



February 18, 2021

VIA ELECTRONIC MAIL

Mr. Ed Randolph
Director, Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: California Community Choice Association's Protest to Pacific Gas and Electric Company's Advice Letter 6078-E - Central Procurement Entity Procurement Plan

Dear Mr. Randolph:

Pursuant to the California Public Utilities Commission's (Commission) General Order (GO) 96-B, the California Community Choice Association (CalCCA) submits this protest of Pacific Gas and Electric Company's (PG&E) Advice Letter 6078-E (AL 6078-E).¹ AL 6078-E was submitted by PG&E on January 29, 2021 and proposes that Energy Division approve the Central Procurement Entity Procurement Plan (CPE PP) in writing by no later than February 28, 2021.

CalCCA protests this Advice Letter on four grounds. First, PG&E argues erroneously that AB 57 does not apply to Central Procurement Entity (CPE) procurement. Second, the CPE PP lacks a process for "showing" local RA resource attributes for compensation under the Local Capacity Requirement Reduction Compensation Mechanism (RCM), as specified in Decision (D.) 20-12-006. Third, the CPE PP provides no insight into the process for comparing shown resources with bid resources. Fourth, the CPE PP does not define tools that will be used to enable the Peer Review Group (PRG) and Independent Evaluator (IE) to ensure PG&E has complied with the competitive neutrality rules adopted in D.20-12-006. Finally, PG&E's proposal to permit deviation from the standards and criteria identified in the CPE PP is overbroad. CalCCA proposes further action by the Commission and PG&E to correct these shortcomings.

1. Clarify that CPE Procurement is Not Exempt from AB 57 Requirements

AL 6078-E raises a new and significant issue not previously addressed in the Commission's CPE decisions. PG&E states:

AB 57 (i.e. Public Utilities Code Section 454.5) includes detailed requirements for electrical corporation procurement plans. While PG&E has been tasked with the central

¹ References to "General Rules" are to the general rules identified in GO 96-B.

procurement function in its distribution service area, the CPE procurement functions are separate and distinct from that of PG&E on behalf of bundled service customers. Therefore, the requirements of AB 57 are not applicable to the CPE and, therefore, are not addressed within the CPE PP.²

Nothing in AB 57 expressly excludes PG&E's procurement on behalf of all retail customers from its scope. Section 1 of the bill states the Legislature's intent to "[p]rovide guidance to electrical corporations and the Public Utilities Commission for the prospective procurement of electricity and electricity demand reductions by an electrical corporation."³ While Section 454.5(a) contemplates procurement for the electrical corporation's retail customers, consistent with its obligation to serve, all customers are "retail" customers for purposes of the CPE procurement. If they are not, then the CPE's procurement role is wholesale, not retail, and the Commission's jurisdiction over the CPE and utility Cost Allocation Mechanism procurement is dubious.

If, however, the Commission finds that the procurement plan falls outside of AB 57, then the protections provided by AB 57 will not apply to the CPE procurement. This would render the CPE's actions subject to after-the-fact reasonableness reviews – which AB 57 aimed to minimize.⁴ PG&E should not be able to avoid the requirements of AB 57 for CPE procurement, but still retain the benefit of avoiding reasonableness reviews.

2. Clarify the "Showing" Process

PG&E states that "PG&E as the CPE will also pursue transactions for resources that are "shown" to the CPE consistent with the CPE Decision and OP 3.h of D.20-12-006 and any successor decision(s) issued by the Commission."⁵ Neither D.20-06-002 nor D.20-12-006 specify a process for load-serving entities (LSEs) to voluntarily (i.e. for no compensation) "show" their local RA resources to the CPE other than to state that the LSE must "show the resource for no compensation in advance of the CPE's solicitation."⁶ D.20-12-006 also does not specify a process for LSEs to "show" their local RA resources to the CPE for compensation under the RCM. AL 6078-E does nothing to advance the ball, stating only that "[t]he transaction process for shown resources may take place as part of or outside of a competitive solicitation as necessary."

The process for LSEs to show their resources should be specified in greater detail. The showing process should be developed outside of the competitive solicitation process with adequate notice and clear documentation made available sufficiently in advance of the process. The Commission should direct PG&E to work with LSE stakeholders to develop the process and documentation

² AL 6078-E at 5.

