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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 TRACK 3B.2 PROPOSALS**

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TABLE OF CONTENTS

I. INTRODUCTION1

II. ELEMENTS OF PG&E’S SLICE OF DAY PROPOSAL COULD BE INTEGRATED WITH THE SCE-CALCCA PROPOSAL TO ADDRESS TEMPORAL ISSUES ASSOCIATED WITH USE-LIMITED RESOURCES.....2

III. STAFF’S PROPOSAL REMAINS PLAGUED BY A LACK OF CLARITY, UNCERTAINTY, HEIGHTENED RELIABILITY RISK, AND VERY LIMITED STAKEHOLDER SUPPORT4

IV. IMPLEMENTING THE SFPFC THROUGH A CENTRALIZED MARKET PRESENTS MYRIAD CHALLENGES AND RISKS TO RELIABILITY AND MARKET OPERATION6

 A. The Addendum Does Not Resolve These Issues6

 B. The SFPFC Proposal is the Wrong Proposal in Light of the Recent ERCOT Problems11

 C. The SFPFC Proposal Would Further Bifurcate Commission-Jurisdictional Reliability Product Trading from California and Regional Trading Partners12

V. ADOPTING A HEDGING OR PRICE MITIGATION TOOL ALONG WITH THE SCE-CALCCA PROPOSAL WOULD ENSURE THE COMMISSION’S OBJECTIVES ARE FULLY ADDRESSED13

VI. CONCLUSION.....16

SUMMARY OF RECOMMENDATIONS

- Among other options, key elements of PG&E’s “Slice of Day” structural proposal could be integrated with the SCE-CalCCA “net load duration curve” proposal to address temporal resource constraints.
- To address wholesale market price exposure concerns, the Commission could combine a bid cap requirement for RA resources or other price mitigation tools with the SCE-CalCCA framework.
- Staff’s Standardized Fixed Price Forward Contract (SFPFC) proposal represents a material and unnecessary departure from the existing RA program, which would exacerbate existing procurement uncertainty, require a major rewrite of the California Independent System Operator (CAISO tariff), place wholesale suppliers in the role of ensuring sufficient supply, and introduce serious jurisdictional questions that present a barrier to timely implementation.

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The California Community Choice Association¹ (CalCCA) submit these Comments in response to the *Assigned Commissioner's Amended Track 3B and Track 4 Scoping Memo and Ruling*, issued on December 11, 2020 (Scoping Ruling).

I. INTRODUCTION

CalCCA appreciates the opportunity to comment on the second revised structural resource adequacy (RA) reform proposals submitted by stakeholders, recognizing the considerable stakeholder efforts undertaken to refine these proposals. CalCCA's comments address the structural reliability-focused proposals advanced by Pacific Gas and Electric Company (PG&E) and the Energy Division Staff (Staff). These comments further respond to

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, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, 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.

proposals by PG&E and Staff aimed to mitigate load-serving entities' (LSEs') exposure to high prices in the wholesale energy market.

CalCCA's review of the revised proposals leads to three high-level conclusions:

- 1 Among other options, key elements of PG&E's "Slice of Day" structural proposal could be integrated with the SCE-CalCCA "net load duration curve" (NLDC) proposal to address temporal resource constraints.
- 2 To address wholesale market price exposure concerns, the Commission could combine a bid cap requirement for RA resources or other price mitigation tool with the SCE-CalCCA framework.
- 3 Staff's Standardized Fixed Price Forward Contract (SFPFC) proposal represents a material and unnecessary departure from the existing RA program, which would exacerbate existing procurement uncertainty, require a major rewrite of the California Independent System Operator (CAISO) tariff, place wholesale suppliers in the role of ensuring sufficient supply, and introduce serious jurisdictional questions that present a barrier to timely implementation.

