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

Order Instituting Rulemaking to Continue
Electric Integrated Resource Planning and
Related Procurement Processes.

R.20-05-003

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S
COMMENTS ON ADMINISTRATIVE LAW JUDGE'S RULING SEEKING
FEEDBACK ON MID-TERM RELIABILITY ANALYSIS AND PROPOSED
PROCUREMENT REQUIREMENTS**

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SUMMARY OF RECOMMENDATIONS

- ✓ Adopt a procurement mandate of 7,090 MW of incremental resources with a firm commitment to end reliance on simple “stack analyses” and to return to a more rigorous analysis of resource needs for the future.
- ✓ Adopt a peak share allocation methodology for the ordered procurement; alternatively, adopt a contract position methodology that allocates Power Charge Indifference Adjustment (PCIA) portfolio resources to all LSEs whose customers pay the costs of these resources through the PCIA.
- ✓ Reject the proposal for technology mandates, including the geothermal and long-duration storage (requirements and, instead, direct procurement based on the resource characteristics needed to achieve reliability).
- ✓ If technology mandates are adopted, include as incremental all resources contracted after the issuance of D.19-11-016 and allocate the mandates using a peak share methodology.
- ✓ Maximize the flexibility within the procurement order to rely on demand response and behind-the-meter resources for compliance.
- ✓ Apply any measures adopted to mitigate the impacts of load migration to not only the investor-owned utilities, but to all load serving entities (LSEs).
- ✓ Incorporate the opportunity for LSEs collectively to optimize compliance with the requirements; allow one LSE to meet its requirements by showing all or a part of a resource developed by another LSE who is holding excess compliance resources.
- ✓ Rely on marginal Effective Load Carrying Capability (ELCC) values for future resources.
- ✓ Develop a calculator to quantify the value of behind-the-meter resources used for compliance.

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PROCUREMENT REQUIREMENTS**

The California Community Choice Association¹ (CalCCA) submit these Comments in response to the *Administrative Law Judge's Ruling Seeking Feedback on Mid-Term Reliability Analysis and Proposed Procurement Requirements* (ALJ Ruling), dated February 22, 2021 and ALJ Julie Fitch's email dated March 15, 2021, granting CEERT's comment extension request: *Opening comments in response to the Ruling will now be due to be filed and served by no later than March 26, 2021. Reply comments will now be due by no later than April 9, 2021.*

I. INTRODUCTION

The Commission, facing challenging market conditions over the past two years, has issued two "emergency" procurement orders based on very limited analysis.² The Commission

¹ California Community Choice Association represents the interests of 24 community choice electricity providers (CCAs) 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.

² D.19-11-016, Conclusion of Law 1 at 72 ("forestall[ing] a potential system reliability emergency by 2021"); D.21-02-028, Finding of Fact 12 at 16 (ordering procurement to "meet the emergency reliability capacity need for the summer of 2021").

now faces foreseeable circumstances that should have allowed a more rigorous analysis to assess new procurement requirements – the retirement of the Diablo Canyon Power Plan (DCPP) in 2024 and 2025. Instead, the ALJ Ruling proposes even more dramatic increases in procurement requirements than the previous two orders combined, using another simple “stack analysis” rather than a loss of load expectation (LOLE) model. While maintaining grid reliability is critical, ratepayers deserve a more rigorous analysis to justify the significant cost increases that will come from 7,500 MW of accelerated procurement. Despite these reservations, CalCCA generally supports the proposed magnitude of the order, subject to minor corrections.

In addition to these concerns regarding the magnitude of the order, the proposed allocation methodology for the mandated procurement raises concerns. The proposed “contract position” allocation fails to consider two important factors that undermine the equities of the proposal. First, the investor-owned utilities (IOUs) today take credit in their contract position for all resources in the PCIA portfolio despite the fact that all customers – including CCA customers – pay the above-market costs of that portfolio. Allocating these resources on a vintaged load share method among all LSEs whose customers pay for these resources *before* calculating an LSEs’ contract position who more equitably recognize the cost burden on departing load customers. Second, newly launched CCAs come into the market with a limited long-term portfolio; a contract-position allocation will have a disproportionate impact on their customers – particularly a large accelerated obligation. In addition to the allocation of PCIA resources as a starting point, CalCCA proposes that any contract position allocation must provide an opt-out option for newly launched CCAs, providing for backstop procurement by a third-party.

In addition to addressing these two central issues, these comments offer the following recommendations:

- ✓ Reject the proposal for technology mandates, including the geothermal and long-duration storage (LDS) requirements and, instead, direct procurement based on the resource characteristics needed to achieve reliability;
- ✓ If technology mandates are adopted, include as incremental all resources contracted after the issuance of D.19-11-016 and allocate the mandates using a peak share methodology;
- ✓ Maximize the flexibility within the procurement order to rely on demand response (DR) and behind-the-meter (BTM) resources for compliance;
- ✓ Apply any measures adopted to mitigate the impacts of load migration to not only the IOUs, but to all LSEs;
- ✓ Incorporate the opportunity for LSEs collectively to optimize compliance with the requirements; allow one LSE to meet its requirements by showing all or a part of a resource developed by another LSE who is holding excess compliance resources;
- ✓ Rely on marginal ELCCs for future resources; and
- ✓ Develop a calculator to quantify the value of BTM resources used for compliance.

The Commission should adopt these recommendations and set workshops for their further development.

II. CALCCA SUPPORTS THE TARGETED PROCUREMENT MW WITH CORRECTIONS AND RESERVATIONS

A. Ratepayers Deserve a More Rigorous Analysis to Justify the Additional Costs That Will Arise from Accelerated Procurement

The ALJ Ruling proposes a procurement target of 7,500 MW by June 1, 2026, in three incremental tranches: online dates starting on August 1, 2023 (1,800 MW), August 1, 2024 (3,700 MW), and August 1, 2025 (2,000 MW).³ The Energy Division analysis underlying this proposal lacks sufficient rigor to gain reasonable certainty of the system need. The reliance on a simplified “stack analysis” results concerns that the procurement target:

³ ALJ Ruling, Table 2, at 16.

