

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



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Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Reforms and Refinements, and Establish Forward Resource Adequacy Procurement Obligations.

R.21-10-002

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S
EMERGENCY PETITION FOR MODIFICATION OF D.22-03-034 TO MODIFY
RESOURCE ADEQUACY PROCUREMENT TIMELINE AND ADOPT INTERIM
SYSTEM RESOURCE ADEQUACY WAIVER PROCESS**

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SUMMARY OF RECOMMENDATIONS

Recognizing that the Pacific Gas and Electric (PG&E) Central Procurement Entity (CPE) has introduced significant uncertainty in load-serving entities' (LSEs') procurement of system and flexible resource adequacy (RA) and added complexity and opportunities for market power exercise in the already strained RA market, the Commission should take the following actions in the PG&E service area:

- ✓ Immediately “suspend” a portion of an LSE’s annual system and flexible RA compliance requirement until after the California Independent System Operator Corporation (CAISO) has performed local RA backstop for the CPE;
- ✓ Immediately “suspend” a portion of an LSE’s January, February, and March monthly system and flexible RA compliance requirements until after the CAISO has performed local RA backstop for the CPE;
- ✓ Assess deficiency penalties for the unsuspended portion of the annual system RA requirement no earlier than January 1, 2023, as Decision (D.) 22-03-034 currently provides;
- ✓ Once the CAISO has completed its backstop, but not later than January 15, 2023, update annual system and flexible RA requirements for the remainder of the year accounting for system and flexible allocations resulting from backstop; and
- ✓ Require LSEs to meet the “suspended” portion of their annual and monthly system RA, as adjusted following backstop procurement, not later than May 1, 2023.

Further recognizing that the uncertainty and complexity added by the CPE may leave LSEs unable, despite reasonable efforts, to procure their system and flexible RA requirements, the California Public Utilities Commission (Commission) should adopt – for all investor-owned utility service areas – an interim process for an LSE to seek a waiver of system and flexible RA penalties under these circumstances.

In the alternative to modifying D.22-03-034 to effectuate these changes, CalCCA requests that the Commission utilize any other processes at its disposal to immediately modify the system RA procurement timeline as requested and set the question of penalty waiver for expeditious resolution.

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SYSTEM RESOURCE ADEQUACY WAIVER PROCESS**

Pursuant to Rule 16.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the California Community Choice Association¹ (CalCCA) hereby submits this *Emergency Petition for Modification of D.22-03-034 to Modify Resource Adequacy Procurement Timeline and Adopt Interim System Resource Adequacy Waiver Process* (Petition). The Petition is timely filed under Rule 16.4(d).

I. INTRODUCTION

Extreme scarcity in the Resource Adequacy (RA) market, coupled with persistent barriers to bringing new resources online, presents unprecedented challenges to reliability and affordability. Despite the Commission’s efforts to shore up the RA program in the past few years, the interaction between the Central Procurement Entity (CPE) framework and RA market

¹ California Community Choice Association represents the interests of 23 community choice electricity providers in California: Apple Valley Choice Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, East Bay Community Energy, Lancaster Choice Energy, Marin Clean Energy, Orange County Power Authority, 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, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

constraints has increased planning uncertainty for all load-serving entities (LSEs), increased opportunities for market power exercise, and placed customers at risk for higher costs.

Immediate action is required to alleviate risks for 2023 system and flexible RA compliance in the Pacific Gas and Electric Company (PG&E) service area, where the CPE has been unable for the second year in a row to meet its local RA requirement. CalCCA requests that the Commission take the following actions:

- Immediately “suspend” a portion of an LSE’s annual system and flexible RA compliance requirements until after the California Independent System Operator Corporation (CAISO) has performed local RA backstop for the CPE; s
- Immediately “suspend” a portion of an LSE’s January - March monthly system and flexible RA compliance requirements until after the CAISO has performed local RA backstop for the CPE;
- Assess deficiency penalties for the unsuspended portion of the annual system RA requirement no earlier than January 1, 2023, as Decision (D.) 22-03-034 currently provides;
- Once the CAISO has completed its backstop, but not later than January 15, 2023, update annual system and flexible RA requirements for the remainder of the year, accounting for system and flexible allocations resulting from backstop; and
- Require LSEs then to meet the “suspended” portion of their annual and monthly system RA, as adjusted, not later than May 1, 2023.

