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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Forward Resource Adequacy Procurement Obligations.	R.19-11-009

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S COMMENTS ON THE PROPOSED DECISION

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SUMMARY OF RECOMMENDATIONS

- Given current market and regulatory conditions, the Commission should forego significant and increasingly punitive changes to the system Resource Adequacy penalty framework and adopt a waiver process for load-serving entities taking commercially reasonable actions to procure sufficient system and flexible Resource Adequacy.

- The Commission should not adopt a Resource Adequacy imports proposal that creates further uncertainty around the ability for import capacity to meet Resource Adequacy obligations by introducing an ex-post compliance check on actions outside the control of the load-serving entity.

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S COMMENTS ON THE PROPOSED DECISION

The California Community Choice Association[1] (CalCCA) submits these comments pursuant to Rule 14.3 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure on the proposed *Decision Adopting Local Capacity Obligations for 2022-2024, Flexible Capacity Obligations for 2022, and Refinements to the Resource Adequacy Program* (Proposed Decision), filed May 21, 2021.

I. INTRODUCTION

CalCCA commends the Commission's consideration of the many important Resource Adequacy (RA) program reforms proposed within Track 3B.1 and Track 4. Given that the Commission is considering more permanent, large-scale changes in Track 3B.2, CalCCA appreciates the limited scope of changes in this Proposed Decision. Narrowing the proposed reforms rightly avoids implementing changes that will no longer be relevant once Track 3B.2 concludes and that

[1] California Community Choice Association represents the interests of 22 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, and Valley Clean Energy.

will take resources away from the important reforms necessary within Track 3B.2. CalCCA generally supports the Proposed Decision; however, CalCCA requests the Commission make the following necessary improvements:

- Adopt a waiver process for load-serving entities (LSEs) taking commercially reasonable actions to procure sufficient system and flexible RA, rather than place increasingly punitive penalties on LSEs who demonstrate reasonable efforts to comply; and
- Defer adoption of the ex-post compliance review proposal, and instead direct parties to develop a compliance proposal that does not find LSEs deficient for actions outside their control and provides certainty regarding an LSE's compliance prior to the RA compliance month.

II. THE COMMISSION SHOULD ADOPT A WAIVER PROCESS FOR LSES TAKING COMMERCIALLY REASONABLE ACTIONS TO PROCURE SUFFICIENT SYSTEM AND FLEXIBLE RA

A. The Proposed Decision adopts significant changes to the existing penalty structure without considering current market and regulatory conditions

The Proposed Decision adopts Pacific Gas and Electric Company's (PG&E's) point and tier penalty structure proposal for system RA deficiencies. Under this structure, points would accumulate for each month with a deficiency; with deficiencies in summer months resulting in 2 points and deficiencies in winter months resulting in 1 point. The applicable system RA penalty price would be multiplied by a factor of 1, 2, or 3 depending on the tier the LSE is assigned based on the number of points it accrues. If an LSE's deficiency is less than 1% of the LSE's system RA requirement, the penalty still applies but no points will be accrued. Points accrued within an RA compliance year will be carried over into the next RA compliance year and an LSE's points will be removed after 24 months without a deficiency.

In opening comments on Track 3B.1 and Track 4 revised proposals, CalCCA expressed support for limited modifications to the existing RA penalty structure to prevent LSEs from relying on penalties as a compliance strategy, provided the Commission also adopts a system and flexible penalty waiver framework and a moderate implementation timeline (i.e., effective for 2024 RA compliance year) to give time for additional procurement to take place.[2] However, the Proposed Decision adopts extensive changes and places increasingly punitive consequences on LSEs without any mention of a waiver process to accompany the changes. This fails to consider the root causes of LSE deficiencies: scarce market conditions and regulatory decisions that hinder LSEs' ability to meet their system RA obligations. Adopting the Proposed Decision as is will result in increased customer costs without any incremental reliability benefit, given these root causes have yet to be fully addressed. As such, the Commission should defer adoption of the revised penalty framework and instead modify the Proposed Decision to include a system and flexible RA waiver process that grants waivers to LSEs that demonstrate reasonable effort to meet their obligations.