- ✘ Is not grounded in a loss of LOLE or other reliability standard that has been examined by the California Public Utilities Commission (Commission), the California Independent System Operator (CAISO) and stakeholders;
- ✘ Produces a narrow snapshot of need based on one hour in one year under one set of conditions;
- ✘ Fails to examine energy need, focusing exclusively on capacity, despite the Commission’s current drive to assure energy sufficiency;
- ✘ Omits 410 NQC MW of small hydro resources, thus overstating need by this amount; and
- ✘ Layers multiple adjustments without justification, resulting in an overly conservative calculation: (i) a 2,000 MW adjustment intended to translate RESOLVE results to the SERVM model;⁴ (ii) a 20.7 percent Planning Reserve Margin (PRM) unsupported by a detailed analysis;⁵ (iii) a 10 percent viability discount factor to all LSEs;⁶ and (iv) an acceleration of the procurement target by a full year.⁷

With these unsupported adjustments – particularly the acceleration of the obligation – the proposed order could lead to costly over-procurement at customers’ expense. Ratepayers deserve more precision when procuring – and accelerating procurement of –new resources. The Commission relied on a stack analysis to order procurement in Decision (D.) 19-11-016.⁸ Likewise, the only real quantitative analysis provided in R.20-11-003 was the California Independent System Operator’s (CAISO’s) stack analysis.⁹ The Commission should make every effort to engage in more reliable modeling to warrant and rationalize any further procurement orders.

⁴ *Id.* at 6.

⁵ *Ibid.*

⁶ *See* ALJ Ruling at 11.

⁷ *Id.* at 16.

⁸ D.19-11-016, Finding of Fact 3 at 68.

⁹ *Opening Testimony of Jeff Billinton on Behalf of the California Independent System Operator Corporation* (CAISO Testimony) Jan. 11, 2021, at 9-13. The PD adopts a floor target of 1,000 MW, which approximates the CAISO’s identification of the need for additional resources at the current 15 percent PRM. *Id.*, Table 2, at 12.

Despite these concerns, and *with the Commission's clear commitment not to issue any further procurement orders without a reliable analysis*, CalCCA supports adoption of resources consistent with the CAISO stack analysis, as adjusted. The target of 7,500 MW should be reduced to 7,090 MW to account for 410 MW omitted small hydro resources. In addition, the Commission should not accelerate procurement into 2023 unless it can be achieved without the implementation of penalties, which are more likely to simply increase costs than they are to provide timely procurement.

While CalCCA supports the adjusted procurement target for 2026, the Commission should reject the proposal to allocate the procurement target to LSEs based on their “contract position” unless modified. The contract-position methodology gives the IOUs 100 percent of the credit for PCIA portfolio resources, despite the allocation of cost responsibility for these resources to departing load customers. On balance, this will increase the proportion of new, accelerated resource costs that will be borne by CCA customers. Unlike IOU customers, however, there is no mechanism to provide compensation for these above-market costs. For these reasons, unless PCIA resources are allocated *pro rata* among LSEs to determine their contract position, CalCCA urges the Commission to reject the contract-position allocation in favor of a “peak share” methodology as a more equitable approach.

B. The Commission Should Not Employ Penalties for Non-Compliance

With expedited procurement and a limited field of resources and owners available and advanced enough in the development process to be viable alternatives, the use of a penalty mechanism will be counterproductive. When a limited amount of supply is available, the potential for the exercise of market power is heightened. The imposition of a penalty mechanism in such cases will serve as a price point for suppliers knowing what the alternative

noncompliance cost will be. Unless such a penalty is carefully crafted, it will either serve to increase costs to customers or will be ineffective at encouraging compliance. Given the acceleration of procurement and limited supply, it would be more prudent to address non-compliance through backstop mechanisms.

In addition, non-compliance can be caused by factors that may be within or outside of the control of the procuring load serving entity. Elements including supply chain, IOU transmission interconnection processes, CAISO interconnection processes, and the timing of RA counting processes for newly developed and operational resources can all play a role. Shifting these costs to the seller, however, will only increase costs to ratepayers to support the seller's risk mitigation.

CalCCA highly recommends that the planning processes that inform procurement be updated to afford more forward notice of the need to procure to prevent goals from being undermined by limited supply. More foresight in planning also will enable LSEs to address project challenges that could undermine new development timelines.

III. PROCUREMENT TARGET ALLOCATION

A. Unless the IOUs' PCIA Resources Are Allocated Pro Rata to All LSEs Based on Load Share, the Commission Should Allocate the DCPD Replacement Procurement Target on a "Peak Share" Basis

The ALJ Ruling proposes to allocate the 7,500 MW of need to individual LSEs "by taking into account the contract positions of individual LSEs relative to one another and to the overall procurement need identified" (Contract Position Allocation).¹⁰ It acknowledges the possibility of other allocation methods, including allocation based on an LSE's "proportional

¹⁰ ALJ Ruling at 21.

share of load served as of the time of the order”¹¹ (Peak Share), as the Commission directed in D.19-11-016. The ALJ Ruling notes that in their Integrated Resource Planning filings on September 1, 2020, “nearly all CCAs stated that they plan to bring online enough new capacity to cover their load ratio share of Diablo Canyon resource needs.” In contrast, Pacific Gas and Electric Company (PG&E) and San Diego Gas & Electric Company (SDG&E) stated their intent not to procure resources in response to the Diablo Canyon retirement.¹²

The Contract Position allocation does not achieve equitable results in the context of the existing PCIA framework. The PCIA framework asks CCAs to bear cost responsibility for the IOUs’ above-market portfolio costs on a vintaged basis. While cost responsibility falls on all LSEs and their customers, the benefits of holding those resources accrue only to bundled customers. The Contract Position thus shifts costs to departed load: departed load will pay the costs of these resources through the PCIA yet the MW quantity of the resources will be used to reduce the needs for procurement for IOU bundled load. In addition to paying the PCIA, departed load will also incur costs when their LSE must procure new, costly resources on an expedited basis in a constrained market.

For this reason, the Contract Position allocation would produce inequitable results without modification. CalCCA thus recommends that the Commission allocate the PCIA resources pro rata based on vintage load share to all LSEs for purposes of calculating their Contract Position. If the Commission is unwilling to make this adjustment, CalCCA recommends adoption of a Peak Share approach. CalCCA notes that Staff previously recommended the Peak Share methodology for use in mid-term system reliability need

¹¹ See ALJ Ruling at 22.

¹² ALJ Ruling at 25.

allocation, acknowledging “this is already familiar to LSEs and other stakeholders, applicable to a reliability need, and therefore can be implemented in the short time available.”¹³

B. If the Commission Adopts a “Contract Position” Allocation, It Should Use the Data to Be Submitted in May 2021 to Calculate This Position

The ALJ Ruling’s proposed Contract Position methodology, by relying on September 2020 data to determine an LSE’s position, may fail to capture an LSE’s most recent contracting for existing resources. If the Commission adopts a Contract Position approach, the Commission should determine an LSE’s contract position using data scheduled for submittal in on May 1, 2021 to ensure that all resources in an LSE’s portfolio are captured.