In addition, under the severely constrained RA market conditions, CalCCA requests adoption – for all investor-owned utility (IOU) service areas – of an interim process for an LSE to seek a waiver of system and flexible RA penalties. These immediate actions should be followed by a fuller examination of the CPE framework to address the underlying structural problem.

In the alternative to modifying D.22-03-034 to effectuate these changes, CalCCA requests that the Commission utilize any other processes at its disposal to immediately modify

the system RA procurement timeline as requested and set the question of penalty waiver for expeditious resolution.

The proximity of the RA compliance deadline – October 31 – requires a swift response. CalCCA has contemporaneously submitted a motion to shorten time on responses to this Petition to seven (7) days, making responses due on October 7, 2022.

II. BACKGROUND

A. Local RA Procurement Rests Solely with the Local CPE

Individual LSEs have held full responsibility for procurement of local, system, and flexible RA to meet their load share requirements until D.20-06-002, when the Commission transitioned full local RA responsibility to the local CPE commencing with compliance year 2023.² The CPE may meet its requirement through procurement of bundled RA attributes in an annual solicitation process,³ procurement of LSE self-shown local RA attributes under the Local Capacity Requirement Reduction Compensation Mechanism (LCR RCM),⁴ or through other procurement outside of the annual process.⁵ If the CPE procures local RA bundled with system or flexible RA attributes, the attributes are allocated to all LSEs based on coincident peak load shares.⁶

The CPE has discretion to defer procurement of any local RA to the CAISO backstop mechanisms “if bid costs are deemed unreasonably high.”⁷ If the CAISO backstops the CPE,

² D.20-06-002, O¶ 3 at 91 (“Load serving entities in PG&E’s and SCE’s distribution service areas will no longer receive a local allocation beginning for the 2023 Resource Adequacy compliance year.”).

³ *Id.*, O¶ 8 at 93-94.

⁴ D.20-12-006.

⁵ D.22-03-034, O¶ 11 at 73.

⁶ D.20-06-002, O¶ 8.c at 94.

⁷ *Id.*, O¶ 26 at 100.

system or flexible RA procured in the backstop process is also allocated to LSEs using a coincident peak load share ratio.⁸

B. An LSE’s RA Requirements Are Met by a Combination of Allocations and Direct Procurement

CPE local RA procurement plays a pivotal role in an LSE’s system and flexible RA procurement. Commission-jurisdictional LSEs must have sufficient RA resources to meet their load’s share of the annual coincident peak CAISO system demand. These requirements are fulfilled either by allocations from various programs or by direct LSE procurement. Allocations are made by the Commission from the IOU procurement of demand response (DR) and reliability resources procured under the Cost Allocation Mechanism (CAM). In addition, the CAISO allocates to benefitting LSEs system or flexible RA associated with any Reliability Must Run (RMR) resources it procures.

In very rough numbers, for the PG&E area, these allocations approximate five percent of an LSE’s total requirement,⁹ although the precise percentage may vary by LSE. The CPE presents the possibility of an incremental allocation of 51 to 84 percent,¹⁰ depending upon the month, of an LSE’s requirement if the CPE procures all of its local RA resource requirements

⁸ *Id.*, O¶ 8.c at 94.

⁹ CPUC Initial CAM Allocation for 2023 shows the CAM and DRAM for PG&E in August as 584 MW. (<https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/2023-initial-ya-cam-list-public.xlsx>). The 2023 Load Forecast from the CPUC shows the August PG&E load for CPUC RA jurisdictional LSEs at 18,359 MW. (<https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/ra-2023-forecast-summary-tables.xlsx>). Adding the PRM, the RA requirement for August in the PG&E area would be 21,113 MWs. Dividing 584 MWs of CAM/DRAM by 21,113 MWs, 2.7% of the August RA Requirement of all PG&E LSEs is met by CAM/DRAM. With the exception of January – April, which have 800 MW of CAM resources that drop off in May, the percentage is 3-4 percent.

¹⁰ These values can be high because the local RA requirement is high relative to the total system RA requirement. For example, for March 2023, the local RA requirement is 11,056 MW while the system RA requirement is 13,171 MW.

bundled with system attributes.¹¹ Consequently, an LSE in the PG&E area has virtual certainty that it must directly procure between 16 and 49 percent of its total requirement, but the remaining procurement is surrounded by a range of uncertainty. While the CPE structure was designed to give LSEs sufficient notice of their remaining requirement, by requiring 100 percent CPE procurement two years in advance, the program has not worked as designed. LSEs' uncertainty for 2023 has been compounded by the PG&E CPE's inability – two years in a row – to procure its requirement for each and every month of 2023, with deficiencies as large as 4,485 megawatts (MW).