1. Increasing penalties does not address tight RA supply and capacity market power

In the Proposed Decision, the Commission states it has observed an increasing number of LSEs being penalized for system RA deficiencies and cites the current penalty structure as inadequate in deterring LSEs from repeat deficiencies.[3] As CalCCA explained in its comments to PG&E's revised proposal, the increased number of LSE deficiencies is not a function of inadequate penalties but instead a function of RA market tightness and regulatory decisions that hinder LSEs' ability to meet their system RA obligations despite taking reasonable actions to procure.[4] The Proposed Decision does not address either of these factors, and instead increases the magnitude of penalties, which will not address the root cause of the deficiencies or achieve the Commission's objective of decreasing the number of deficient showings.

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[2] *Opening Comments of the California Community Choice Association on Track 3B.1 and Track 4 Revised Proposals*, Mar. 12, 2021 (CalCCA Opening Comments), at 6.

[3] Proposed Decision, at 58.

[4] CalCCA Opening Comments, at 6-9.

As CalCCA highlighted in its comments on the RA Track 2 Proposed Decision[5], the Commission adopted the local RA waiver on two grounds: to address significantly increased costs or the exercise of market power[6],[7] and to prevent making LSEs that are unable to contract for sufficient local RA to meet their requirement "subject to both backstop procurement costs and potential penalties." Both factors also apply to system RA today.[8] It is worth noting that both Western Community Energy (WCE) and San Diego Community Power (SDCP) filed and received waivers for their respective 2021 local RA showings. San Jose Clean Energy (SJCE) also filed and received a waiver for their 2020 local RA showing. In part, the approvals were based upon the fact that the LSEs "held solicitations and pursued all commercially reasonable efforts to acquire the resources needed to meet the LSE's local procurement obligation".[9] However, at the same time under the same circumstances, the Commission cited the LSEs for system RA deficiencies for the same RA year they received their local waiver. Due to the lack of a formal waiver process, LSEs are currently pursuing appeals of their respective penalties.

The appeal process is both burdensome and insufficient. Citation appeals burden the Commission and the LSEs' resources because they are adjudicatory proceedings that require

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5 *California Community Choice Association Comments on the Proposed Decision Adopting Local Capacity Obligations For 2021-2023, Adopting Flexible Capacity Obligations For 2021, and Refining the Resource Adequacy Program*, June 11, 2020 (CalCCA Comments on the RA Track 2 Proposed Decision), at 2-5.

6 D.06-06-064, Conclusion of Law 27 at 86 ("A waiver process is necessary as a market power mitigation measure, and should therefore be adopted as a component of the Local RAR program.").

7 D.04-10-034 at 15 ("We understand the need to provide mechanisms to pay competitive market costs to new and continuing suppliers. However, we will not "pay any price" or require utilities to sign contracts that meet these requirements at any cost. The memories of the 2000-2001 energy crisis are still fresh in our minds, and the fallout and tremendous costs of that time continue on. We recognize that there is a difference between competitive market costs and prices that arise from the exercise of market power.") footnote omitted.

8 D.06-06-064 at 71.

9 Letter to WCE from Ed Randolph approving Advice Letter 3-E, Dec. 30, 2020; Letter to SDCP from Ed Randolph approving Advice Letter 1-E, Dec. 30, 2020; Letter to WCE from Ed Randolph approving Advice Letter 3-E, June 1, 2020.

preparation and consideration of multiple filings and evidence, evidentiary hearings, draft resolutions, public comments on the resolutions, and in some cases, rehearing applications.[10] These proceedings also take considerable time to sort through; SJCE's appeal to citation E-4195-0052 took one year and a half to be completed.[11] WCE and SDCP appeals were filed in March of 2021 and SDCP's current schedule goes through at least August of 2021[12] while WCE's current schedule goes through at least November of 2021.[13]

The appeal process is also insufficient to address current RA market conditions. In fact, in citation appeal proceedings, the Commission has rejected market conditions to excuse a citation for system RA deficiencies, even when RA was not available[14] or when procuring RA was commercially impracticable.[15] The Commission does not consider the totality of circumstances when assessing an appeal.[16] More importantly, the Commission has indicated that the citation appeal process is not the proper forum to consider "waivers to system and flexible RA requirements on the basis of a tightening RA market."[17]

Penalties and waivers are intrinsically linked and two sides of the same coin. The former ensure compliance with the RA requirements, while the latter avoid abuse of market power. The Commission should not increase penalties without fully understanding the market forces that are leading to increasing deficiencies. The Commission has recognized that "a tightening RA market may necessitate system and flexible RA waivers for circumstances beyond the control of an

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10 See, e.g., *Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division*, Appeal K.19-03-024.