The ALJ’s recommended Contract Position allocation process would begin by extracting “relevant contract data from the September 1, 2020 IRP filings, reflecting contracted resources by year, measured in September NQC amounts, for existing resources and those in development as of June 30, 2020.”¹⁴ It would then add the LSE’s allocation of CAM resources and add “generic” resources to the extent necessary to represent a position assuming the LSE’s full compliance with D.19-11-016. Finally, it would compare the contract position to the LSE’s share of system peak load plus the LSE’s share of PRM. While not explicit, the value resulting from the calculation appears to represent the LSE’s contract position, which would represent either a surplus or a shortfall.

¹³ Staff Proposal for Resource Procurement Framework in Integrated Resource Planning at A-57. Available at <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M351/K577/351577337.PDF>

¹⁴ ALJ Ruling at 22.

Once the LSE's contract position is determined, the ALJ Ruling would divide the LSE's shortfall, if any, and compare it to the total shortfall for all LSEs.¹⁵ The resulting ratio would be applied to the incremental mandated MW target.

The contract position calculation described above should use the contracts updated data scheduled for submission in May 2021, not the September 2020 IRP filing data, for two reasons. First, as a matter of policy, the Commission should use the most up-to-date data available for procurement decisions. Using stale data risks using an inaccurate picture of the system to make procurement decisions. Second, this calculation looks only at existing and new resources contracted by the September 1, 2020 filings, and it considers as incremental only new resources contracted after June 30, 2020. It thus leaves a gap, failing to account for *existing resources* contracted between the September 1, 2020 IRP filings and May 2021.

For these reasons, the Commission should base its allocation on the May 2021 update, not the September 1st IRP data, ensuring that all existing contracts are taken into account in calculating contract position.

C. The Commission Should Provide New LSEs an Opt-Out or Allocation Option

New CCAs present unique circumstances since their positions in the early years of operation are likely to be much shorter than other LSEs. The allocation of PCIA resources among LSEs on a vintaged load share basis – even if solely for the purposes of calculating their Contract Position -- would partly mitigate the strain on new CCAs. In addition, however, the Commission should consider two other measures to mitigate this impact.

¹⁵ *Id.* at 22-23.

First, allocation on a Peak Share basis, rather than Contract Position, would minimize the impact on new CCAs. Using this approach, new CCAs are put on equal footing with existing CCAs. Second, CCAs commencing operation after January 1, 2021, should be given a full or partial opt out option, with the IOU or another third-party providing front-stop resources for the 2023 and 2024 compliance dates.

IV. TECHNOLOGY MANDATES.

A. The Commission Should Direct Technology Neutral Procurement Based on Resource Characteristics

The ALJ Ruling proposes “at least 1,000 MW of geothermal resources and 1,000 MW of long-duration storage (defined as providing 8 hours of storage or more) be required to be part of the procurement required by no later than 2025.”¹⁶ It further proposes that if LSEs do not “show significant progress toward this procurement by the August 1, 2023 milestone reporting date,” the Commission could consider requiring IOU procurement of these resources using a modified CAM.

CalCCA opposes the imposition of technology mandates. The procurement need being addressed – to the extent it is grounded in analysis -- is not a technology-specific need but a need for resources with certain characteristics. It is difficult to envision a situation in which the characteristics of a specific technology cannot be realized by another technology or a combination of other technologies. Failing to provide this procurement flexibility, particularly with technology-specific resources that are advanced enough in the development process to be viable, could present a significant opportunity for the exercise of market power by suppliers.

Once again, ratepayers would bear the brunt of this decision through increased costs. In addition, taking this important procurement decision out of the hands of LSEs undermines procurement autonomy, including the autonomy guaranteed CCAs by Public Utilities Code Section 380(b)(5). For these reasons, the Commission should mandate procurement based on the characteristics of needed resources, not by mandating technologies.

The geothermal mandate appears to be aimed toward adding more baseload generation. Allowing competing technologies that can meet the same operational characteristics (*e.g.* baseload non-emitting which could be met by a combination of wind/solar and storage) will enable customers to receive the same reliability benefit at competitive prices. In addition, it is not clear that a baseload non-emitting resource is desirable in all circumstances, as this may well exacerbate over-supply conditions followed by steep ramps that have long concerned the CAISO.

The storage mandate appears to be aimed toward securing storage resources with the ability to deliver a particular amount of MWh over an eight-hour period. While several CalCCA members collectively have conducted a Request for Offers for long-duration storage, other storage solutions could meet the same need. The Commission should thus define the need in terms of total MWh and MW, not in terms of long or short duration. For example, it is not clear that a 100 MW / 800 MWh LDS storage unit is more cost-effective or provides more grid reliability benefit than an equivalent amount of 4-hour storage. Indeed, the latter may be a better option, given that smaller units can provide local capacity and diversify risk (they are unlikely to all fail or go on outage at once, unlike a single large LDS unit). In addition, two 4-hour 100 MW / 400 MWh storage devices dispatched sequentially will provide the exact same 100 MW capacity and 800 MWh energy as a single eight-hour device but with the additional benefit that if

dispatched simultaneously, it could provide 200 MWs of capacity instantaneously. This enables the CAISO market with more options for dispatch to meet energy or net peak load needs with such a resource.

California's leadership in generation technology, while positive, comes at a cost to ratepayers. Ratepayers have been asked for more than a decade to commercialize, at high prices, a wide variety of technologies. The PCIA – collectively billions of dollars among the IOUs – shows clearly the magnitude of that cost. With ratepayers facing unparalleled cost pressure, the Commission should take every opportunity to allow LSEs to meet reliability needs through the most cost-effective resources that can meet reliability and climate goals for their customers.

B. If the Commission Moves Ahead with Technology Mandates, It Must Count All Resources Procured in Response to D.19-11-016 and Allocate the Responsibility Based on Peak Share

If, despite the concerns raised above, the Commission proceeds with technology mandates, it should modify the mandate in two critical ways. The Commission should:

- ✓ Count toward the target any new geothermal or LDS resources procured in response to D.19-11-016. This must include all contracts executed after the date of the decision but in advance of the ALJ Ruling's proposed June 30, 2020 threshold. Making this change will avoid penalizing early actors and avoid discouraging early action in response to future procurement orders.
- ✓ Allocate the mandated portion of the requirement based on Peak Share. Allocating these resources based on contract position could disproportionately burden ratepayers of newly launched CCAs and other LSEs with short positions with the high costs of these new or costly technologies.

Finally, if the Commission moves forward with these mandates and plans for backstop procurement, it should not presume that IOUs are the only possible backstop procurement entities. A Joint Powers Authority or other third party may be equally positioned to undertake this procurement. Thus, instead of designating the IOUs for backstop procurement, the Commission should set rules for application by a non-IOU to assume the role.