C. PG&E's CPE Revealed a Deficiency in Local RA Procurement

In its November 2021 report, PG&E's CPE revealed it had not been able to meet its local RA requirement for the 2023 compliance year.¹² The Report showed that “the CPE's monthly procurement in PG&E's TAC area was below the 100 percent local requirement by as low as 4,264 MW (or 37.6 percent of the local requirement) and up to 6,049 MW (or 53.4 percent of the local requirement).”¹³ In this circumstance, however, the CAISO was not required to backstop the CPE, since CAISO backstop is only done on a year-ahead and month-ahead basis.

While the 2023 deficiency incurred in 2021 did not directly affect LSEs' year-ahead system and flexible RA showings for 2022, CalCCA expressed its concern that the CPE's local

¹¹ Using the same load data as described in footnote 10 along with the local area need in the PG&E area of 11,056 MWs as described in PG&E's CPE procurement summary (<https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/cpe-procurement/20220906-pge-cpe-procurement-summary-cleanver3.xlsx>), the Local requirement if procured with system attributes represents between 51 and 84 percent of the system RA requirement for CPUC RA jurisdictional LSEs.

¹² AL 6386-A, *Supplemental: Pacific Gas and Electric Company (“PG&E”) Central Procurement Entity (“CPE”) Annual Compliance Report* (Nov. 19, 2021) at Attachment 1 – PG&E CPE Aggregate Procurement Summary for the 2023 and 2024 RA Compliance Years.

¹³ *Id.*

RA procurement could interfere with an LSE's system RA responsibilities.¹⁴ CalCCA noted that failing to get the timing right could result in increased customer costs.¹⁵ The Commission recognized the challenges a deficiency and CAISO backstop could present for 2023, providing:

Given the procurement shortfalls in the PG&E TAC area for the 2023 RA compliance year, we find it reasonable to give LSEs in the PG&E TAC area additional flexibility in securing their year-ahead system and flexible RA portfolios. As such, for 2023 year-ahead RA compliance only, Energy Division will not send deficiency notices to LSEs serving load in the PG&E TAC area earlier than January 1 following the year-ahead showing deadline.¹⁶

The CPE thus made its final 2023 showing to the Commission on August 15, with associated system and flexible RA allocated to LSEs by the end of August. With deficiency assessments suspended until January 1, LSEs have four months (September through December) to procure system RA after the CPE completes its local RA procurement.

The modified timeline was a step in the right direction; however, it did not solve the problem. In its September 2022 report, the PG&E CPE reported that the results of its second and final solicitation for RA year 2023 yet again was unable to meet its 2023 local RA requirements.¹⁷ The report indicates that participation from market participants in the 2022 RFO increased substantially from the 2021 RFO.¹⁸ However, the PG&E CPE did not meet its requirements in every month, with shortfalls ranging from 1,050 MW to 4,485 MW.¹⁹ In

¹⁴ *California Community Choice Association's Comments on the Proposed Decision on Phase 1 of the Implementation Track: Modifications to the Central Procurement Entity Structure* (R.21-10-002) (Mar. 2, 2022), at 3-8.

¹⁵ *Id.* at 7.

¹⁶ D.22-03-034 at 35.

¹⁷ AL 6706-E, *Pacific Gas and Electric Company (PG&E) Central Procurement Entity ("CPE") Annual Compliance Report 2022 Annual Compliance Report* (Sept. 19, 2022) at Attachment A – PG&E CPE Aggregate Procurement Summary (2022 PG&E CPE Compliance Report).

¹⁸ *Id.* at Public Attachment E, at 3 of 8.

¹⁹ *Id.* at Attachment A.

November, the month of its largest shortfall, the PG&E CPE is over 40 percent short of its 11,056 MW requirement.