11 SJCE filed its Notice of Appeal on March 29, 2019. Resolution ALJ-382, resolving the citation appeal, was issued on September 18, 2020.

12 *Email Ruling Setting Schedule and Requesting Information*, Appeal K.21-03-005, Apr. 16, 2021.

13 *Email Ruling Ordering Joint Response*, Appeal K.21-03-006, Apr. 2, 2021.

14 Resolution ALJ-382, at 5.

15 Resolution ALJ-406, at 6.

16 *California Community Choice Association Motion for Party Status*, Appeal K.19-03-024, May 14, 2020.

17 Resolution ALJ-406, at 8.

individual LSE" but has deferred the adoption of such waivers because "there remain significant, unresolved issues that require further consideration … including potential leaning by LSEs and market power issues. Such market power issues may include potential gaming by generators that may, for example, withhold capacity during more expensive peak months"[18] These issues remain unresolved. However, the Commission has decided to increase penalties, which would only address the first of these issues (LSEs leaning) but would do nothing to mitigate the second (market power). Adopting higher penalties without a corresponding waiver for system and flexible RA would create a significant imbalance in the market, greatly favoring suppliers and priming the conditions for market power abuse.

The California Independent System Operator's (CAISO's) Stack Analysis shows that total System RA capacity is very limited, with little or no excess in the system over coming years.[19] Therefore, LSE deficiencies are best solved through the Integrated Resource Planning (IRP) process and additional resources coming online, and not through increased penalties on LSEs with limited options for compliance. This is because penalizing LSEs who, despite commercially reasonable efforts, are unable to meet their requirements will not add capacity to the market in the near term. Until the supply margin increases in the RA market, it will remain difficult if not impossible to obtain RA contracts that fulfill obligations at a reasonable price. In a tight RA market without a waiver process in place, increased penalties will simply result in a transfer of wealth from LSEs to suppliers. When the penalties for RA shortages are near the cost of new entry, LSEs are incentivized to invest in new resources rather than existing resources. Given the time it takes for new resources to come online, RA prices will go up in the meantime, and wealth will transfer from LSEs to suppliers until new resources come online. For this reason, the Commission should use the IRP as the appropriate venue to develop and equitably allocate the development of new resources in a timely

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18 *Decision Adopting Local Capacity Obligations for 2020-2022, Adopting Flexible Capacity Obligations for 2020, and Refining the Resource Adequacy Program*, June 27, 2019 (D.19-06-026), at 18.

19 *Testimony of Jeff Billinton On Behalf of the California Independent System Operator*, Rulemaking (R.) 20-11-003, Jan. 11, 2021, Table 2 at 12.

manner such that the RA penalty is not attempting to create a market for new resources. Increasing penalties on LSEs whose compliance is impaired by supply limitations will only increase customer costs without providing any incremental reliability benefit.

Additionally, CalCCA has significant concerns that market power exists in the RA market, such that increasing the penalty prices will only further drive up the cost of RA without resulting in additional resources shown. The Commission previously rejected CalCCA's proposal for a system waiver in Track 2 on the grounds that "a system and flexible waiver process requires further development and study,"[20] noting in particular concerns regarding "potential leaning by LSEs and market power issues."[21] Since then, no study has been conducted on market power issues in the RA capacity market specifically. However, the CAISO's Department of Market Monitoring (DMM) routinely assesses the competitiveness of the CAISO's energy markets using a residual supply index.[22] DMM found in their 2020 Fourth Quarter Report on Market Issues and Performance roughly 300 hours with an uncompetitive level of supply in the third quarter of 2020 when the three largest suppliers were removed and 150 hours with an uncompetitive level of supply in the fourth quarter. Both of these numbers are higher than those for the third and fourth quarters of the previous four years.[23] While this analysis is indicative of structural uncompetitiveness in the energy market, it is reasonable to assume that if the energy market is uncompetitive in up to 300 hours then it would be difficult for LSEs to procure sufficient resources in the RA market, where LSEs are required to procure up to 1-in-2 peak load plus a 15 percent planning reserve margin. CalCCA asks the

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20 Proposed *Decision Adopting Local Capacity Obligations For 2021-2023, Adopting Flexible Capacity Obligations For 2021, and Refining the Resource Adequacy Program*, May 22, 2020, at 58.