Based on these conclusions, CalCCA recommends that the California Public Utilities Commission's (Commission's) Track 3B.2 decision direct stakeholders to move forward to refine and implement the SCE-CalCCA proposal, integrating beneficial aspects of the PG&E proposal where suitable. The Commission should also dismiss the Staff's "tear down and rebuild" approach to reliability policy, which would pose serious and unnecessary risk at a time when the industry most needs certainty and resolve to move forward.

II. ELEMENTS OF PG&E'S SLICE OF DAY PROPOSAL COULD BE INTEGRATED WITH THE SCE-CALCCA PROPOSAL TO ADDRESS TEMPORAL ISSUES ASSOCIATED WITH USE-LIMITED RESOURCES

Several parties have raised concerns with the lack of explicit representation of temporal cycles within the SCE-CalCCA proposal, identifying the potential for some hypothetical portfolios that meet the proposed Net Qualifying Capacity (NQC) and Net Qualifying Energy (NQE) tests but could overlook temporal constraints related to storage or other use-limited

resources. As SCE and CalCCA pointed out in their Second Revised Proposal,² there are several potential approaches to addressing these issues. An approach could be developed using a two-step process, integrating the SCE-CalCCA and PG&E frameworks.

Assessing the reliability of an LSE's portfolio could begin with the SCE-CalCCA NLDC approach as a foundation, including the netting of solar and wind energy against demand. The sufficiency of NQE and NQC could be tested against the net load duration curve for compliance, as SCE and CalCCA propose. PG&E observes that netting could be beneficially used in conjunction with its Slice of Day approach; “[s]olar and wind resources could benefit by not losing some production around the margin of the slices....”³ Netting wind and solar would also reduce the complexity of determining slices.⁴ And the obvious benefit of avoiding the need for ELCC calculation is retained by using netting.

To test for temporal problems within an LSE's portfolio for use-limited resources that are not netted, the PG&E Slice of Day approach could be layered as a second sufficiency test. A “slice” test could be implemented in a variety of different ways. For example, in a monthly compliance framework the test could examine temporal sufficiency during [the most challenging] “slice” for each defined period. One test slice could come from one day, while the other test slices could come from other days within the month. Alternatively, the test could examine a single representative day in the month and test for sufficiency during each slice of that

² See *Southern California Edison Company (U 338-E) and California Community Choice Association's Revised Track 3B.2 Proposal*, Dec. 18, 2020, at 5-7.

<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M356/K239/356239899.PDF>

³ *Revised Track 3B.2 Proposals of Pacific Gas and Electric Company (U 39 E)* (PG&E Second Revised Proposal) at A1-7.

<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M355/K770/355770980.PDF>

⁴ *Ibid.*

day. No doubt there are other permutations that could be considered. As a simplification, the test could be applied without tying the assessment to slice-specific must-offer obligations.

CalCCA remains concerned about PG&E's treatment of the Must Offer Obligation (MOO) under its proposal. PG&E originally proposed that a resource's MOO would apply to both the day-ahead and real-time markets and would only apply to the slice-of-day for which the resource was shown.⁵ Requiring performance and assessing penalties only for a resource's slice-of-day could be overly restrictive for storage and have other implications for resources.

Recognizing these concerns, PG&E modified the proposal in its Second Revised Proposal to limit this restriction to only the day-ahead market and to allow storage to change the slice in which it is offered.⁶ While this is a substantial improvement, if the slice-of-day construct is applied as a modeling overlay to the SCE-CalCCA proposal, a MOO may not be required.

CalCCA looks forward to further discussions with PG&E on this issue.

In short, PG&E's proposal presents interesting ideas to address the temporal issues raised in stakeholder comments on the SCE-CalCCA proposal. The Commission should move forward into a separate Track of this proceeding to begin refining the SCE-CalCCA proposal to address these issues with confidence that a variety of workable solutions – including integrating a slice of day approach – are available.