V. OTHER ISSUES

A. The Commission Should Maximize the Scope and Diversity of Eligible Resources

1. Demand-side Resources Will Diversify Eligible Resources

Demand-side resources, which may or may not be market-integrated, present opportunities to expand the diversity of replacement resources and improve affordability. The ALJ Ruling however does not expressly address eligibility of demand-side resources for procurement order compliance. Consistent with the initial procurement order under D.19-11-016, demand-side resources that can be shown to be incremental to the baseline should be permitted for the purposes of this order. Further, the Commission should explicitly permit non market integrated demand-side resources to count towards the procurement requirements as long as incrementality can be demonstrated. The Commission made a need determination based on a projection of the managed peak load. To the extent additional, load-modifying demand-side resources serve to further reduce the managed peak they should be credited accordingly.

CalCCA recognizes that this step would ultimately require the RA process to appropriately account for the value of the resources within that program. CalCCA is not asking through this OIR that the Commission deploy an RA counting mechanism for these resources at this time. Rather, recognizing that such resources will be a part of the mix to provide for a reliable grid, even if distribution connected and behind-the-meter, such resources should fulfil this procurement obligation. In doing so, the Commission can use the installed capacity of a behind the meter device in determining the capacity installed as a result of this obligation for

compliance purposes.¹⁷ The Commission can then re-visit the counting of such resources as well as the obligations of such resources within an RA proceeding.

2. The Demand Response Contracting Requirements Should Provide Greater Flexibility in Term

The February 22 Ruling proposes that “new resources must be contracted for at least ten years forward from the compliance date required.”¹⁸ While CalCCA understands the need for the certainty and stability associated with ten-year contracts, the Commission should not “leave capacity on the table” and discourage suppliers who would otherwise be willing offer valuable capacity to the market at an affordable price. Demand response (DR) resources provide an example of this capacity, as DR providers generally do not offer ten-year contracts. Long-term DR presents a challenge because it is difficult to lock in measures that depend on customer enrollment and acquisition over time. Despite this uncertainty, these resources have a valuable role to play in reliable and low-cost procurement.

The need for DR as part of the least-cost solution to meeting reliability and greenhouse gas goals has consistently been recognized in the Commission’s modeling. New DR is selected as part of the 2020 Reference System Plan’s portfolio adopted in D.20-03-028. The 2021 SB 100 Joint Agency Report also specifically calls out DR as a part of California’s low-carbon energy mix, advocating that the state “continue to prioritize energy efficiency and load flexibility to *minimize total implementation costs.*”¹⁹ However, the ten-year contract requirement serves as a barrier to procuring these resources.

¹⁷ For Demand Response based resources, the RA program already has counting methodologies that can be used for this purpose.

¹⁸ ALJ Ruling at 29.

¹⁹ 2021 SB 100 Joint Agency Report, at 137 (italics added). Available at <https://efiling.energy.ca.gov/EFiling/GetFile.aspx?tn=237167&DocumentContentId=70349>

CalCCA requests that the Commission allow contracted DR of less than 10 years to qualify for the procurement requirement, under certain parameters explained below. CalCCA believes these parameters to appropriately balance the necessary certainty of long-term contracting with reasonable rules that will encourage DR providers to provide much-needed capacity.

Demand response should be eligible for contracts of less than 10 years, but only if that resource's contract has a replacement requirement in the event of that contract not being extended to maintain compliance with the procurement order. For example, a demand response resource could be eligible for this requirement if it had a 3-year contract with a replacement obligation for the 7 years after the contract end date. This requirement will provide the desired long-term certainty while lowering barriers to DR participation.

B. Any Load Migration Accommodations Must Extend to CCAs

The ALJ Ruling identifies the “complicating” issue of how to treat load migration following the initial procurement allocation.²⁰ It erroneously assumes, however, that “most of that migration” will be migration from the IOUs to other LSEs. It also overlooks the greater risk that non-IOU LSEs face with load migration, relative to the IOUs, since the latter are always assured full recovery of any excess purchases or costs through the PCIA. CalCCA agrees that load migration should be addressed; the solution, however, should broadly apply to all LSEs.

The Commission must either not allow *any* procurement by an IOU pursuant to this requirement to enter into PCIA or the Commission must afford PCIA type protection to CCA and DA providers for fulfilling this procurement mandate. Historically, the argument for PCIA

²⁰ ALJ Ruling at 23.

has been that the IOUs were mandated to meet the reliability needs of customers then being served since another LSE did not have that obligation. With this procurement, all LSEs are being asked to procure for long-term supply. Thus, all LSEs are procuring, directed by the CPUC, to meet reliability needs. It would be an inappropriate cost shift to allow an IOU to recover from future departing load for this procurement if the same is not afforded for other LSEs who procured to meet reliability needs of customers who later choose to depart their service. Failing to do so would protect bundled load from load changes while leaving unbundled load unprotected. This would be an imbalanced policy and should be cured by either not allowing PCIA for this procurement or by affording all LSEs PCIA-like treatment in meeting this obligation.

C. The Procurement Order Should Incorporate the “Tradability” Principles Applicable to the 2019 Procurement Order

The Commission recognized in implementing D.19-11-016 that allowing LSEs to sell long compliance positions to LSEs who may be short due to delays in anticipated online dates.

In its August 2020 Frequently Asked Questions guidance document, Staff explained:

Decision D.19-11-016 is silent on whether LSEs must directly contract for the resources they procure to meet their incremental resource procurement obligations. Consequently, staff believes that LSEs can use contracts for resources procured from other LSEs to meet their procurement obligations, provided the underlying resource meets the D.19-11-016 definition of an incremental resource (and, of course, provided that the LSE from which the resource was purchased backs the sold portion of the resource out of their own compliance showing).²¹

²¹ *IRP Procurement Track Frequently Asked Questions*, updated Aug. 12, 2020, available at <https://www.cpuc.ca.gov/General.aspx?id=6442463413>

In the later decision implementing backstop requirements for D.19-11-016, the Commission confirmed this interpretation. The adopted milestone compliance process contemplates that contracts for “sales of excess resources between LSEs” would meet the Milestone 2 requirement for compliance.²²

CalCCA recommends carrying this guidance into the DCPD procurement order. Practically, it allows one CCA to combine with another LSE to meet compliance obligations without the need for any backstop. Allowing LSEs to bilaterally transact to meet compliance obligations enables more cost-effective compliance by providing a tool to address project delay. It also addresses “lumpiness” in procurement that occurs which the MW required may not precisely match the MW available from selected resources. Importantly, this tool does not undermine reliability, since the Commission’s procurement requirement will still be met and in addition, it would not require any further process of mandating an entity to procure on behalf of another. Instead, LSEs would be free to procure resources and/or transact with other willing LSEs to ensure that they have met their compliance obligation.