21 *Id.* at 59.

22 The residual supply index is the ratio of supply from non-pivotal suppliers to demand.

23 DMM 2020 Fourth Quarter Report on Market Issues and Performance at 111-112. http://www.caiso.com/Documents/2020-Fourth-Quarter-Report-on-Market-Issues-and-Performance-April-28-2021.pdf

Commission to further examine the issue of market power as it applies specifically to the RA market. In the meantime, adopting a waiver process for system and flexible resource adequacy is consistent with Commission's long-standing commitment to "ensure that LSEs are not placed in a position whereby they would have to pay any price to acquire the capacity needed for their RA obligations."[24]

2. The recent decision on the Power Charge Indifference Adjustment further exacerbates challenges non-IOU LSEs face in meeting system RA requirements

The Commission's failure to address the allocation of RA attributes from resources procured in investor-owned utility (IOU) Power Charge Indifference Adjustment (PCIA) portfolios further exacerbates the challenges non-IOU LSEs face in meeting their system RA obligations. The IOUs' "right of first refusal" to all resources within their PCIA portfolio significantly limits other LSEs' access to RA attributes and puts them at disproportionally greater risk of non-compliance. The Commission's recent decision, Decision (D.) 21-05-030, failed to adopt any changes that would give fair access to RA products in the PCIA portfolio, including the Working Group 3 proposal that would have provided pro rata access to all customers based on their cost responsibility.[25] This decision makes the proposed penalty structure wholly inequitable, given certain LSEs do not have access to a large portion of the RA fleet. This, combined with the already tight RA market conditions, makes it unreasonable to expect more punitive penalties to achieve the desired result of reducing LSE deficiencies.

24 D.05-10-042 at 66.

25 *Phase 2 Decision on Power Charge Indifference Adjustment Cap and Portfolio Optimization* (D.21-05-030), May 20, 2021.

B. The Commission should only apply system RA penalties to LSEs who fail to seek a system RA waiver or fail to demonstrate reasonable commercial efforts to meet their system and flexible obligations

For all the reasons outlined above, increasing the penalties to deficient LSEs will not, on its own, achieve the Commission's objective of reducing the number of deficient LSEs. Instead, the Commission should institute a system waiver process to avoid penalizing LSEs that demonstrate reasonable efforts to comply and address the capacity shortfall issues that cause LSEs to be deficient in the first instance.

The Commission should adopt a system and flexible waiver process that closely examines compliance efforts and only grants a waiver if certain criteria are met that prove the LSE took reasonable efforts to procure RA capacity. As outlined in CalCCA's opening comments to the proposal, the waiver process should look at (1) the number of Requests for Offer (RFOs) in which the LSE participated; (2) the number of RFOs issued by the LSE itself; (3) the number and nature of bilateral negotiations; and (4) the prices and terms of any rejected offers. The waiver process should also examine an LSE's level of compliance with any outstanding procurement directives; for example, an LSE that has not materially complied with procurement order milestones for reasons within its control may not be eligible for the waiver. It could also consider the launch dates of new LSEs, taking a different approach to recent launches.[26]

Implementing a system and flexible waiver process that considers these factors presents little risk, given the Commission would not grant any waiver unless the LSE met the above criteria demonstrating reasonable actions were taken to meet their procurement obligations. Additionally, in the event there is system RA left unprocured after the waiver process, the CAISO would continue to have backstop authority to procure such resources and allocate costs to deficient LSEs as they do for

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[26] CalCCA Opening Comments, at 10.

local RA today. The Commission should only apply the penalty structure ultimately adopted to LSEs who fail to seek a system RA waiver or fail to demonstrate reasonable commercial efforts to meet their system and flexible obligations through waiver process.

