligibility to include (a) all preferred and energy storage resources that are "incremental" to the D.19-11-016 baseline, and (b) contracts for the procurement of existing preferred and energy storage resources executed on or after November 13, 2019.

Second, without clarification, the PD may shift costs among customers contrary to Public Utilities Code §365.2 by permitting investor-owned utilities (IOUs) to show their local resources in their PCIA to the Central Procurement Entity (CPE) without compensation. This conveys the value of these PCIA resources to all customers while only a subset of customers is required to pay for them. CalCCA thus proposes clarifying how PCIA-paying customers will be compensated for conveying the value of the resources they pay for to other customers.

Finally, these comments also address the competitive neutrality rules adopted by the PD. CalCCA continues to maintain that designating the IOUs as CPEs, regardless of rules governing their conduct, prevents competitive neutrality. The retail electricity market has evolved too far to continue to place the IOUs in any procurement-related central role.

II. THE PD'S LIMITS ON LCR RCM ELIGIBILITY INADVERTENTLY PENALIZES EARLY ACTORS AND REMOVES INCENTIVES FOR RE-CONTRACTING EXISTING PREFERRED RESOURCES

The PD adopts a methodology to provide financial compensation to LSEs who contract for new preferred resources in local reliability areas. The PD defines “new” as “[a]ny new preferred resource or energy storage resource with a contract executed on or after June 17, 2020.” This eligibility threshold ignores important *new* resources contracted before June 17, 2020 and penalizes early actors who contracted for new local resources before D.20-06-002 was issued. The threshold also eliminates financial incentives for LSEs to contract with *existing* preferred and energy storage resources. By precluding eligibility under the LCR RCM, the PD discourages LSEs from procuring or contracting these resources for any reason, unless they are willing to give up *all* RA attributes associated with the resource in the CPE solicitation – a risky move in a market where system RA is scarce. For this reason, the Commission should modify the PD to expand eligibility for LCR RCM compensation.

A. Expand Eligibility to Include All Non-Large Hydro Preferred and Energy Storage Resources

CalCCA proposed to permit LCR RCM participation by *all* preferred and storage resources contracted by LSEs.² This scope would ensure that LSEs not only have a financial incentive to develop new resources in local areas but would provide the same incentives for LSEs to contract with existing preferred resources. The PD rejects this proposal, raising concern that this scope of eligibility would make 7,100 MW in August (36 percent of the total 2021 local requirement) eligible for the LCR RCM compensation, risking unintended consequences.³

² See PD at 18.

³ *Id.* at 19.

As a preliminary issue, the calculation methodology underlying the estimated 7,100 MW lacks clarity. The PD's list of fuel types for preferred resources in footnote 49⁴ incorrectly excludes geothermal resources. In addition, the list includes "water", suggesting that *all* hydro resources have been included in this total, including large hydro. CalCCA recommends the analysis the PD relies on for existing preferred resources should include geothermal and exclude large hydro. Removing large hydro from the analysis will likely significantly reduce the amount of existing preferred resources eligible for LCR RCM. Finally, preferred resource eligibility is further limited by the requirement that the LSE offer a minimum term of three years for its commitment to the CPE.

CalCCA acknowledges the PD's concern regarding the potentially "large volume" of resources that would be eligible if all preferred resources are included. Thus, as discussed above CalCCA proposes further refinement of the original proposal to exclude large hydro facilities from eligibility for the LCR RCM. This refinement mitigates the PD's concern and maintains a financial incentive to continue re-contracting with existing preferred resources.