III. STAFF'S PROPOSAL REMAINS PLAGUED BY A LACK OF CLARITY, UNCERTAINTY, HEIGHTENED RELIABILITY RISK, AND VERY LIMITED STAKEHOLDER SUPPORT

CalCCA appreciates Staff's clear efforts to step back from the existing RA program to explore an entirely new approach to reliability. A new approach, however, is not always a better

⁵ *Second Revised Track 3B.2 Proposals of Pacific Gas and Electric Company (U 39 E)*, Feb. 26, 2021, at A1-27. <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M369/K237/369237336.PDF>

⁶ *Id.* at A1-28.

approach, as California demonstrated with its Power Exchange experiment in the late 1990s. In the same way, the SFPFC presents too many challenges and risks to gain the shared confidence of stakeholders and policymakers.

The SFPFC proposal designed by Dr. Wolak, despite Staff's best efforts to elaborate on the approach, continues to escape the understanding of many stakeholders. It also remains mired in questions related to its effectiveness in improving reliability, its delegation of the reliability function to wholesale suppliers, the probability for the entirely new approach to disrupt the market, and its conformance with federal law. Regardless of its academic and theoretical merit, the construct, with all of its complexities, cannot be implemented on a time scale that can support reliability needs through the 2020s.⁷ Further, the consideration of such an approach risks causing considerable delay for developers and LSEs in the process of making necessary reliability investments.

While all modifications of the RA program will require a transition, none compare with the level of disruption involved in the SFPFC proposal's foundational, dimensional shift from capacity and resource availability requirements to an energy hedging requirement. This change would necessitate the renegotiation of all existing long-term contracts, and worse, the required new provisions are both undefined and untested. This is well beyond minor modifications to provisions surrounding bidding, availability, or other issues that may be required under other proposals.

It is time to close the book on the SFPFC and move on to less seismic, yet equally effective, change. Instead of continuing to sink time into explaining and exploring the SFPFC,

⁷ See Presentation, Day 3 of Track 3.B.2 Workshops, Feb. 10, 2021, at 66. https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy/Energy_Programs/Electric_Power_Procurement_and_Generation/Procurement_and_RA/RA/Day%203%20Track%203.B.2%20ED%20Frank%20Wolak%20CAISO%20Slides%2020210210.pdf

the Commission should dedicate resources to refining the SCE-CalCCA proposed net load duration curve framework to meet the state’s reliability goals.

IV. IMPLEMENTING THE SFPFC THROUGH A CENTRALIZED MARKET PRESENTS MYRIAD CHALLENGES AND RISKS TO RELIABILITY AND MARKET OPERATION

CalCCA raised numerous objects to the implementation of the SFPFC as a centralized market in its initial comments on the SFPFC proposal.⁸ In summary, the SFPFC:

- ✘ Lacks clarity;
- ✘ By failing to eliminate the risk of supply shortfalls, fails to address the problem it purports to solve;
- ✘ Threatens to materially disrupt the market and interfere with existing contracts by introducing an entirely new reliability product and market;
- ✘ Imposes structural reliability risks by shifting the supply planning responsibility from regulators and LSEs to energy suppliers;
- ✘ Violates Public Utilities Code §380(b)(5) and §380(h)(5) by failing to “maximize” CCAs’ ability to “determine the generation resources used to serve their customers;
- ✘ Encroaches on Federal Energy Regulatory Commission (FERC) jurisdiction; and
- ✘ Unlawfully usurps the CCA’s role in managing risk.

CalCCA has also raised questions about how the proposal would integrate with the existing Renewable Portfolio Standard (RPS) and Integrated Resource Planning (IRP) programs.

A. The Addendum Does Not Resolve These Issues

Despite workshops and video conferences to further illuminate the SFPFC, neither clarity nor certainty that this model could overcome these shortcomings have emerged. The most recent revision,⁹ while attempting to address some of these issues, also falls short.