C. Should the Commission move forward with modifying the penalty structure as proposed, clarification is needed on how points are tallied and tiers are assigned

CalCCA recommends the Commission not adopt the revised penalty structure, particularly without a system and flexible waiver process in place. However, in the event the Commission does move forward, several clarifications are needed. First, it is not clear if points would be tallied for the annual showings in addition to the monthly showings or for the monthly showings only. In the event penalties are applied for the annual showings, it is not clear if deficiencies will be counted as 1 point (or 2 points in summer months) for the single annual showing or for each month that the annual showing is deficient. Second, it is not clear whether the multiplication of the penalty prices is tiered or based on the total points accumulated. For example, if an LSE accumulates 6 points in one year and falls into tier 2, would the LSE pay the tier 2 price for all deficiencies, or would they pay the tier 1 penalty price for deficiencies resulting in points 0-5 and the tier 2 price for the deficiency resulting in point 6? These clarifications are needed if the Commission adopts the revised penalty structure adopted in the Proposed Decision to provide LSEs clarity about how a penalty would actually be assessed. Similarly, the proposed requirement for having points removed only after 24 months of no deficiency may result in overly punitive penalties for entities that have significantly improved on their RA showings. Take, for example, an entity with points that put them in tier 3 after 2022. In 2023 and 2024, they accrue no points until the last month of 2024, when they accrue 1 point. In this scenario, the entity would remain in tier 3 for at least another two years, despite significant improvement. Therefore, CalCCA suggests all points expire after two years from the violation. Since these and other technical issues have yet to be resolved, CalCCA recommends that language of the Proposed Decision be revised to accommodate further technical development through working groups if the penalty proposal is adopted.

III. THE COMMISSION SHOULD NOT ADOPT A RA IMPORTS PROPOSAL THAT CREATES FURTHER UNCERTAINTY AROUND THE ABILITY OF IMPORT CAPACITY TO MEET RA OBLIGATIONS

The Proposed Decision defers consideration of the CAISO's RA import proposal, stating the rules recently adopted in D.20-06-028 have not been in place long enough to sufficiently evaluate their effectiveness. Instead, the Proposed Decision adopts Energy Division's (ED's) compliance proposal in which ED staff will review non-resource specific imports in two steps. In the first step, ED staff will review contracts at the time of filing to assess ex-ante compliance with D.20-06-028. In the second step, ED staff will review bid and self-schedule activity for ex-post compliance with D.20-06-028. Failure to comply with the requirements in step one or step two will result in an LSE deficiency. The Proposed Decision also adopts CalCCA's suggested refinement to the ex-ante assessment that requires ED provide a standard template of the required components to confirm an RA product.[27]

CalCCA supports deferring the consideration of CAISO's RA import proposal at this time. CalCCA previously expressed concern that the proposal's firm transmission requirements present risk of existing firm transmission holders exercising market power and, in turn, increasing costs to consumers without incremental reliability benefit.[28] Lack of liquidity in the firm transmission market puts potential suppliers without firm transmission rights at a significant disadvantage, resulting in a smaller pool of suppliers (the ones that already own or have access to the transmission). If the Commission elects to reconsider the CAISO's RA import proposal, these factors should be carefully considered given the important role RA imports currently play in maintaining grid reliability.

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27 CalCCA Opening Comments, at 17.
28 *Id.*, at 13.

While CalCCA supports deferring consideration of the CAISO's proposal, CalCCA has significant concerns about the proposal adopted that would assess compliance after bids and self-schedules were submitted. Therefore, the Commission should also defer adoption of the ex-post compliance review proposal, and instead direct parties to develop a compliance proposal that does not find LSEs deficient for actions outside their control and provides certainty regarding an LSE's compliance prior to the RA compliance month. Historically, the RA program always provided an LSE with certainty around whether or not it was compliant with its RA obligations following its RA showings but prior to the start of the RA compliance month. Under the proposal adopted in the Proposed Decision, LSEs will be uncertain of their compliance until long after the annual and month ahead showings. Because the submission of bids and self-schedules by RA imports are typically not under the control of the LSE, the LSE would have very limited control over its ability to meet its own compliance obligations.