D. The Commission Should Rely on Marginal ELCC to Value the Capacity Contribution of Future Resources, and Create a Calculator to Quantify the Value of Hybrid Resources

The Ruling proposes that LSE compliance with the order “would be based on the marginal ELCC projected by the Commission as part of, or shortly following, the procurement order for each resource type for each future online year.”²³ CalCCA generally agrees with the use of marginal ELCC values for future resources and does not contest the values that the Commission used in the stack analysis. This position is consistent with CalCCA’s opening

²² D.20-12-044, Ordering Paragraph 7(b).

²³ ALJ Ruling at 29-30.

comments on Track 3B.1 and Track 4 in R.19-11-009, in which CalCCA stated its support for “continued exploration of a transition to a marginal ELCC framework to provide for more accurate accounting of resource contributions and to provide certainty for LSEs and resource developers.”²⁴

CalCCA’s comments also requested “clarification and consideration around how new hybrid resources would be treated.”²⁵ CalCCA restates these concerns here. The Commission should work with stakeholders to create a calculator that takes into account the hybrid’s generator size in MW, battery size and depth in MW and MWh, and whether or not the unit is grid-charging or only charges from its own generation source. This calculator should output the unit’s NQC MW for purposes of complying with this ruling. This will give the market much-needed certainty into the capacity valuation of hybrid resources. The same methodology could be used to determine the incremental value of storage added to existing solar generation.

VI. CONCLUSION

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

Respectfully submitted,



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March 26, 2021

²⁴ *Opening Comments of The California Community Choice Association on Track 3B.1 And Track 4 Revised Proposals*, March 12, 2021, at 19.

²⁵ *Id.* at 21.

APPENDIX A

ADMINISTRATIVE LAW JUDGE’S RULING SEEKING FEEDBACK ON MID-TERM RELIABILITY ANALYSIS AND PROPOSED PROCUREMENT REQUIREMENTS

February 22, 2021

QUESTIONS AND CALCCA RESPONSES

2.1 QUESTIONS FOR PARTIES

- 1. Please comment on the appropriateness of a 20.7 percent PRM, which includes additional operating reserves, for purposes of the mid-term reliability analysis included in this ruling. If relevant, propose alternatives and explain your rationale.**

As described in Section II-A above, CalCCA does not support the use of the stack analysis as a robust methodology for need determination. Any planning standard should be set based on a robust LOLE study and be vetted by the CPUC, the CAISO, and other stakeholders.

Additionally, the 2,000 MW adder is not appropriate as an adder to calculate PRM. The 2,000 MW is a “correction factor” that essentially measures the degree to which RESOLVE underestimates procurement needed for a reliable system relative to SERVM, and it is neither relevant nor appropriate for setting the PRM in this context.

Even if one assumes that any adder is appropriate in this context, it is not clear that 2,000 MW is the correct magnitude of this adder. The CPUC decision adopting the Reference System Plan shows the effects of adding these 2,000 MW on system reliability. Before the adder, the CAISO system had an LOLE of 0.108 in 2026, and 0.166 in 2030; after the adder, it had an LOLE of 0.056 in 2026, and 0.016 in 2030.²⁶ These post-adder LOLE results substantially “overshoot” the traditional 0.1 LOLE target. Given this, it is not known exactly what reliability target the CPUC is planning to with 2,000 MW.

CalCCA notes that the stack analysis inadvertently omits 410 NQC MW of small hydro resources, meaning the actual need should be 410 MW lower than what was originally proposed in the ruling. The Excel spreadsheet showing the calculation of the stack analysis includes 44,432 MW of Updated 2019-2020 IRP Baseline resources. This table erroneously omits small hydro resources, failing to aggregate 410 NQC MW of Small Hydro.²⁷

²⁶ Decision 20-03-028 at 23 and 24, Tables 3 and 4.

²⁷ Stack Analysis Model posted 2/22/2021, available at <https://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=6442467827>. See “Inputs and Analysis” tab of the Excel spreadsheet, row 133 for the 410 NQC MW of omitted small hydro. The table that fails to aggregate this amount is the “Updated 2019-20 IRP Baseline” on rows 28-44 of the Results tab.

Notwithstanding the disagreements outlined above, CalCCA largely agrees with the general size of the procurement target if it is adjusted downwards by 410 MW to correct for the small hydro error. As the Ruling points out, the amount of capacity required “closely approximates the 18,000 MW of new nameplate capacity by 2026 included in the RSP adopted in D.20-03-028.”²⁸ CalCCA thus believes that the total MW targeted for procurement is reasonable as an estimate.

2. Comment on the appropriateness of a 20.7 percent PRM for long-term planning purposes for IRP in general. If relevant, propose alternatives and explain your rationale.

CalCCA does not believe that this is an appropriate long-term target, and contends that adopting any target now would be premature. A PRM should be calculated using a robust stakeholder process, employing the following high-level steps. First, decide on a “target” of grid reliability that can be achieved at reasonable cost. Historically, this has been one loss-of-load event every ten years (often referred to as “0.1 LOLE”, which is a count of the expected number of loss-of-load events in a given year). However, the CPUC may want to revisit this number (and the underlying weather and load data) to account for climate change or affordability impacts, as well as the increased renewable and battery penetration in the grid relative to when the 0.1 target was first established. Second, calculate the amount of generating resources that are required to achieve this target using a production cost model. Third, divide that amount by the load forecast, incorporating an operating reserve margin adder. The result will be the PRM that should be used.

3. **Comment on the appropriateness of a 1-in-2 weather forecast for the electricity demand forecasts for purposes of the mid-term reliability analysis.**

The Commission should revisit this assumption. The 1-in-2 standard was established long ago and may no longer be applicable. Climate change will increase weather volatility, likely leading to increased load volatility. Thus, using higher percentiles of the load distribution, different rainfall profiles for hydro generation, or a 1-in-5 weather forecast may well be warranted as part of an overall PRM analysis. That said, the LOLE should be the ultimate guide to reliability where the PRM is guided by the LOLE and how other uncertainties (like the weather forecast) are addressed.

4. **Comment on whether the proposed increase to the PRM sufficiently addresses the likelihood of increasing frequency and intensity of extreme weather events, or whether this risk should be incorporated directly into a reliability-based planning standard (such as, for example, the use of a 1-in-5 forecast or incorporating climate models).**

See responses to 2 and 3 above.

- 5. Comment in general on your preferred method for setting an IRP long-term reliability-based planning standard. Explain your rationale.**

See response to 2 above.