⁸ *California Community Choice Association’s Comments on Track 3B.2 Proposals*, Jan. 15, 2021, Section II. at 3-31. <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M360/K563/360563778.PDF>

⁹ Addendum to Staff Draft Straw Proposal for Consideration in Track 3B.2 of Proceeding R.19-11-009, Feb. 26, 2021 (Addendum).

First, the Addendum tries to explain away the question of fit with the existing RPS program.¹⁰ The Addendum provides a numerical example demonstrating that LSEs may still sign additional bundled RPS hedges under the SFPFC construct, which does not address the problem. It continues to leave unclear how in aggregate this approach does not lead to systematic overhedging as LSEs pay for their full allocation of SFPFC energy equal to 100% of realized system load, in addition to increasing amounts of bundled RPS energy. It is also unclear why renewable resource owners with bundled RPS PPAs would opt to participate in the SFPFC market, given the considerable risk for a renewable resource to commit to supplying a firm energy product, if their net revenues only offset PPA payments.

Second, the Addendum speaks to interactions of the SFPFC with the IRP process.¹¹ The Addendum's answer to the concern regarding IRP interaction is that the Commission could simply "order" an LSE to construct a resource to meet the state's goal and force the resource to monetize its firm energy value in the SFPFC market. This proposal overlooks the fundamental concerns of relegating LSEs to purely backstop, ordered procurement, and primarily relying on suppliers to develop new resources consistent with meeting IRP goals.

Furthermore, since LSE profiles differ in their required characteristics, this framework would eliminate the characteristics of their own portfolios. For example, it would become extremely complicated for the central auction entity to ensure that the energy delivered to some LSEs meet 100% renewable requirements according to a winter peaking shape, while other LSEs may have different requirements of minimal renewable content according to the load profile of their customers. Where LSEs have policies against certain technology types, such as biomass or nuclear, the accounting the Central Auction Entity would have to engage in to ensure that its

¹⁰ *Id.* at 9.

¹¹ *Id.* at 10-11.

process can deliver energy according to these requirements would be fantastically complex. The Central Auction Entity would need to deliver bespoke portfolios to each individual LSE AFTER aggregating the resources procured by each LSE. This is unworkable.

Since independent suppliers would exist outside of the IRP framework, there would be no mechanism to ensure that the resources built would meet the cost, reliability, resource diversity, or emissions goals. Suppliers are not required to plan to any GHG target, leaving no barrier to building and offering large amounts of fossil resources to the auction. In addition, it is not clear how the Commission could enforce requirements, for example, for baseload renewables or long duration storage. At best, IRP orders would result in duplicative procurement, and at worst this unregulated system would cause the state to miss emissions targets or other needs. Finally, with procurement utterly divorced from the IRP's cost optimization modeling, there is almost no chance that the portfolio created by supplier procurement would resemble the lowest cost approach to decarbonization.

Third, the Addendum devotes three short paragraphs, with no legal analysis, to the concerns raised by CalCCA and others over jurisdictional problems with the proposal.¹² The Addendum attempts to compare the mechanism – which involves a wholesale sale of an energy product – to the greenhouse gas emissions market run by the California Air Resources Board. FERC does not regulate GHG allowances, and the jurisdictional boundary between state and federal regulation of GHG remains complex. The discussion also suggests that no sale of energy is taking place, suggesting this is only a financial product; yet the Addendum fails to address the potential jurisdictional issues arising with the Commodities Futures Trading Commission over derivatives. The Addendum fails to advance the jurisdictional discussion.

¹² Addendum at 16.

Fourth, given the challenges to the centralized SFPFC structure, the Addendum contemplates converting the SFPFC into a bilateral trading structure.¹³ It appears to be a “residual” framework that requires LSEs to procure sufficient quantities of SFPFC products to meet their requirements. In addition, there would be a centralized backstop auction “where the CPUC purchases the aggregate shortfall of each quarterly SFPFC product and allocates the purchases of each SFPFC product to each LSE with a compliance shortfall for that product...”¹⁴ CalCCA has previously supported adoption of a residual capacity-based RA structure with a centralized backstop.¹⁵ These rules, however, lack any detail or clarity. Moreover, requiring individual LSEs to fully hedge their demand with purchases of SFPFC energy through bilateral negotiations will cause immense market friction, increase complexity and raise the costs of achieving reliability. The fundamental question remains, however: why is the SFPFC product – a new and entirely untested product – the right reliability solution?