It is also not clear the proposal offers significant reliability or economic benefits in certain instances. As an example, in comments to ED's proposal, Southern California Edison Company (SCE) highlights the scenario where a resource bids $0.01/MWh, clears the market, and is delivered.[29] In this case, the RA import has provided the energy associated with its RA obligation at a near zero price, but the LSE is still found out of compliance under the proposal adopted in the Proposed Decision, despite no reliability or economic benefit resulting from assigning a deficiency. The Proposed Decision cites the scenario outlined by SCE but does not offer clarity as to if an LSE would be found out of compliance in this case and at what magnitude. CalCCA highlights this example as one instance where an RA import reliably and cost-effectively provides energy backing the RA contract, but the LSE is still found out of compliance for something outside their control.

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[29] *Southern California Edison Company's (U 338-E) Comments on Track 3B.1, 3B.2 and 4 Proposals,* Mar. 12, 2021, at 33.

CalCCA is concerned that introducing such uncertainty at this time will negatively impact overall supply of RA imports as LSEs may be more reluctant to contract with imports given the associated compliance risk. The proposal will increase an LSE's risk associated with import RA contracts given the potential of being found out of compliance for the bidding and self-scheduling practices of the import under contract. If the LSE attempts to place non-compliance risk upon the seller of the import contract for failing to meet the bidding obligations of the Commission, then the risk of failure, potentially due to inadvertent error, will very likely be included in the cost of the contract. In the end, the price of the penalty will likely be borne by the customer without additional reliability benefit. Additionally, it is not clear how expeditiously the review of bidding and self-schedule data will occur and when compliance information around how previous RA import contracts performed will be relayed to the LSE, further increasing uncertainty. The Commission should delay the adoption of the ex-post compliance review until a proposal can be developed that provides upfront certainty of an LSE's compliance, while meeting the objective of reliable, cost effective RA imports.

IV. CALCCA SUPPORTS THE COMMISSION'S RECOMMENDATION TO CONTINUE THE LOCAL CAPACITY REQUIREMENTS (LCR) WORKSHOPS

The Proposed Decision adopts the 2022-2024 LCR values for all local areas, including values for the Greater Bay Area, which have increased substantially for the second year in a row.[30] The Commission finds value in continuing the LCR working group established by the Commission in D.20-06-031 given the substantial increase in the Greater Bay Area LCR requirement, and recommends PG&E and CalCCA co-lead the LCR working group.[31] CalCCA appreciates the Commission's recommendation and looks forward to co-leading workshops to further explore the six

[30] Proposed Decision, at 14.
[31] *Id.,* at 13.

LCR-related topics outlined in the Proposed Decision.[32] As noted in CalCCA's comments on the LCR study, the Commission should also require PG&E to examine alternate solutions to the local area needs identified to determine if the significant increase in local area need for the PG&E Greater Bay Area can be mitigated through improvements to the transmission system.[33]

V. FACTUAL, LEGAL, AND TECHNICAL ERRORS AND CLARIFICATIONS

A. The Commission should clarify when Effective Load Carrying Capacity (ELCC) changes will apply

The Proposed Decision adopts a biennial update schedule to the ELCC methodology and regional ELCC values for wind resources for the upcoming ELCC update.[34] CalCCA requests clarification on when the next ELCC study update will occur and the specific RA compliance year the regional wind and updated ELCC values will apply.

VI. CONCLUSION

CalCCA appreciates the opportunity to submit these comments and requests adoption of the recommendations proposed herein. For all the foregoing reasons, the Commission should modify the proposed decision as provided in Attachment A.

Respectfully submitted,

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June 10, 2021

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32 Ibid.

33 *California Community Choice Association's Comments on Final 2021 LCR Report*, May 7, 2021, at 4.

34 Proposed Decision, at 44.

ATTACHMENT A
Proposed Changes to Findings of Fact, Conclusions of Law and Ordering Paragraphs

FINDINGS OF FACT

12. ~~PG&E's proposed~~ The existing penalty structure is a reasonable mechanism to discourage an LSE's repeated deficiencies through increased penalty prices under current conditions. The penalty structure should be modified to account for very small deficiencies. A system and flexible waiver is reasonable, particularly in the face of persistent system RA market and regulatory conditions.