The PG&E CPE cites three reasons for not meeting its requirements following its 2022 solicitation. The first is a lack of participation in its RFOs. The PG&E CPE reported that it did not receive enough offers of local RA to meet its 2023 requirements and that 2,404 MW of capacity in deficient local areas was not offered to the CPE.²⁰ The second is that the CPE did not select resources offered in the competitive solicitation process due to the high prices of the offers.²¹ The third is the inability of the CPE and the counterparties offering resources into the competitive solicitations process to come to contractual agreements.²² The PG&E CPE indicates it will defer to CAISO backstop in the deficient local capacity areas for each month of 2023.²³

D. The CPE Program Design Make It Challenging to Assess the Sufficiency of Local RA

The CPE program creates the potential that a local resource will never be shown for purposes of the local RA requirement. The CPE rules leave a generator owning a local resource two choices: sell bundled RA to the CPE to meet the local RA requirement or sell bundled RA to an LSE to meet the LSE's system and flexible RA requirements. The generator cannot self-show the local attribute for compensation because only LSEs are permitted to self-show and, even then, only preferred and storage resources receive compensation if self-shown.²⁴

A generator may choose to contract only with an LSE to meet the LSE's system RA requirement rather than participate in the CPE solicitation where prices may be limited by the CPE's ability to defer procurement to the CAISO CPM. If a gas-fired generator elects to sell its

²⁰ *Id.* at Public Attachment E, at 4 of 8.

²¹ *Id.* at Public Attachment E, at 2 of 8.

²² *Id.*

²³ *Id.*

²⁴ D.20-006-002 at 39-40.

bundled RA attributes to an LSE, the LSE lacks incentive to self-show the resource because gas-fired generation is not eligible under the LCR RCM. Moreover, there is very little incentive for the LSE to show the resource to the CPE without direct compensation, particularly when doing so would reduce monthly showing flexibility²⁵. Consequently, the resource may not be bid or shown as a local resource; in a constrained market, this likely will leave the CPE deficient.

The question regarding the CAISO's ultimate assessment of these circumstances adds even more uncertainty to LSEs' system RA procurement risk. If the CAISO sees this as a local deficiency, it will procure additional resources with the possibility of allocating the associated system RA to LSEs. If the CAISO elects not to backstop the CPE, recognizing the presence of other available resources, no additional system RA allocations will be made.

The ability and timing of CAISO backstop procurement is an additional concern in providing certainty to LSEs regarding any allocation of system RA. The lack of resource provision to the CPE may continue with the CAISO. Resources sold to entities to provide system RA may not be able to provide backstop to the CAISO as they are already dedicated to an entity to provide system services, and the entity they are provided to may not be willing or able to sell them to the CAISO for backstop.

In addition, the CAISO will need to determine when they will backstop. This may happen after the Year-Ahead RA process but also could be deferred until the Month-Ahead RA process to determine whether local area resources have been shown to meet system needs. If a local resource is shown as system, it will still meet the local area need and obviate the need for the CAISO to backstop. This showing may happen in the Year-Ahead or Month-Ahead process.

²⁵ System resources shown in the Year-Ahead showing may be replaced by other resources in the Month-Ahead showing while local RA resources shown in the Year-Ahead showing are required to be shown in each Month-Ahead showing for which they were shown in the Year-Ahead showing.

These two factors, ability to provide local to the CAISO and the timing of providing local to the CAISO, will continue to complicate the procurement of system RA by all LSEs.

III. IMPLEMENTATION OF THE CPE FRAMEWORK IN THE PG&E SERVICE AREA HAS PROLONGED PLANNING UNCERTAINTY FOR LSES AND CREATES RISK OF HIGHER COSTS FOR THEIR CUSTOMERS

PG&E's CPE procurement deficiencies have prolonged the uncertainty in LSEs' system and flexible RA procurement plans. LSEs did not receive final notice of the CPE's contribution to their RA 2023 requirements in 2021 due to a material deficiency in the CPE's two-year ahead showing. The uncertainty was not resolved by the CPE's final notice of procurement on August 15, 2022 – only two months ahead of the LSEs' compliance date – due to the CPE's continuing material deficiencies for 2023, ranging from 10 percent to as high as 40 percent. Based on the 2023 CPE procurement summary provided by PG&E²⁶ and the 2023 load forecast summary²⁷ provided by the CPUC, the shortfall of the PG&E CPE represents between 5 to 32²⁸ percent of the LSEs' system obligation that the LSEs will now be expected to acquire under tight supply conditions and in a short period of time.

