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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Senate Bill 520 and Address Other Matters Related to Provider of Last Resort.	R.21-03-011

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S REPLY COMMENTS ON ORDER INSTITUTING RULEMAKING TO IMPLEMENT SENATE BILL 520 AND ADDRESS OTHER MATTERS RELATED TO PROVIDER OF LAST RESORT

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SUMMARY OF RECOMMENDATIONS

- A POLR of short duration with reliance on LSEs to meet long-term policy and reliability goals is the most effective mechanism avoiding complicated and potentially conflicting procurement and cost allocation.

- Concerns over the potential need for a POLR does not justify anti-competitive practices as suggested by some stakeholders and should be rejected by the Commission.

- The Commission does not have jurisdiction to mandate specific hedging practices by some LSEs nor has such a practice proven to be necessary.

- The scope of this OIR must remain with those elements necessary to implement Senate Bill 520 and make the POLR effective. Any changes to policy from other proceedings should be raised within those other proceedings.

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The California Community Choice Association[1] (CalCCA) submits these Reply Comments in response to the *Order Instituting Rulemaking To Implement Senate Bill 520 and Address Other Matters Related To Provider Of Last Resort* (OIR), issued March 25, 2021, pursuant to Rule 6.2 of the California Public Utilities Commission's (Commission's) Rules of Practice and Procedure and the directives provided by the OIR.

I. INTRODUCTION

CalCCA limits its Reply Comments to issues not addressed in its opening comments. CalCCA continues to support the positions taken in its opening comments and clarifies how those comments should be viewed in light of other stakeholder comments. In addition, these comments discuss elements raised in opening comments that the Commission should reject.

[1] California Community Choice Association represents the interests of 23 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, Sonoma Clean Power, Valley Clean Energy, and Western Community Energy.

II. THE MOST EFFECTIVE WAY TO MEET POLICY AND RELIABILITY GOALS IS THROUGH LSES THAT STAND READY TO SERVE CUSTOMER NEEDS

A number of parties comment on the duration of service that a customer should be a customer of the Provider of Last Resort (POLR).[2] Indeed, the Commission can most effectively ensure achievement of reliability and environmental goals (*e.g.,* Resource Adequacy (RA), Integrated Resource Planning (IRP), Renewable Portfolio Standard (RPS), etc.) by relying on load-serving entities (LSEs) who can forecast and procure for the customer needs while meeting such requirements. Those not mentioning duration find that there is much to be debated about how the POLR procures, including term length, and how costs are allocated in such events.[3] This inevitably leads to forward procurement of the POLR, who may not ever serve any load, compete directly with those LSEs that do have a service obligation. To avoid long-term procurement by the POLR after a customer is placed in their service, the best strategy is to have that customer returned expeditiously to an active LSE, or to allow the customer to be served by another LSE before being placed in the service of a POLR.

Given the short duration nature of such a service, some waivers for compliance obligations may be necessary for the POLR. For example, Southern California Edison Company (SCE) recommends that the POLR be allowed to allocate costs for year-ahead RA compliance

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[2] *San Diego Gas & Electric Company (U 902 E) Comments on Order Instituting Rulemaking*, Apr. 26, 2021, at 3-4; *Opening Comments of Pacific Gas and Electric Company (U 39 E) on Order Instituting Rulemaking to Implement Senate Bill 520 and Address Other Matters Related to Provider of Last Resort* (PG&E Comments), Apr. 26, 2021, at 8-9; *Opening Comments of Southern California Edison Company (U 338-E) on the Order Instituting Rulemaking to Implement Senate Bill 520 and Address Other Matters Related to Provider of Last Resort* (SCE Comments), Apr. 26, 2021, at A-1 (with regard to involuntary return); and *Comments of the Direct Access Customer Coalition, The Regents of the University of California and Alliance for Retail Energy Markets on Rulemaking to Implement Senate Bill 520*, Apr. 26, 2021, at 10 (addressing customers' desire to make a choice to leave POLR within 6 months).

[3] *See, e.g., Comments of the Public Advocates Office on the Order Instituting Rulemaking to Implement Senate Bill 520 and Address Other Matters Related to Provider of Last Resort* (Cal Advocates Comments), Apr. 26, 2021, at 4-24.

costs.[4] If the duration of service is kept to a short duration, then it is possible that a customer for which the POLR procured RA to meet a year-ahead obligation may well be served by an active LSE prior to the January monthly showing. In this case, the new LSE would be obligated to procure sufficient RA to meet that customer's load plus planning reserve margin in addition to whatever RA was already procured by the POLR. This type of costly over-procurement should be avoided. Instead, the POLR should limit its procurement to spot energy purchases from the California Independent System Operator (CAISO) markets and short-term monthly RA procured bilaterally. The POLR should be eligible for a waiver of RA and RPS requirements in such circumstances in order to recognize the aim of this structure.

III. THE COMMISSION SHOULD NOT ADOPT ANTI-COMPETITIVE PRACTICES IN THE PURSUIT OF ADDRESSING THE POLR STRUCTURE

In its comments, Southern California Edison Company (SCE) recommends:

> Another mitigation measure is caps on departing load. Today, ESP service remains capped because of the 2000-01 energy crisis, during which load migration caused significant service continuity and cost shifting risks. However, CCA service is wholly uncapped. Capping CCA service similar to ESP service today and/or allowing only so much load to migrate to CCA service year over year, is another means of mitigating – to some extent – the risk of unplanned migrations to POLR service.[5]

While it is self-evident that without any competitive LSEs, there is no need to address the return of customers unplanned or otherwise. However, the ability of customers and their communities to choose their supplier was established by statute and cannot be limited by this Commission. Moreover, the number of community choice aggregators (CCAs) today speaks to the importance of this alternative to cities seeking to conform their energy procurement to meet local goals. SCE's comments should be rejected.