Indeed, the bilateral structure loses several key policy goals of the SFPFC structure. The proposal retains the bilateral structure of the current RA program, maintaining and arguably expanding current market friction based on the greater complexity of the program relative to current rules. Further, ensuring and enforcing uniformity of LSE compliance instruments under a paradigm which relies entirely on individual suppliers to manage the risk associated with offering a firm energy product guarantees an administrative and enforcement nightmare. At a minimum, the proposal would require significant administrative oversight to collect and review LSE compliance submissions.

¹³ *Id.* at 11-12.

¹⁴ *Id.* at 11.

¹⁵ See generally *Joint Motion of California Community Choice Association et al. for Adoption of a Settlement Agreement for a “Residual” Central Procurement Entity Structure for Resource Adequacy*, Aug. 30, 2019. <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M313/K990/313990742.PDF>.

Fifth, the SFPFC – whether centralized or bilateral – still does not address the risk of entities failing to procure enough energy or taking calculated risks that market energy will be available. While the proposal criticizes LSEs for not having incentives to fully procure because the costs of outages are shared across all LSEs, the same incentive structure would exist for suppliers in this framework. Suppliers would still face a temptation to under procure or contract with resources that may not perform, because the cost of the outages would be borne by customers. Unlike LSEs, these suppliers would not be answerable to those customers. All the SFPFC accomplishes is moving the same risks to a different set of parties.

It seems the same results could be achieved with less disruption by continuing with a more rigorous RA capacity counting regime, a solid IRP process, and a price mitigation measure such as a bid cap. Moreover, the Addendum devotes roughly a page of ink to the proposal, compared with months of development and pages of explanation of the residual methodology proposed by CalCCA and other parties – a proposal the Commission concluded was insufficient in detail.¹⁶

The bottom line is that after nearly two years of ruminating,¹⁷ the SFPFC proposal remains complex and ill-defined. Unlike the other proposals presented to the Commission, the questions that remain are not simple implementation questions, but foundational legal and policy questions. And the continuing shifting and pivots to try to make this proposal workable are unproductive and only add confusion. It is time to close the book on this proposal.

¹⁶ D.20-06-002 at 18, Ordering Paragraph 1 at 90.

¹⁷ Dr. Wolak first presented the concept in a Commission workshop on November 1, 2019. file:///C:/Users/EvelynKahl/Downloads/CPUC_Resource_Adequacy_Sacramento-Wolak.pdf

B. The SFPFC Proposal is the Wrong Proposal in Light of the Recent ERCOT Problems

The SFPFC proposal would shift the RA framework from one which is based on clear, legal and financial obligations to participate in the CAISO market to one which relies solely on financial incentives to elicit supplier performance. Without establishing (or at least without articulating) any resource counting structure beyond “quarterly firm energy,” the proposal puts a remarkable degree of faith in the ability of suppliers to forecast, plan for, and ultimately fulfill their (financial-only) obligation to provide sufficient energy during all hours of need under the foreseeable range of conditions. Not only does this approach bring back memories of the failed Power Exchange energy-only structure, it triggers more recent memories of disastrous consequences for such a structure.