Even if an LSE were able to fill this remainder before October 31 (a questionable assumption), the CPE's interference in system and flexible RA planning will not be resolved. In the face of a substantial local RA deficiency, the CAISO likely will backstop some or all of the CPE's shortfall through the Capacity Procurement Mechanism (CPM). If the CAISO were to

²⁶ <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/cpe-procurement/20220906-pge-cpe-procurement-summary-cleanver3.xlsx>

²⁷ <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/ra-2023-forecast-summary-tables.xlsx>

²⁸ These values represent the CPE deficiency for each month divided by the load forecast * 1.15.

procure 100 percent of the deficiency, it would simultaneously procure an equal amount of system RA that would ultimately be allocated to LSEs based on their load share.²⁹

An LSE under these circumstances has no good option. The LSE can attempt to meet its full year-ahead showing requirement for system and flexible RA without consideration of the CAISO's potential backstop; doing so, however, risks over procurement and unnecessary costs if the CAISO eventually allocates additional system and flexible RA as a result of its CPM backstop. Alternatively, to avoid this potential "double" procurement, the LSE can choose not to meet its requirement in anticipation of CAISO backstop allocations but will face penalties that will increase costs for customers. LSE uncertainty puts suppliers in the driver's seat, enabling the exercise of market power in an already scarce market as LSEs attempt to rationalize their remaining RA procurement.

Also useful is considering the problem from a total cost perspective. Procurement by LSEs of the outstanding volume under current market conditions will be costly – likely far more costly than if the CAISO met the deficiency. The total deficiency for 2023 is 34,487 MW months, which at an average price of \$11/ kilowatt (kW)-month will cost LSEs nearly \$380 million to procure. At the CAISO's current CPM price of \$6.31/kW-month,³⁰ the same procurement will result in savings of approximately \$163 million.

The Commission can rectify these circumstances and reduce upward cost pressure by modifying procurement timelines to account for the CAISO's role in the process. Allowing the CAISO to fulfill this role not only will relieve cost pressure through mitigated CPM prices but will also have no detrimental impact on reliability.

²⁹ D.20-06-002, OP¶ 8.c.

³⁰ CAISO tariff section 43A.4.1.1 places a \$6.31/kw-month soft offer cap on bids for CPM.

IV. THE COMMISSION SHOULD MODIFY THE TIMELINES FOR RA PROCUREMENT ADOPTED IN D.22-03-034 AND PENALTY WAIVERS

The Commission acknowledged the interaction of the CPE framework and the system RA procurement timeline in D.22-03-034 and provided a partial solution. As noted above, the Commission extended the deficiency assessment date from October 31 to January 1.³¹ While this solution improved on a strict October 31 system RA year-ahead showing requirement, it still left LSEs with unnecessary planning uncertainty and greater risk. A clearer directive from the Commission on the sequence of RA procurement events and an extension of the post-backstop procurement period would guide a more certain, organized, and cost-effective RA program.

CalCCA requests modification of the system RA procurement timeline adopted in D.22-03-024. The Commission should “suspend” *annual* system RA requirements for each PG&E LSE in an amount equal to the LSE’s load-share of the CPE deficiency until after the CAISO backstops the CPE’s deficiency. The load-share of the deficiency should be calculated for each LSE for each month of CPE deficiency. If, for example, an LSE’s system RA load share were five percent for September 2023, the Commission should suspend 128 MW (five percent of 2557.61³²) of the LSE’s total requirement for that month.

Once the CAISO has had the opportunity to conduct backstop procurement, the Commission should recalculate the share of system and flexible RA an LSE must meet through direct procurement. If, in the prior example, the CAISO backstopped half (69 MW) of the CPE’s September deficiency, the LSE would be required to procure another 69 MW directly by May 1 to meet its requirement.

³¹ D.22-03-034 at 35.

³² 2,557.61 MW is the amount of uncovered local requirement for September 2023 according to the updated CPE compliance report submitted by PG&E. See <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/cpe-procurement/20220906-pge-cpe-procurement-summary-cleanver3.xlsx>

While the penalty assessment date for deficiencies of the unsuspended portion of the requirement would remain January 1, 2023, as directed by D.22-03-034, the Commission should push penalty assessment for the suspended portion to May 1, 2023.³³ This approach reduces customer costs in three ways, mitigating the risk of: (1) unnecessary RA penalties; (2) the exercise of supplier market power; and (3) unnecessary or excess procurement. It should also give the CAISO ample time to engage in any additional system RA backstop before the pivotal summer months.

