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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

**REPLY COMMENTS OF THE CALIFORNIA COMMUNITY CHOICE
ASSOCIATION ON TRACK 3B.1 AND TRACK 4 REVISED PROPOSALS**

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Pursuant to the December 11, 2020, *Assigned Commissioner's Amended Track 3B and Track 4 Scoping Memo and Ruling* (Scoping Memo), the California Community Choice Association¹ (CalCCA) respectfully submits these Reply Comments on the March 12, 2021, opening comments on the Track 3B.1 and Track 4 Resource Adequacy (RA) proposals submitted by stakeholders on January 28, 2021.

I. INTRODUCTION

CalCCA appreciates the opportunity to reply to stakeholders' Track 3B.1 and Track 4 Revised Proposals, which address near-term, interim RA reforms pending the implementation of a more permanent framework through Track 3B.2. These reply comments address opening comments regarding (i) RA penalties, (ii) changes to the ELCC methodology, and (iii) proposals related to demand response (DR) resources, which were the subject of proposals in both Track 3B.1 and Track 4. CalCCA concludes as follows:

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.

- System and flexible RA waiver processes are critical to mitigate market power in today’s severely constrained market conditions;
- The California Public Utilities Commission (Commission) should not make hasty changes to the penalty structure, particularly under current market conditions; and
- Waivers are a fair and necessary component of the RA market and cautions against hasty increases in penalties without further analysis.

II. THE COMMISSION SHOULD DIRECT THE DEVELOPMENT OF A SYSTEM AND FLEXIBLE WAIVER PROCESS AND LIMIT ANY NEAR-TERM CHANGES IN PENALTY STRUCTURE

In its opening comments on the Track 3B.1 and Track 4 Revised Proposals, CalCCA stated its support for modifications of the penalty structure to improve the incentives the penalties provide for compliance. Specifically, CalCCA supported “AReM’s proposed penalty rebate and a moderate 10 percent increase in penalties as proposed by Staff *provided* that the Commission contemporaneously adopts a system and flexible penalty waiver framework. More seismic shifts, however, should be deferred to a new sub-track for consideration in the context of existing market and regulatory conditions and coordination with the implementation of the Power Charge Indifference Adjustment (PCIA) Working Group 3 RA allocation.”²

Other stakeholders disagreed. In opening comments filed on March 12, Cal Advocates stated that “the Commission should not consider a system RA waiver process, as any such waivers would render enforcement of the RA program essentially powerless and [pose] a risk to system-wide grid reliability”³ Cal Advocates also advocates implementing the Pacific Gas and Electric Company (PG&E) penalty proposal⁴, which would create a "points" system where LSEs

² *Opening Comments Of The California Community Choice Association On Track 3B.1 And Track 4 Revised Proposals*, Mar. 12, 2021 (CalCCA Comments), at 6.

³ *Comments of the Public Advocates Office on Track 3B.1 and Track 4 Proposals* (Cal Advocates’ Comments), at 35.

⁴ *Id.* at 34-35.

accrue points for each month of RA deficiency and receive penalties that increase as more points are accrued.⁵

CalCCA disagrees with Cal Advocates' assertion that waivers make the RA program powerless, as this ignores the realities of the market. Additionally, CalCCA cautions against a hasty implementation of PG&E's overly punitive penalty structure -- a blunt instrument that is likely to cause disruption in already constrained and uncertain RA market.

A. Cal Advocates' Opposition to a Waiver Process Ignores Current Market Conditions and Overlooks the Commission's Discretion in Granting Waivers

Cal Advocates' opposition to a system and flexible waiver process ignores the current market conditions that compel implementation of such a system and flexible RA waiver process. Energy Division has identified RA market scarcity in two consecutive RA reports. In a January 2020 ED report, Staff concluded that "some LSEs reported being unable to identify available capacity at any price."⁶ In the 2019 Resource Adequacy Report issued in March 2021, Energy Division provided further evidence of market scarcity. According to this report:

While new resources were added during 2019, the overall capacity that can be used to meet LSEs' RA requirements decreased due to retirement of 650 MW of older gas and cogeneration facilities. This was partially offset by 392 MW of new resources, but overall, 2019 saw a decrease in available capacity.⁷

In an increasingly constrained market in which LSEs have failed to procure RA despite best efforts, failing to implement a system RA waiver process serves no purpose. The absence of

⁵ *Ibid.* See also Track 3.B.1/Track 4 workshop, PG&E's Thursday Feb 25th presentation, Escalating Penalties Framework for RA Deficiencies Track 3B.1 Proposal (R.19-11-009), at 92. Available at:

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/Track%204%20Track%203B1%20RA%20Workshop%20Slides%2020210225.pdf

⁶ *The State of the Resource Adequacy Market - REVISED* issued Jan. 13, 2020, at 40. Available at <https://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=6442463739>

⁷ *2019 Resource Adequacy Report*, at 4 (emphasis added). Available at <https://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=6442468127>

such a process will simply drive up compliance costs without an increase in the actual capacity available to serve load. Additionally, market conditions are evolving, and the state of the RA market in the near term is still unknown. For example, the Commission’s February 22 Ruling in R.20-05-003 proposes incremental procurement of over 7 GW by 2026.⁸ It is unknown which LSEs will receive what allocation of this procurement; as a result, the markets have a high degree of uncertainty.

These market conditions create an opportunity for the exercise of market power by suppliers. Indeed, without a waiver process, LSEs will face suppliers well-positioned to use their market power to extract unreasonable rents from LSEs and their customers. The only alternative available to an LSE – an alternative that is not favored by CalCCA – will be to reject outlying market prices and face non-compliance penalties under the Commission’s RA program. Either outcome will unnecessarily increase customer’s costs. A system and flexible RA waiver – like the existing local RA waiver – would offer a “safety valve” by enabling Staff to examine the circumstances leading to non-compliance and address LSEs’ compliance based on the underlying market activity.

In addition to ignoring market conditions, Cal Advocates’ assertion that a waiver process would “render enforcement of the RA program essentially powerless...”⁹ overlooks the Commission’s discretion in granting waivers. The existence of a waiver process does not mean that the Commission must grant them; the Commission may do so if the LSE has made reasonable efforts to procure the needed capacity but failed due to scarcity or an exercise of

⁸ *Administrative Law Judge’s Ruling Seeking Feedback On Mid-Term Reliability Analysis And Proposed Procurement Requirements*, Feb. 22, 2021, at 18.

⁹ *Comments of the Public Advocates Office on Track 3B.1 and Track 4 Proposals* (Cal Advocates’ Comments) at 35.

market power by suppliers in its procurement efforts. In other words, a waiver is not a free pass as Cal Advocates implies.

For these reasons, CalCCA supports a separate sub-track to develop implementation details for a system and flexible RA waiver process.

B. If the Commission Increases Penalties without Further Consideration, It Should Limit the Increase to 10 Percent as Proposed by Staff

Cal Advocates supports PG&E's proposed penalty escalation.¹⁰ An immediate escalation in the constrained market conditions will only increase costs to ratepayers. Any penalty increase thus should be limited to 10 percent as proposed by Staff. Further consideration of other penalty structures should be deferred to a separate sub-track.

The purpose of a penalty should be to drive compliance where compliance is feasible (*i.e.*, where RA capacity exists at a reasonable price, and an LSE failed to make reasonable efforts to procure it). CalCCA agrees that the price of a penalty should be higher than the “opportunity cost” of simply procuring the capacity at a reasonable price, and that willingly deciding to take a penalty when capacity is available should not be a valid compliance strategy. Indeed, CalCCA agrees conceptually with the idea that the current penalties are too low and may not sufficiently incent compliance in the current tight market. Recognizing this problem, CalCCA supports an increase in penalties of 10 percent consistent with Staff's proposal,¹¹ but only *if a* system and flexible RA waiver process is contemporaneously implemented. This is a gradual approach intended as a directionally correct, “least-regrets” interim solution that would not further disrupt the constrained and uncertain RA markets pending the addition of resources in response to D.19-11-016.