CalCCA is deeply concerned that this framework – with strong parallels to the energy-based financial incentive structure in the Electric Reliability Council of Texas (ERCOT) – is insufficient to plan for the broad range of contingencies which the RA fleet must be capable of meeting to reliably serve load. Moving forward, the RA fleet will be required to meet not only peak constraints, but also a wide variety of conditions which impact both supply and demand. As an example, in addition to extreme cooling demand, the August 2020 events included significant cloud cover and reduced wind.¹⁸ Assessing and planning for the wide range of risks associated with meeting system needs with low-carbon resources during a period of growing weather uncertainty is a task which will require the best collective efforts of regulators, LSEs, and generators. It would be as imprudent to pass this complex and unpredictable task to the invisible

¹⁸ Root Cause Analysis at 21; <http://www.caiso.com/Documents/Final-Root-Cause-Analysis-Mid-August-2020-Extreme-Heat-Wave.pdf>

hand of the market as it would be to defer the same decision-making regarding the weatherization of fossil units in northern Texas.¹⁹

C. The SFPFC Proposal Would Further Bifurcate Commission-Jurisdictional Reliability Product Trading from California and Regional Trading Partners

The complex jurisdictional overlay which divides LSE reliability policies along balancing authority, state, and other jurisdictional lines is an unfortunate reality which can create friction and confusion in reliability planning and product trading. For example, Commission-jurisdictional LSEs must follow Commission-established RA requirements, non-Commission-jurisdictional LSEs in CAISO must follow CAISO-established RA requirements, non-CAISO municipal utilities are not subject to any resource adequacy policy, and WECC utilities outside California are only recently beginning to explore a voluntary resource adequacy program. The complex Venn diagram of obligations has led to some complexities in defining CPUC and CAISO RA rules in a manner which supports the use of “standard trading products” across the western market. CalCCA agrees that this is a beneficial policy goal.

The SFPFC proposal would turn such a policy goal on its head. Under the SFPFC proposal, Commission-jurisdictional LSEs would enter a new and wholly separate RA paradigm from any which is implemented or under consideration anywhere in the west. Commission-jurisdictional LSEs (and suppliers) would be obligated to be prepared to meet their entire load with energy hedging instruments which are a significant departure from current hedging products and are generally not offered in the market at volumes on the order of what is expected in this construct. As CAISO described during the February 10, 2021 workshop, the SFPFC proposal

¹⁹ Generators within ERCOT are encouraged to follow voluntary best practices for weatherization; however, ultimately, weatherization is an economic decision for individual resources. http://www.ercot.com/content/wcm/key_documents_lists/186082/ERCOT_Weatherization_Workshop_2019_2020_Final.pdf; <https://www.powermag.com/ercot-lists-generators-forced-offline-during-texas-extreme-cold-event/>

would require a “radical overhaul” of its tariff, and conflict with other LRA’s that retain capacity-based reliability constructs.²⁰

In contrast, the Commission now has three thoughtfully articulated proposals from market participants which build upon the current framework and reflect the best efforts by market participants to balance necessary added complexity and improved accuracy with administrative simplicity, market liquidity, and other practical concerns. While the proposals from PG&E, SDG&E, and SCE-CalCCA differ significantly in their mechanics, the fundamental frameworks and intended enhancements are directionally consistent, compatible with state and federal law, comprehensible to market participants, and, most significantly, can be implemented without introducing years of planning and procurement limbo which would occur should the RA program be obliterated and rebuilt as a centralized forward energy hedge requirement.

CalCCA strongly encourages the Commission to move forward in its June decision with a robust, functional evolution of the RA program which draws from the best elements of the proposals submitted by market participants, and to withdraw the looming specter of an energy hedge focused restructuring which could abrogate thousands of megawatts of RA contracts designed around the current structure.