The process for evaluating and penalizing deficiencies must include both the Year-Ahead and at least the first two months (and potentially the third month) of the Month-Ahead process. This is due to the timing of when the Year-Ahead CAISO backstop process would occur and when the Month-Ahead showing process is due and evaluated.³⁴ The Year-Ahead showings are due October 31, 2022. The CAISO will then evaluate the showings and provide deficiency notices 21 calendar days later, which is November 21, 2022. Next, the CAISO provides 30 calendar days for the deficiencies to be cured, which would occur December 21, 2022. If they are not cured at that time, the CAISO may then pursue backstop through its CPM.³⁵

³³ During this period of suspension, monthly requirements would remain unchanged. An LSE would be required to meet the requirement or face the imposition of penalties.

³⁴ Month-Ahead showings are due 45 days prior to the first day of the RA calendar month and the CAISO can backstop 30 days prior to the RA Calendar month. Therefore, the January and February showings will be due November 15th and December 15th, respectively. Both are prior to the CAISO performing CPM to address deficiencies in those months. This is then likely to lead to the CAISO performing a CPM based upon the Month-Ahead showing deficiency and completing procurement prior to the Year-Ahead deficiencies have been addressed. Therefore, the Commission would need to afford the same process to address backstop for at least the first two monthly RA showings since the backstop processes for these two months will occur prior to the backstop process for the Year-Ahead showing. If the Year-Ahead backstop procurement by the CAISO is incomplete or delayed, it may become necessary to apply this monthly process to the March Month-Ahead showing as well.

³⁵ CAISO Business Practices Manual for Reliability Requirements, Exhibit A-4.

V. THE COMMISSION SHOULD ADOPT AN INTERIM PENALTY WAIVER PROCESS

A. The System RA Capacity Market Is Deficient

Scarcity in the RA market has intensified as climate change continues to increase demand and reduce available supply. To alleviate this scarcity will require LSEs and suppliers to bring new resources online. Unfortunately, several barriers have impeded bringing these resources online, including supply chain interruptions, permitting, interconnection, and inflation.

Consequently, all entities with RA procurement requirements – including LSEs and the CPE – face challenges in procuring needed resources and procuring them at reasonable prices.

With resource additions delayed, there is little that can be done in the short run to bridge the RA gap. A simple stack comparison of 2023 load and resources reveals the severity of the problem, with a projected market wide Net Qualifying Capacity (NQC) shortfall of 2,427 MW.

COMPARISON OF LOAD AND RESOURCES. ALL VALUES EXCEPT PERCENTAGES ARE SEP NQC MW			
Data Type	Data Point	Estimate	Source
Load	2023 PRM	16.0%	D.22-06-050
Load	Assumed YoY peak load growth	0.9%	2021 IEPR, Form 1.5b: California Energy Demand 2021-2035 Forecast - Mid Baseline - AAEE Scenario 3 - AAFS Scenario 3
Load	2021 Peak Load Forecast	45,966	2021 IEPR, Form 1.5b: California Energy Demand 2021-2035 Forecast - Mid Baseline - AAEE Scenario 3 - AAFS Scenario 3
Load	2022 Peak Load Forecast	46,400	Calculated assuming peak load growth above
Load	2023 Peak Load Forecast	46,839	Calculated assuming peak load growth above
Load	2023 System RA obligation	54,333	Calculated assuming 16% PRM over 2023 Peak load Forecast
Resource	Non-DR CAISO resources	44,445	Draft Final CAISO 2023 NQC List
Resource	DR resources	1,472	2020 RA Report
Resource	RA Imports	5,990	CAISO 2022 Summer Assessment
Resource	Total September Stack	51,907	Calculated by sum of lines above
Resource Minus Load	Surplus or (Shortfall)	(2,427)	Resources minus load

Notably, non-demand response NQC declined approximately 2 gigawatts (GW) of NQC from 2022 to 2023, based on the CAISO's updated NQCs, from 46,430 MW of 2022 September NQC to 44,445 MW of September 2023 NQC. Factors in play include thermal derates, cogeneration market offers, hydro availability, and lower effective load carrying capacity for renewable resources.