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4 SCE Comments, at 2-3.

5 *Id.* at A-3, fn. 5.

Similarly, Pacific Gas and Electric Company (PG&E) asks that the scope include:

> Equitable allocation of the costs borne by the POLR, both to mitigate risks of a migration and following an actual migration of customers. This may include a requirement that departed load customers contribute in advance to an "insurance pool" to cover the short-term incremental costs associated with a possible migration to the POLR.[6]

PG&E's proposal to charge the cost of this "insurance" to departing load would erect yet another barrier to customers and communities wishing to choose an energy provider other than the investor-owned utility. In addition, this approach departs from long-standing principles of cost causation and shifts costs among customers.

Finally, the Public Advocates Office (Cal Advocates) recommends:

> The Commission should require CCA Joint Powers Authorities (JPAs) to hold bonds against risks of nonperformance of existing contractual obligations, Commission-issued citation penalties, and other regulatory obligations.[7]

As a preliminary matter, CCAs are already responsible to hold financial security for certain costs. Moreover, there is no evidence to suggest that it is significantly different in the risk of non-performance when compared to any other entity in the market. Requiring bonding without evidence of a need would erect barriers to the provision of services to customers and should not be pre-supposed as necessary.

The Commission must reject the anti-competitive practices and counterproductive measures suggested by SCE, PG&E, and Cal Advocates. The allocation of costs to those that cause a cost to be incurred can be implemented such that limitations on customers taking CCA service or imparting costs on the assumption that those customers may causes costs is not necessary.

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6 PG&E Comments, at 5.

7 Cal Advocates Comments, at 2.

IV. HEDGING RECOMMENDATIONS ARE MISPLACED AND PRACTICES MISUNDERSTOOD

PG&E and the Utility Consumers Action Network (UCAN) recommend that the Commission have additional oversight of the hedging practices of Electric Service Providers (ESPs) and CCAs.[8] Both parties point to an Energy Division Staff (Staff) report in the Resource Adequacy proceeding (R.19-11-009) noting a decline in tolling agreements in favor of RA-only contracts. The Commission must recognize that tolling agreements are but one form of hedging. Indeed, Staff's noted trend is true of all LSEs including the IOUs. At the same time, each IOU has a bundled procurement plan that addresses hedging and to CalCCA's knowledge, none of the IOUs have been found to be in violation of their hedging requirements despite their own reductions in tolling agreements.

CCA likewise have elected officials that oversee their procurement practices. The decisions of the type and extent of hedging that should be performed lies squarely within their purview. In addition, customers of the CCA are not franchise customers as is the case of the IOU. A customer may choose to leave a CCA that over or under hedges its risk and may take service from another provider.

V. THE PUBLIC ADVOCATES OFFICE VEERS OUTSIDE THE SCOPE OF THIS PROCEEDING AND PROPOSES TO RELITIGATE SETTLED MATTERS

Cal Advocates has a number of recommendations for this proceeding that are either unclear or are more appropriately addressed in a different proceeding. The following is a brief discussion of those issues.

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[8] *See* PG&E Comments, at 13-14; and *Comments of the Utility Consumers' Action Network on The Order Instituting Rulemaking to Implement Senate Bill 520 and Address Other Matters Related to Provider of Last Resort*, Apr. 26, 2021, at 3-4.

- *The POLRs should be subject to substantial obligations including terms of service, connection, reconnection, resource procurement, and rate design parameters, met in a fair and reasonable manner*.[9]

Connection and disconnection are a responsibility of the utility distribution company. This role is separable from the role of any LSE whether an IOU, POLR, ESP, or CCA. The Commission should reject this proposal.

- *The Commission should adopt permanent backstop procurement mechanisms in the integrated resource planning (IRP) proceeding, such as procurement by a central buyer, with clear cost allocation requirements*.[10]

While the Commission does ask which proceedings should inform or coordinate with this OIR,[11] the Commission should not make decisions here that are more appropriately debated and developed in their own proceeding. The Commission should consider how the IRP processes inform this proceeding but should find this recommendation from the Public Advocates Office out of scope.

Cal Advocates also seeks to relitigate the Financial Security Requirement (FSR) proceeding, with several out-of-scope proposals:

- *If a POLR needs to procure additional RA capacity due to an LSE failure, those procurement costs should be recovered through the Financial Security Requirement (FSR) structure. This list of obligations is not exhaustive, but is included to demonstrate the breadth of obligations for which a POLR would need to submit to direct regulation by the Commission.*

- *The Commission should not allow negative procurement cost estimates to offset incremental administrative cost estimates in the calculation of the FSR amount.*

- *If the Commission allows negative procurement offsetting to remain in place, the Commission should substantially raise the minimum FSR*.[12]

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9 Cal Advocates Comments, at 1 (footnote omitted).
10 *Id.* at 1.
11 *Order Instituting Rulemaking to Implement Senate Bill 520 and Address Other Matters Related to Provider of Last Resort*, March 25, 2021, questions 18-20.
12 Cal Advocates Comments, at 1-2.

Similar to the preceding recommendation from Cal Advocates, the FSR and the proceeding establishing the FSR are informative in this proceeding. However, any re-litigation of the level of the FSR should occur within the appropriate proceeding and not within this OIR.

VI. CONCLUSION

For all the foregoing reasons, CalCCA requests that the Assigned Commissioner and Administrative Law Judge allow LSEs to effectively serve customer needs without taking actions that will erect barriers unnecessarily to retail access or that make the provision of energy services to customers unnecessarily expensive.

Respectfully submitted,

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