B. In the Alternative, Expand Eligibility to Include All Preferred and Energy Storage Resources Not Included in the D.19-11-016 Baseline and Contracts for Existing Preferred and Energy Storage Resources Executed on or After November 13, 2019

If the Commission elects not to expand eligibility to include all non-large hydro, preferred and energy storage resources, it should consider a more narrowly tailored expansion. As the Commission explored the need for new resources in its Integrated Resources Planning (IRP) proceeding, some LSEs began soliciting and contracting new resources. The Commission should modify the PD to recognize the important early action these LSEs took to invest in new preferred and energy storage resources to address growing local constraints. To avoid penalizing

⁴ PD at 18.

this early action, the LCR RCM eligibility should be expanded to include new local preferred and energy storage resources that are incremental to the D.19-11-016 baseline resource list, even if they were contracted before June 17, 2020. In addition, to encourage future re-contracting of needed existing preferred resources, the Commission should expand eligibility to include new contracts for existing resources executed on or after November 13, 2019.

D.19-11-016 mandated the procurement of 3,300 MW of new system RA resources to be placed into operation from 2021-2024. The road to this mandate began with a November 16, 2018, ruling in Rulemaking (R.)16-02-007 seeking comments on reliability, which led to the initiation of a “procurement track” in D.19-04-040.⁵ The Commission initiated the procurement track in a ruling on June 20, 2019, proposing procurement of an additional 2,000 MW of new peak capacity statewide, extension of certain retirement dates for once-through-cooling generation, and procurement of an additional 500 MW in the Southern California Edison Company (SCE) service territory.⁶ Following comments on this ruling, the Commission issued D.19-11-016 on November 13, 2019, ordering proportional procurement by all LSEs of 3,300 MW of “new” resources statewide. New resources were defined against a “set of baseline resources used to develop the PSP adopted in D.19-04-040, with certain adjustments.”⁷

Following the issuance of the proposed *Decision Requiring Electric System Reliability Procurement for 2021-2023*, Clean Power Alliance (CPA) issued a request for offers (RFO) for new local resources on October 14, 2019.⁸ CPA sought stand-alone energy storage projects with commercial operation dates (CODs) no later than August 1, 2023, with priority fast-track status

⁵ See D.19-11-016 at 4; see also D.19-04-040, Conclusions of Law 19-23 at 174-175.

⁶ *Assigned Commissioner and Administrative Law Judge’s Ruling Initiating Procurement Track and Seeking Comment on Potential Reliability Issues*, June 20, 2019, at 14-16.

⁷ D.19-11-016, Finding of Fact 18 at 70.

⁸ <https://cleanpoweralliance.org/2019-reliability-rfo>.

to projects with CODs on or before August 1, 2021.⁹ As a result of the request, CPA contracted its Luna Storage 100 MW standalone battery storage project on April 9, 2020, prior to the issuance of D.20-06-002. The project was ranked “high” in the RFO results due, in part, to its location in SCE’s Big Creek/Ventura local reliability area.¹⁰ If the PD is adopted without modification, this project, executed in response to the Commission’s procurement track mandate, would be excluded from obtaining an LCR RCM credit for its local value.

Similarly, the PD would exclude from LCR RCM compensation the local RA from the innovative Oakland Clean Energy Initiative projects, developed jointly by East Bay Community Energy (EBCE) and Pacific Gas and Electric Company (PG&E) to solve local reliability needs. EBCE and PG&E first issued a request for offers (RFO) for the projects in early 2018. The RFO resulted in the selection of a 7 MW energy storage project to be developed by esVolta and a 36.25 MW/145 MWh energy storage system to be developed by Vistra Energy on the site of the existing Oakland Power Plant (currently designated as a Reliability Must Run facility by the California Independent System Operator).¹¹ EBCE’s Board of Directors approved an RA contract with Vistra on June 5, 2019, and an RA contract with esVolta on July 17, 2019, following D.19-04-014 and in the midst of the Commission’s procurement track deliberations. In 2020, EBCE amended its contract with Vistra to add additional capacity to the project. Like CPA, EBCE believed that in executing the Vistra and esVolta agreements and amendment¹²

⁹ <https://www.ascendanalytics.com/cpa-storage-rfo>.