3.1 QUESTIONS FOR PARTIES

- 6. Comment on whether you agree with the approach proposed here for determining need, which corresponds to the “Need Determination – Reliability – Option 3” in Section 6.5.2 of the Procurement Framework Staff Proposal. If you have an alternative proposal, describe it in detail and/or identify whether it is one of the other options included in the Procurement Framework Staff Proposal.**

See responses to questions 1-3.

- 7. Comment on whether you agree with the recommended Mid-Need scenario, explaining why or why not. If you have an alternative proposal, describe it in detail. Also note that Section 6.6 of the Procurement Framework Staff Proposal includes recommendations for need determination during the current IRP cycle (referred to as Phase 1). Comment on whether you agree with those recommendations, to the extent not already addressed by your responses to the questions above, in the context of the procurement proposed in this ruling and/or related to the remainder of this IRP cycle.**

See response to Question 1.

4.1 QUESTIONS FOR PARTIES

- 8. Comment on the total annual capacity requirements recommended. If you would make any adjustments, explain your rationale.**

CalCCA is not opposed to the total target, adjusted to reflect inclusion of small hydro resources in the baseline, but disagrees with the needs for technology mandates as stated in its comments above.

- 9. Should the Commission consider requiring additional capacity, to account for contingencies such as contract delay or failure? If so, how much, and on what basis?**

No. Contract failure should be addressed through some form of backstop procurement. The model used in D.19-11-019 provides a good starting point, in which a backstop entity provides for capacity to make up for any project failures. This provides for relatively simple bilateral relationships between either the LSE conducting backstop procurement or the LSE showing capacity on behalf of the deficient LSE.

Additionally, contract delay and failure discounts are already incorporated into the stack analysis, meaning there is no need for additional correction. In the Mid scenario, there is already a 95 NQC MW discount to available supply-side resources.²⁹ This discount takes into account COD reasonableness, technical feasibility, resource sufficiency, and financing, and thus already incorporates project delays or failures.

5.1 QUESTIONS FOR PARTIES

- 10. The process of identifying resource types and amounts that are cost-effective, and can potentially fulfill a procurement need, but have market or other barriers to procurement, is explored in Section 6.5.4 of the Procurement Framework Staff Proposal. Comment on the approach described in this ruling, with reference to the Staff Proposal and/or other approaches you recommend.**

The language in the Ruling chiefly uses the fact that Diablo retirement and other OTC retirements represent firm resources to justify replacing it with other firm resources (i.e. geothermal and LDS). It also cites the need for resource diversity (large amounts of solar and wind coming online) and a “least-regrets” strategy of starting early procurement of LDS already selected in the RSP.³⁰

There is no clear link between Section 6.5.4 of the Framework and the Ruling’s decisionmaking approach for selecting resources. Section 6.5.4 presents two options, neither of which appear to correspond closely to the Ruling.

Option 1 describes an analytical process for determining technology-specific need. This section proposes “targeted sensitivity analysis. Such analysis involves using latest information on resources including offshore wind, pumped hydro, geothermal, and out-of-state resources, to identify which resources are cost-effective, can potentially fill the need, but which the CPUC could determine are unlikely to be procured by LSEs due to market or other barriers.”³¹ It is not clear that any such sensitivity analysis was performed in the Ruling. The only relation between the Ruling’s decisionmaking and the Framework appears to be the concept of “least-regrets” procurement, which both documents cite.³²

Option 2 proposes that the Commission “develop a decision-making approach for determining what emerging technologies should be included.”³³ Neither geothermal

²⁹ Stack Analysis Model, RA Waterfall Chart tab, CAISO RA Resources Changes graph. The project viability discount is shown as a 95 NQC MW reduction in the estimated resources by 2026.

³⁰ ALJ Ruling at 17.

³¹ *Id* at A-46.

³² *Id* at A-46 and ALJ Ruling at 17.

³³ *Id* at A-46.

nor LDS are emerging technologies—both have been commercialized for some time. Therefore, they do not fit within Option 2.

11. Comment on whether the suggested amount of geothermal and/or long-duration storage resources should be required to be procured as part of the mid-term procurement requirements.

There is neither support in the record nor justification for any allotment for geothermal. The Reference System Portfolio did not select geothermal in any scenarios, and this ruling provides no modeling to support any departure from the RSP.³⁴

Furthermore, a geothermal mandate is particularly problematic because of questions of supply. Currently, the CAISO interconnection queue contains nearly no geothermal capacity, suggesting a limited availability of new generation.³⁵ Furthermore, potentially available geothermal generation in the Imperial Valley may be unavailable because of the combination of ten-year contract requirements and new tighter requirements for firm transmission for imports into the CAISO area.

Rather than a technology-specific mandate, the Commission should couch all such requirements in performance characteristics. For example, rather than specify “long duration storage,” which requires a maximum power to energy capacity ratio, the requirement should be for a certain amount of storage capacity (MW) and a certain amount of energy (MWh) from said storage.

12. Describe the risks you see, if any, in relying on specific resource types to fill the proposed procurement need, as well as provide suggestions for how they could be mitigated. For example, there could be some type of identified future juncture where LSEs and/or the Commission could evaluate risks prior to moving forward fully with procurement. As part of this, describe any challenges you see (for example, supply chain issues, siting challenges) that may impact the ability to come online with the timing and amounts proposed

As stated above, CalCCA is opposed to technology mandates. These geothermal and LDS mandates are the largest to date, and their cost impacts (and thus ratepayer impacts) are not known. For example, it is unclear that a given amount of capacity and energy in distributed batteries would not provide the same reliability benefit as an equivalent amount of centralized LDS. In addition, it is not clear that another resource or combination of resources that can meet the same characteristics as geothermal or LDS are not feasible. LSEs should be given the choice to choose the

³⁴ Decision 20-03-028 at 41, Table 5. This table includes Wind, Wind on New Out-of-State Transmission, Utility-Scale Solar, Battery Storage, Pumped Storage, Shed Demand Response and Natural Gas Capacity Not Retained (i.e. retired) as resources. The table does not include geothermal.

³⁵ CAISO Public Queue Report, accessed at <http://www.caiso.com/PublishedDocuments/PublicQueueReport.xlsx>

best resource that meets the grid need at the same time as providing the reliability service cost effectively to customers.

CalCCA notes that the Ruling fails to perform the “market test” discussed in the Procurement Framework³⁶, which is crucial to confirming the cost and feasibility of geothermal and LDS. Without such a market test, it is not clear that the amount of geothermal mandated is possible or desirable from a cost standpoint.

The question also appears to suggest that the Commission might direct technology-specific procurement and later decide to change course. The Commission should not introduce this type of uncertainty into the myriad other uncertainties impairing LSE procurement today.