³ Assem. Bill 57, 2001-2002, Ch. 835, 2002 Cal. Stat.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200120020AB57

⁴ Section 454.5(d)(2), for example, provides that the procurement plan approved by the Commission shall "eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved plan."

⁵ AL 6078-E at 31.

⁶ See D.20-12-006, Ordering Paragraph 3.e. at 46.

prior to launching the competitive solicitation and to submit the proposed process in a Tier 2 advice letter.

3. Clarify the Evaluation Process for Shown Resources

The Commission directed the CPE, at a high level, to evaluate showings relative to bids by applying the criteria identified in Ordering Paragraph (OP) 14 of D.20-06-002.⁷ PG&E should be required to adhere narrowly to these criteria in a way that can be easily reviewed by the PRG and IE. The Commission has not authorized the application of additional evaluation criteria. For example, a showing cannot be rejected for failure to offer dispatch rights – an optional product contemplated by D.20-06-002.⁸ Similarly, the comparison criteria do not permit rejection of a showing simply because the showing was not combined with other products.

CalCCA proposes two other features that will improve the likelihood of a fair comparison of shown and bid resources. First, the Commission should require PG&E to provide a more detailed explanation of how PG&E will compare a local-RA-only showing with a bundled competitive bid. Simply saying the CPE will apply “least cost best fit” principles does not provide transparency or insight into the process. Second, the comparison process should be documented in a way that allows the PRG and IE to understand the basis for rejecting any shown resource. Specifically, the CPE should indicate generally for each shown resource that it rejects the primary driver(s) for rejection, such as price or effectiveness.

4. Develop Tools to Enable the PRG and IE to Confirm that PG&E Has Complied with Its Competitive Neutrality Rules

PG&E will be bound by competitive neutrality rules aimed to prevent the sharing of information, including confidential information, beyond the employees involved in the central solicitation and procurement process.⁹ While PG&E proposed and the Commission adopted high level rules to implement competitive neutrality in D.20-12-006, it is unclear how the PRG and IE will be able to ascertain whether those procedures were followed. PG&E should be required to develop tools to make compliance with these rules transparent in the review of the competitive solicitation process and results by the PRG and IE.

5. Limit PG&E's Ability to Deviate from the PP Standards and Criteria

PG&E states that the CPE PP “does not restrict the CPE from taking procurement actions that are inconsistent with” the standards and criteria set by the PP; the only requirement is that “those actions still meet the conditions for reasonableness and preapproval set forth in OP 22 of the CPE Decision.”¹⁰ The Commission should not approve the CPE's expenditure of hundreds of millions of dollars or more annually without more rigorous boundaries. The CPE PP must either

⁷ See D.20-12-006, Ordering Paragraph 3.b. at 45.

⁸ See D.20-06-002, Ordering Paragraph 8.e. at 94.

⁹ D.12-12-006 at 27, Ordering Paragraphs 8 and 9 at 48-49.

¹⁰ AL 6078-E at 5.

meet the requirements of AB 57 or, if the statute is deemed not to apply, be subject to after-the-fact reasonableness reviews.

The CPE PP does not meet the requirements of AB 57. Section 454.5(7) requires the plan to contain "upfront standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known...prior to the execution of the transaction."¹¹ PG&E's proposal to abandon any criteria and standards if the procurement is simply approved by the IE and PRG is inconsistent with AB 57. Neither does the CPE PP comply with other relevant provisions, which require specification of the "duration of the plan," "the duration, timing and range of quantities of each product to be procured," the "format and criteria" of the procurement process, and showings that the CPE PP will achieve the several objectives specified in the statute.¹²

The CPE PP should be revised to meet those standards. If it is not conformed with AB 57, the Commission should not grant any form of pre-approval but leave the actions subject to after-the-fact reasonableness reviews. The Commission must thus reject PG&E's request for preapproval to deviate from the very limited standards and criteria laid out in its CPE PP.

CalCCA thanks the Energy Division for its review of this protest and requests conformance of the CPE PP to established reasonableness standards and practices as set forth herein.

Respectfully,

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Service List for R.19-11-009

¹¹ Cal. Pub. Util. Code §454.5(b)(7).

¹² See *id.*, §454.5(b).



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