¹⁰ <https://cleanpoweralliance.org/wp-content/uploads/2020/03/040220-CPA-Board-Agenda-Packet.pdf>, Memorandum to CPA Board of Directors from Natasha Keeper, Director of Power Planning & Procurement, at 22 (“The project ranks High as it is located within Los Angeles County. Additionally, it will provide new resources for the capacity constrained Big Creek-Ventura local area.”)

¹¹ <https://cal-cca.org/east-bay-community-energy-approves-ra-contract-with-vistra-energy-for-new-battery-energy-storage-project-paving-way-for-shut-down-of-fossil-fuel-fired-power-plant-in-oakland/>.

¹² https://res.cloudinary.com/diactiwk7/image/upload/ebce_retreat_packet_6_5_19-1.pdf, Item 6, Background.

would provide local RA value to EBCE and its customers. And like CPA's Luna project, the PD would preclude EBCE's Oakland Clean Energy Initiative RA procurement from accessing an LCR RCM credit.

These three resources present sound examples of early action by LSEs to procure resources where they are needed most before the Commission's adoption of D.20-06-002. Importantly, both resources are incremental to the baseline underlying D.19-11-016. To ensure that all such resources may obtain local value *without* requiring the LSE to sacrifice valuable system and flexible RA and other attributes, the Commission should expand eligibility LCR RCM eligibility. At a minimum, eligibility should include all preferred and energy storage resources incremental to the D.19-11-016 baseline.

III. ALLOWING AN IOU TO SHOW LOCAL PCIA-ELIGIBLE RESOURCES TO THE CPE FOR NO COMPENSATION DIRECTLY SHIFTS COSTS FROM PRE-2009 DIRECT ACCESS CUSTOMERS TO BUNDLED AND CCA CUSTOMERS

The PD responds to CalCCA's concerns regarding the potential cost shifts arising from an IOU's offering of PCIA-eligible local resources to the CPE for no compensation.¹³ The PD affirms that IOUs may show their local resources to the CPE for no compensation and retain their system and flexible RA attributes.¹⁴ It reasons that since other LSEs may show their resources to the CPE for no compensation, the IOUs should have the same rights. The problem, however, is not whether the IOUs may show the resource for no compensation, but how the showing of local RA from a PCIA-eligible resource is accounted for and credited back to the PCIA. CalCCA requests that the Commission modify the PD to clarify the nature of the compensation or credit that will be provided against the PCIA portfolio if such a resource is shown to the CPE for no compensation.

¹³ PD at 16-17.

¹⁴ PD at 17.

CalCCA throughout the CPE debate has raised the concern that allowing an IOU to show PCIA resources for no compensation would shift costs from pre-2009 DA customers to bundled and departing load customers.¹⁵ While pre-2009 DA customers do not pay the costs of many (if not most) of these resources, they would receive the financial benefit of the resources' local RA attributes provided for free to the CPE at the expense of PCIA-paying customers. The PD dismisses this concern, however, suggesting that compensation to the PCIA will be provided. Quoting D.20-06-002, the PD explains that ““shown resources are still subject to the local PCIA benchmarks adopted in D.19-10-001, which provide an RA capacity offset to the PCIA charge.””¹⁶

If the above-referenced conclusion were true, CalCCA would have no concern. It is *not* clear, however, that the local RA attributes shown to the CPE would be valued at the local RA benchmark. First, with the introduction of the CPE, the development and use of the local RA benchmark requires examination, which should occur in R.17-06-026 or its successor proceeding. Even assuming the benchmark continues to apply as it is currently formulated, there is nothing in existing decisions that requires the benchmark to be applied to local RA shown to the CPE for no compensation. Today, the benchmark is applied for *forecast* purposes in PCIA calculations to all resources except those deemed “unsold.”¹⁷ Nowhere, however, has the Commission stated that the resources would be treated as “sold” despite the lack of compensation. In addition, this analysis fails to consider the true-up of the forecast benchmark to *actual* revenues; the true-up adjusts the forecast so that the benchmark is applied *only* to

¹⁵ *California Community Choice Associations Comments on Track 3.A. Working Group Report*, Sept.11, 2020, at 9-10; see also *California Community Choice Association Reply Comments on Proposed Decision on Central Procurement of the Resource Adequacy Program*, R.17-09-020, April 20, 2020, at 2.