¹⁰ Cal Advocates' Comments, at 35.

¹¹ CalCCA Comments, at 11.

III. THE COMMISSION SHOULD ADOPT CALCCA'S PROPOSAL FOR MARGINAL ELCC AND CLARIFY THE TIMING FOR SETTING ELCC

In its opening comments to this proceeding, CalCCA supported a transition to marginal ELCC, but disagreed with Energy Division's proposal to immediately give solar resources zero value.¹² CalCCA would like to take this opportunity in reply comments to ask the Commission to make the following clarifications to the ELCC methodology.

CalCCA asks that the Commission affirm that both marginal (for new resources) and average (for existing resources) ELCCs be "locked in" for the resource and stay constant for the life of the asset. The ELCC value for existing resources would be locked in at the average ELCC value calculated when the CPUC implements this policy and would be locked in for marginal resources based upon the ELCC calculation at the time the resource reaches commercial operation. There is both a policy and an analytical justification for this. From a policy perspective, renewable developers must be given certainty about the capacity contributions of the resources they add to the grid. This means that the Commission cannot change the marginal ELCC value after contracts are signed—doing so would create uncertainty that would discourage participation in the markets. From an analytical perspective, using average ELCC for existing resources and marginal ELCC for new resources already accounts for the change in grid reliability from adding new resources, and obviates the need for any recalculation of a resource's ELCC (average or marginal for the life of the asset).

CalCCA notes that if the Commission calculates average ELCC for all of the existing resources at a point in time, that average is accounting for grid conditions at that time (load, solar penetration, diversity, etc.). Marginal ELCC should account for the grid conditions at the time of the new installation. In other words, the average ELCC that was provided to existing resources

¹² CalCCA Comments, at 19-20.

will not change since the marginal ELCC study already accounts for all changes since then due to any grid condition changes (load and resource additions). Similarly, any resource receiving a marginal ELCC value should not have that value change in the future as any new ELCC study will account for changes since the last study.

IV. GIVEN THE STRUCTURAL CHANGES BEING CONSIDERED IN RA TRACK 3B.2, THE COMMISSION SHOULD FOCUS ON LONG TERM RA REFORM

Southwestern Power Group II, LLC (SWPG) advocates that the Commission “consider adopting geographically-based ELCC values for the 2022 RA year to improve RA counting accuracy.”¹³ While CalCCA agrees that locational ELCCs would provide a more precise measure of reliability, CalCCA recommends that RA Track 3B2 is the more appropriate venue for considering the capacity value of resources in the context of broader reform. Finally, CalCCA notes that the joint proposal of CalCCA and SCE does indeed address this very issue in recommending location specific renewable profiles to address expected energy output from wind and solar resources.

V. THE COMMISSION SHOULD NOT LOWER THE DR MCC BUCKET CAP AND SHOULD ADOPT PG&E’S PROPOSALS TO ESTABLISH A WORKING GROUP TO DEVELOP A CONSENSUS DR EVALUATION FRAMEWORK

Parties have diverse opinions on the numerous proposals related to DR resources raised in Track 3B1 and 4. Broadly, the proposals consider revisions to DR counting methodologies, performance requirements, and eligibility caps. CalCCA agrees with PG&E and SCE that a working group process is appropriate to consider changes to the Qualifying Capacity (QC) value for DR and to develop a consensus evaluation framework in the context of broader RA reform. This process, however, should not impede the adoption of a QC value for BTM hybrid and storage resources, which have operational and performance characteristics more similar to their

¹³ *Southwestern Power Group II, LLC Comments on Revised Track 3B.1 Proposals*, at 4.

front-of-meter counter parts than conventional demand response. While further consideration of the range of DR QC proposals is warranted, proposals aimed at further limiting the eligibility of DR resources to contribute to RA requirements should be dismissed. CalCCA agrees with SCE that the 8.3 percent cap for the DR MCC bucket should not be reduced as it does not address concerns related to DR counting or performance, is likely to negatively affect the growth of DR resources and runs counter to efforts underway in R.20-11-003 to enhance the ability of demand side resources to address grid needs.

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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