- 13. Comment on the proposal for all LSEs to engage in joint procurement of geothermal and/or long-duration storage, with the potential for IOUs to be required to backstop such procurement. This suggestion corresponds to Section 7.2.2 of the Procurement Framework Staff Proposal. If you have an alternative proposal, describe it in detail and/or identify whether it is one of the other options included in the Procurement Framework Staff Proposal. In addition, comment on whether identifying need for backstop procurement in 2023 would allow sufficient time to contract for and build these resources by 2025, and, if not, how you would propose to address this timing issue.**

See 11 and 12 above. In addition, joint procurement should be an option, not a requirement, for LSEs to meet their procurement mandates.

- 14. Comment on how fossil-fueled resources should be treated for purposes of compliance with the procurement requirements proposed in this ruling. Include responses to the potential limitations suggested above and/or propose additional restrictions, if you feel that fossil generation should count but be subject to limits.**

Any increases in fossil gas generation should be subject to additional showings before approval. In particular, LSEs choosing to develop fossil gas resources should demonstrate that their overall portfolio will not exceed their GHG benchmarks and will not result in increased local air pollution, especially in disadvantaged communities. Absent such showings, fossil resources should not be accepted for this procurement.

³⁶ Staff Proposal for Resource Procurement Framework in Integrated Resource Planning, Nov 2020 at A-46. This describes the “market test” referenced above: “A market test, involving soliciting information from industry on current conditions, would be performed in conjunction with the sensitivity analysis. This testing, which could be performed via the Requests For Information described in section 9, would help confirm cost and other key assumptions, but also contribute qualitative insights associated with the supply chain, development, and other risks of procuring large, long lead-time resources. The CPUC could order one or more LSEs to spearhead the testing.”

- 15. Comment on whether firm imports should be allowed to count towards the required capacity proposed in this ruling, and if such resources should be required to be committed to California via pseudo-ties or dynamic scheduling. Include any other limitations you would propose.**

Firm imports are certain to play a critical role in supplying California with energy, so increasing restrictions on imports will undermine reliability as fewer potential supplies are eligible and so contracts are not signed. Any firm imports that can be counted as RA should be eligible towards the requirement in this ruling as well, with a minimum contract duration of three years. Excluding imports risks negatively affecting reliability, for example contracts signed to meet D.19-11-016 requirements may not be extended if they are ineligible to meet the required capacity proposed in this ruling.

6.1 QUESTIONS FOR PARTIES

- 16. Comment on the appropriate way to handle allocation of responsibility to LSEs for purposes of the reliability capacity needs identified in this ruling. The approach proposed here corresponds to “Need Allocation – Specific – Option 2” in Section 7.1 of the Procurement Framework Staff Proposal. If you have an alternative proposal, describe it in detail and/or identify whether it is one of the other options included in the Staff Proposal.**

CalCCA does not support a Contract Position need if PCIA resources are credited solely to bundled customers, despite the fact that departing load customers bear equal cost responsibility. Currently, many IOU resources were procured to serve all their customers, but as a result of attributing such resources solely to now bundled customers, the customers for which these resources were procured are required to pay for these resources but are not entitled to any benefits from the resources procured. Thus, for a Contract Position methodology to function equitably, customers must be entitled to credit for capacity procured on their behalf for the purposes of calculating net position under this ruling. Absent such a mechanism, a contract position methodology would create a significant cost shift onto customers who have departed and who pay costs for these resources while also bearing the entire cost and risk of procurement of new resources. Absent such an allocation of capacity for the purposes of this ruling, need should be allocated based on Peak Share as the more equitable approach.

- 17. Comment on the best way to handle load migration during the period of a Commission order and the online dates proposed in this ruling. If you support the concept of using a PCIA approach, what vintage dates should apply?**

Load migration impacts are not limited to IOUs and can occur when load shifts from and to any LSE. Consequently, if any measures are adopted, including cost recovery through a departing load charge, they should be available to all LSEs, including CCAs. If, for example, IOUs are allowed to impose the costs of these resources through the PCIA on future departing load customers, other LSEs should likewise

have the same *opportunity* to bill these charges through the IOU to their departing customers. In the alternative, the IOUs should not be allowed to use PCIA for any resource subject to this procurement since each LSE was allocated a procurement obligation. (See Section III.A pages 7-8)

7.1 QUESTIONS FOR PARTIES

- 18. Comment on the proposal that non-IOU LSEs may not opt out of self-providing their share of new capacity found to be needed for long-term reliability. This corresponds to the “Procurement Entity – Self Provision – Option 2” in Section 7.2.2 of the Procurement Framework Staff Proposal. If you have an alternative proposal, describe it in detail and/or identify whether it is one of the other options included in the Staff Proposal.**

The Commission should not create stringent self-provision rules that might hamper the formation of new CCAs—there is no valid cost or reliability reason that mandatory self-provision is a desirable policy goal under all circumstances. In particular, newly launched CCAs are in a unique position with portfolios that are likely to be short on long-term resources. The Commission should provide an opt out opportunity for all CCAs who launched on or after January 1, 2021.

- 19. Comment on the proposed mechanism for backstop procurement, which corresponds to “Procurement Entity – Type – Option 1” in Section 7.2.2 of the Procurement Framework Staff Proposal. If you have an alternative proposal, describe it in detail and/or identify whether it is one of the other options included in the Staff Proposal.**

CalCCA opposes the use of any *mandatory* front-stop procurement. Pub. Util. Code 454.51(d) requires that CCAs have a right of self-procurement for any renewable integration need identified. , For this reason, Option 1 should be discarded as an option. The existing framework of identifying technology neutral performance requirements for each LSE to meet will provide a far more diverse and more reliable framework for future IRP procurement (Option 2).

- 20. If the IOUs are required to act as central procurement entities, for geothermal, long-duration storage, or backstop procurement in general, what requirements should be associated with the operating arrangements for those resources? Comment on issues and options explored in Section 7.2 of the Procurement Framework Staff Proposal.**

Since there is no demonstrated need for a resource specific solution that cannot be met by another resource or combination of resources, there is no need for the IOU to serve as a backstop. If a backstop is needed for compliance failures, then the current CAM process already addresses resource operation sufficiently.

In addition, if any form of central procurement were required for such resources, the Commission should not automatically default to the IOUs for that purpose. Other LSEs may be positioned to serve in that role.