¹⁶ PD at 17 (*quoting* D.20-06-002 at 77).

¹⁷ D.19-10-001, Ordering Paragraph 3.e.

resource attributes used on behalf of bundled customers. Thus, unless the Commission is suggesting that 100 percent of the resources shown to the CPE for no compensation are attributed to bundled customers, and priced in the true-up calculation at the market price benchmark, it is not clear that the benchmark would apply. And if the benchmark does not apply in the true-up, the “actual” revenues from sale would be credited against the final PCIA calculation. If shown to the CPE for no compensation, the sales revenues and thus the PCIA credit would be zero.

In short, the PD errs in incorporating the language of D.20-06-002 in addressing CalCCA’s concern. The Commission should thus modify the final decision, stating that PCIA costs will be credited for any PCIA-eligible resources shown by the IOU for no compensation, deferring the methodology for further consideration. It should further direct a working group to determine whether the credit would be applied through a MPB for local RA or, for example, by requiring the CPE to pay the PCIA portfolio the LCR RCM predetermined price for the resource.

IV. BY DEFINITION, PLACING AN IOU IN THE ROLE OF CPE PRECLUDES COMPETITIVE NEUTRALITY

The PD adopts the “competitive neutrality” rules proposed by the IOUs to mitigate the risk of intra-utility sharing of sensitive market information. It quotes D.20-06-002, stating: ““The Commission recognizes that this competitive information should be appropriately protected in an effort to address anti-competitive concerns and facilitate confidence and certainty in the central procurement process.””¹⁸ While CalCCA appreciates the Commission’s intention and objectives, CalCCA continues to oppose placing IOUs in the role of CPEs. Placing LSEs in this role undeniably create the risk of inappropriate information sharing within the CPE and procurement organizations within the IOU; indeed, that risk is precisely what the rules attempt to

¹⁸ PD at 26 (*quoting* D.20-06-022 at 64).

address. In a retail market with more than 40 active LSEs, however, central procurement by the incumbent IOU no longer makes sense and will not “facilitate confidence and certainty in the central procurement process.” While CalCCA proposes no changes to the rules within the context of the current CPE, CalCCA urges the Commission to move quickly toward a more competitively neutral alternative.

V. CONCLUSION

CalCCA appreciates the opportunity to submit these comments and requests adoption of the recommendations proposed herein. For all the foregoing reasons, the Commission should modify the PD as provided in Appendix A.

Respectfully submitted,



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November 12, 2020

APPENDIX A

Proposed Changes to Conclusions of Law and Ordering Paragraphs

Conclusions of Law

Proposal A:

2. CalCCA's Option 2 proposal should be adopted, with modifications, to apply ~~only~~ to ~~new~~ all preferred resources ~~or~~ and energy storage resources ~~excluding large hydro resources~~.

Proposal B:

2. CalCCA's Option 2 proposal should be adopted, with modifications, to apply ~~only~~ to new preferred resources or energy storage resources not included in the D.19-11-016 baseline resources and to new contracts for existing preferred resources executed on or after November 13, 2019.

Conclusions of Law

Proposal A:

4. Any ~~new~~ preferred resource or energy storage resource, excluding large hydro resources, with a contract executed on or after June 17, 2020 shall be eligible for the local capacity requirement reduction compensation mechanism.

Proposal B:

4. Any new preferred resource or energy storage resource not included in the D.19-11-016 baseline and any new contract with an existing preferred resource executed on or after November 13, 2019, with a contract executed on or after June 17, 2020 shall be eligible for the local capacity requirement reduction compensation mechanism.