V. ADOPTING A HEDGING OR PRICE MITIGATION TOOL ALONG WITH THE SCE-CALCCA PROPOSAL WOULD ENSURE THE COMMISSION’S OBJECTIVES ARE FULLY ADDRESSED

Staff have made clear from their initial proposal their intent to address not only reliability, but the price effects of market power.²¹ While the SCE-CalCCA proposal improves

²⁰ See Presentation, Day 3 of Track 3.B.2 Workshops, Feb. 10, 2021, at 66. https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy/Energy_Programs/Electric_Power_Procurement_and_Generation/Procurement_and_RA/RA/Day%203%20Track%203.B.2%20ED%20Frank%20Wolak%20CAISO%20Slides%2020210210.pdf

²¹ See *Administrative Law Judge’s Ruling on Energy Division’s Track 3.B. Proposal*, Aug. 8, 2020, Appendix A (Initial Staff Proposal) at 18.

reliability, it has no effect on the potential exercise of market power. Consequently, to achieve both Staff objectives requires adoption of a hedging or price mitigation tool to complement the SCE-CalCCA proposal. CalCCA supports further examination of such tools.

Three parties have advanced potential solutions to address market power. PG&E was the only party submitting a revised proposal dedicated to market power mitigation, including two variations on a proposal that financially simulates a tolling agreement. While not primarily focused on market power mitigation, the SFPFC proposal is also intended to provide market power mitigation benefits (primarily through ensuring LSEs are uniformly long). Additionally, while not revised, Energy Division's bid cap proposal is intended to reduce market power exercise by resources in the RA fleet.

Despite previously stated concerns,²² CalCCA supports further consideration of tools aimed to mitigate price risk to LSEs, including the Staff's bid cap proposal. Staff reasonably observes that the expected frequency of energy scarcity events is likely to grow as a result of tightening capacity across the west²³ with price implications. Under these conditions, LSEs should endeavor to manage their physical and financial positions to mitigate price exposure. CalCCA agrees that price mitigation is an important element of risk management in the face of the potential scarcity events; one only need examine the price consequences in the recent ERCOT event -- where wholesale prices rose to \$9,000/MWh -- to solidify that point of view. The structure and cap level of any price mitigation tool and the extent of supply covered within

²² *California Community Choice Association's Comments on Track 3B.2 Proposals*, Jan. 15, 2021 (CalCCA Comments), at 31-33.

<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M360/K563/360563778.PDF> In addition, CalCCA observes that the RA program is the appropriate avenue to incorporate market power mitigation requirements given the limited ability of the RA program to influence clearing prices during WECC-wide scarcity events which are likely to drive extreme energy prices.

²³ Initial Staff Proposal at 23-24. 32.

<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M344/K182/344182682.PDF>.

an LSE's portfolio (*e.g.*, 80 percent) merit further discussion once the Commission adopts a direction for the reliability solution.

If the Commission intends to move forward with the incorporation of market power mitigation requirements into the RA program, CalCCA urges the Commission to do so in a manner that complements the SCE-CalCCA reliability proposal and is least disruptive of existing contracts and on-going contracting. Specifically, CalCCA recommends that the Commission impose the price mitigation measure *on only new contracts*, executed after the date of this decision. Imposing a bid cap on existing contracts risks either causing massive renegotiation of numerous contracts under a change-in-law provision or abrogating the contract altogether. Limiting any price mitigation tool to *existing* contracts, instead, would allow LSEs and suppliers time to develop an understanding of how to incorporate and execute these terms without the need to renegotiate existing contracts. In addition to considering existing contracts, the Commission should not adopt a market power mitigation proposal that would require significant after-the-fact review of contestable facts, such as the "true" marginal cost of generators. On a regular basis, the Commission should revisit the bid cap and examine whether the amount imposed results in effective market mitigation, but not at the expense of discouraging new resource development. Finally, the Commission should avoid requiring LSEs and suppliers to agree to specific hedging provisions. While hedging provisions within an RA contract in the form of a bid cap may be mutually beneficial for LSEs and suppliers, there are many circumstances for which the proposed hedging requirements contained within the SFPFC proposal and PG&E's pseudo-tolling proposal would leave LSEs overhedged.

VI. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests consideration of the proposals specified herein and looks forward to an ongoing dialogue with the Commission and stakeholders.

Respectfully submitted,



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California Community Choice Association

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