- 21. Section 7.2 of the Procurement Framework Staff Proposal puts forward Commission staff recommendations for procurement and operating entity direction during Phase 1. Comment on whether you agree with the recommendations, to the extent not already addressed by your responses to the questions above, in the context of the procurement proposed in this ruling.**

CalCCA opposes defaulting to IOUs as the procurement entity. This role should be assigned to the entity or entities most capable of performing the role at least cost. Thus, CalCCA recommends that any LSE can apply to be the CPE, if one is needed at all (Option 3). CalCCA notes this is unlikely to be needed, since individual LSEs are likely to be able to procure on their own behalf or contract with LSEs that may be long to meet their requirements, reducing if not eliminating the need for any CPE.

- 22. Comment on whether the D.19-11-016 modified CAM proposed cost allocation is sufficient for purposes of the backstop procurement proposed in this ruling, or if you recommend a different approach, fully describe it along with your rationale.**

CalCCA notes that as of this filing, there is no modified CAM proposal. It is critical that the LSE relying on the backstop bear the full costs of that procurement, including having those obligations against their balance sheets and bearing the full finance costs based on their own credit rating. For example, it would be an inappropriate outcome if an LSE had a credit rating worse than the IOU and could not obtain pricing that would be less costly than the backstop procurement. The Commission should employ mechanisms to ensure that LSEs provide resources to meet the reliability needs their load presents to the grid.

8.1 QUESTIONS FOR PARTIES

- 23. Comment on the approval process that should be used for the IOU procurement that would be required as suggested in this ruling, which corresponds to “Procurement Approval – Option 2” in Section 8.2 of the Procurement Framework Staff Proposal. If you have an alternative proposal, describe it in detail and/or identify whether it is one of the other options included in the Staff Proposal.**

CalCCA supports the Procurement Framework’s Option 2 (Tier 3 Advice Letter process as per D.19-11-016) for emergency procurement, and Option 1 (Rely on the CPUC’s existing requirements, including applications)³⁷ for everything that is not an

³⁷ Staff Proposal for Resource Procurement Framework in Integrated Resource Planning, Nov 2020 at A-74.

emergency. This requirement should not infringe on self-procurement rights or hinder the ability of CCAs to collectively pursue joint procurement (e.g. joint CCA LDS).

- 24. Section 8 of the Procurement Framework Staff Proposal puts forward staff recommendations for the procurement approval processes during Phase 1. Comment on whether you agree with the recommendations, to the extent not already addressed by your response to the question above, in the context of the procurement proposed in this ruling.**

See response to Question 23.

9.1 QUESTIONS FOR PARTIES

- 25. Comment on whether marginal or average ELCCs should be used for counting LSEs' procurement and assessing compliance with the procurement requirements proposed.**

CalCCA supports the use of a marginal ELCC as being more appropriate to signal the need for reliability resources as well as fixing the value of the resource to reduce uncertainty in the future. CalCCA has submitted similar comments in the RA proceeding and the methodologies chosen between the IRP and RA should match so that each process strives for the same reliability target.³⁸

- 26. Comment on the proposed minimum ten-year contract requirement for new resources.**

In general, the proposed ten-year minimum contract requirement is reasonable for new resources. Demand response resources, however, should be eligible for contracts of less than 10 years *provided* that any shorter-term DR resource would require replacement if not extended to maintain compliance with the procurement order.

- 27. Comment on how imports should be treated for counting and compliance purposes for the procurement proposed in this ruling.**

Import procurement should meet the same counting rules as the RA program for this purpose. To do differently would place the two proceedings focused on reliability at odds and would produce inappropriate results. See also response to Question 15 above.

- 28. Comment on whether you think that any fields in the baseline generator list need to be kept confidential when staff updates it with new in-development resources**

³⁸ *Opening Comments of The California Community Choice Association on Track 3b.1 and Track 4 Revised Proposals*, at 19. Available at <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M370/K289/370289703.PDF>

identified from the Resource Data Templates in LSE plans, as proposed to serve as the baseline for the procurement proposed in this ruling.

CalCCA provides no recommendation at this time.

10.1 QUESTIONS FOR PARTIES

- 29. Comment on whether CONE is an appropriate penalty for capacity that LSEs fail to procure, in addition to backstop procurement. This is a combination of “Enforcement – Option 1” and “Enforcement – Option 2” in Section 9.2.2 of the Procurement Framework Staff Proposal. Suggest any alternative compliance and enforcement options.**

Penalties are not an appropriate mechanism to address near-term procurement for 2023 due to the limited availability of resources and limited time to conduct procurement, coupled with the myriad reasons that could produce non-compliant outcomes despite conducting best efforts procurement. This notwithstanding, CalCCA believes the CONE values to be significantly too high, except in the most egregious cases. CONE penalties are likely higher than needed to ensure resources are successfully built, especially given the prospect that LSEs will be billed for resources by the backstop entity in any event.

In the proposed penalty structure for IRP filings, the Commission elected to incorporate a flexible structure to give LSEs time to cure shortfalls, since a delayed but successful project would not have a significant impact on reliability in itself, but widespread duplicative procurement will raise customer costs overall. Thus, defaulting to a flexible penalty structure which requires that the LSE affirmatively propose a resolution to the shortfall before imposing any penalty is sensible.

However, it is also important that this discretion not become an unpredictable process in which LSEs have no way to predict what penalties might result and no standards exist by which to judge whether penalties are appropriate. Thus, CalCCA supports development of a more standardized process with standards for penalties or corrective actions.

- 30. Section 9 of the Procurement Framework Staff Proposal puts forward staff recommendations for compliance, monitoring, and enforcement during Phase 1. Comment on whether you agree with the recommendations, to the extent not already addressed by your responses to the questions above, in the context of the procurement proposed in this ruling.**

CalCCA strongly supports ensuring that the Commission has the data it needs to ensure an orderly process. In this spirit, CalCCA supports the recommendation to use the existing reporting structure of interim reports on procurement process, with development of penalty structure with guiding principles and standards.

11.1 QUESTIONS FOR PARTIES

- 31. Comment on the suggested clarification to counting of capacity sold or shown to the CPE for local resource adequacy purposes.**

CalCCA appreciates the clarification that local capacity that is shown or sold to the CPE can still be counted towards meeting the IRP compliance requirements of the showing or selling LSE. Eligibility for counting under the DCPD replacement procurement order should not depend on how a CCA elects to deploy the resources, unless all or a part of a resources is sold or otherwise traded to another LSE for purpose of satisfying the other LSE's procurement obligation. See Comments, Section V.C. at page 17.

12.1 QUESTIONS FOR PARTIES

- 32. Parties are invited to comment on or propose alternative compliance regimes to the proposals in this ruling to address the longer-term system reliability requirements identified in the IRP context.**

CalCCA provides no recommendation at this time.

- 33. Comment on any other aspects of the Phase 1 recommendations in the Procurement Framework Staff Proposal not already addressed in your responses to prior questions.**

CalCCA provides no recommendation at this time.