13. Energy Division's proposed ex-ante compliance review process for non-resource specific imports reasonably sets expectations as to what constitutes a deficiency and establishes a timeframe for final determinations.

CONCLUSIONS OF LAW

13. ~~PG&E's proposed~~ The existing penalty structure should be ~~adopted~~ maintained with a system and flexible RA waiver ~~modification to account for very small deficiencies~~.

14. Energy Division's proposed ex-ante compliance review process for non-resource specific imports should be adopted.

ORDERING PARAGRAPHS

5. The working group shall file and serve a report in this proceeding no later than February 2022 that provides recommendations on the following issues:

    (a) Evaluation of the California Independent System Operator's (CAISO) current reliability criteria in relation to the North American Electric Reliability Corporation (NERC) and Western Electricity Coordinating Council (WECC) mandatory reliability standards;

(b) Interpretation and implementation of CAISO's reliability standards, mandatory NERC and WECC reliability standards, and the associated reliability benefits and costs;

(c) Benefits and costs of the change from the old reliability criteria "Option 2/Category C" to CAISO's current reliability criteria;

(d) Potential modifications to the current Local Capacity Requirement (LCR) timeline or processes to allow for more meaningful vetting of the LCR study results;

(e) Inclusion of energy storage limits in the LCR report and its implications for future resource procurement; ~~and~~

(f) How best to harmonize the Commission's and CAISO's local resource accounting rules~~.~~; and

(g) Alternate solutions to the local area needs identified to determine if the significant increase in local area need for the PG&E Greater Bay Area can be mitigated through improvements to the transmission system.

16. ~~The following penalty structure is adopted for system Resource Adequacy (RA) deficiencies and is added to the current penalty structure:~~

~~**Months**~~	~~**Points for Each Instance of System RA Deficiency**~~
~~Non-Summer (November – April)~~	~~1~~
~~Summer (May – October)~~	~~2~~

~~**Tier**~~	~~**Accrued Points**~~	~~**System RA Penalty Price**~~
~~1~~	~~0-5~~	~~Applicable system RA penalty price~~
~~2~~	~~6-10~~	~~2x the applicable system RA penalty price~~
~~3~~	~~11+~~	~~3x the applicable system RA penalty price~~

~~If a load-serving entity's (LSE) deficiency is less than 1% of the LSE's system RA requirement, no points will be accrued. An LSE that does not have a deficiency for 24 consecutive months shall have all accrued points removed. All accrued points within an RA compliance year shall be carried over to the next RA compliance year. This structure is effective for the 2022 RA compliance year.~~

17. Energy Division's compliance review and approval process for non-resource specific Resource Adequacy (RA) imports is adopted, as follows:

- Step 1: Energy Division Staff reviews contracts at the time of filing to assess "*ex ante*" compliance with contract provisions required by Decision (D.) 20-06-028, and
- ~~Step 2: Energy Division Staff reviews bid and self-schedule activity once data becomes available "*ex post*" to assess whether the resource performed as required by D.20-06-028.~~

~~(1) If Energy Division Staff does not identify any issues with a load-serving entity's (LSE) filing in Step 1 (and there are otherwise no issues with the filing), Staff has the discretion to provisionally approve the filing, subject to final approval after Step 2.~~

(2) If Energy Division Staff identifies an issue with an LSE's filing in Step 1, Staff will treat the resource as if it were not made available to the California Independent System Operator on a Supply Plan. As with other RA resources, a correction or deficiency notice will be issued, depending on if the LSE has enough capacity to meet its RA requirement without the import.

~~(3) If Energy Division Staff does not identify any issues in Step 2,~~ Staff will confirm whether any Step 1 deficiency was cured (if applicable) or approve the filing.

~~(4) If Energy Division Staff identifies an issue in Step 2, Staff will process a deficiency notice. Because the supporting data would be available after the compliance month has passed, Energy Division Staff and the Consumer Protection and Enforcement Division (CPED) are authorized to treat deficiencies in Step 2 as "not replaced" (or not cured) under the existing penalty structure.~~

New Ordering Paragraph: A system and flexible waiver is adopted using the mechanism in place for local RA waivers.