Meeting all system RA requirements under these conditions would require a heroic amount of incremental import RA (above the 5,990 shown in the table above) or good fortune in progressing online dates for projects under development and construction. Imposing penalties on LSEs and their customers under these conditions for deficiencies will only increase customers' costs with little if any hope of driving incremental resource availability.

B. Extraordinary Conditions Require Extraordinary Action

Recognizing the extreme and complex RA market conditions, the Commission should adopt a penalty waiver process for both annual and monthly system and flexible RA showings *for all three IOU service areas*. Such a process would allow the Commission to evaluate, on a case-by-case basis, whether a deficient LSE took reasonable steps to meet its requirement. While the Commission has rejected a waiver process for system and flexible RA in the past,³⁶ the current circumstances warrant reconsideration.

The scarcity of RA in the near-term market is indisputable, and scarcity provides opportunities for the exercise of market power by suppliers. It was for this reason the Commission allowed in D.20-06-002 for the CPE to defer procurement to the CAISO CPM process.³⁷ The Commission stated:

³⁶ D.20-06-031 at 64-65.

³⁷ D.20-06-002 at 67; D.20-09-003 at 4.

It is reasonable to give the CPE discretion to defer procurement of a local resource to the CAISO's backstop mechanism if bid costs are deemed unreasonably high.³⁸

It further excused the CPE from fines or penalties for failing to procure resources to meet its requirements "as long as the CPE exercises reasonable efforts to secure capacity and the independent evaluator report contains the reasons for the failures to procure."³⁹

The CPE in the PG&E area did not procure its requirement for 2023. As noted above, the reasons included a failure of suppliers to offer certain resources, a failure of suppliers to offer their resources at a reasonable price, and the inability to reach mutually acceptable terms and conditions.⁴⁰ The CPE will face no penalty for any of these failures.

While CalCCA agrees that placing penalties on the CPE in these circumstances would be unproductive, LSEs in the system and flexible RA markets are forced to play by different rules. The system RA market today is equally constrained, making the same types of difficulties as those cited by the CPE likely to occur in LSE direct procurement. Yet the Commission does not even examine, like it does for the CPE, whether the LSE "exercises reasonable efforts to secure capacity." There is no price nor circumstance that would be viewed as a reasonable explanation for a system or flexible RA deficiency, and LSEs are asked to pay any price in the market to avoid penalties, even when CPM backstop would be substantially more cost effective. Differential treatment between the CPE and LSEs in any service territory cannot be justified in these market conditions, particularly in PG&E's service area where some degree of LSE deficiency was caused by the CPE's inability to procure.

³⁸ *Id.*, FoF 30 at 87.

³⁹ *Id.*, O¶ 27 at 100.

⁴⁰ *See supra*, Section II.C.

The market for local RA, however, is not the only market affected. System RA is severely constrained, making procurement of an LSE's requirements difficult, if not impossible. The new framework for escalating RA penalties in this environment presents the risk of mounting costs for customers that an LSE has no near-term tools to control. Providing a waiver process does not mean that the Commission must grant all requests. But the Commission must recognize that there may be circumstances in which compliance is impossible and the LSE "can't squeeze blood from a turnip."

VI. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests that the Commission modify D.22-03-034 as requested in Sections IV and V. Proposed modifications, as required by Rule 16.4, are provided in Attachment A. In the alternative to modifying D.22-03-034 to effectuate these changes, CalCCA requests that the Commission utilize any other processes at its disposal to immediately modify the system RA procurement timeline as requested and set the question of penalty waiver for expeditious resolution.

Respectfully submitted,



Evelyn Kahl,
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CALIFORNIA COMMUNITY CHOICE
ASSOCIATION

September 30, 2022

ATTACHMENT A
to
CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S
EMERGENCY PETITION FOR MODIFICATION OF D.22-03-034 TO MODIFY
RESOURCE ADEQUACY PROCUREMENT TIMELINE AND ADOPT INTERIM
SYSTEM RESOURCE ADEQUACY WAIVER PROCESS

Proposed Modifications to D.22-03-034

Findings of Fact

NEW. The adoption of the CPE framework introduced a new uncertainty in LSEs' procurement planning for system and flexible RA capacity, and the inability of the PG&E CPE to fully procure its local RA requirements for 2023 and the consequent need for CAISO backstop have markedly increased that uncertainty.

NEW. Due to scarce market conditions and continuing market uncertainty, it may be challenging for LSEs to complete procurement of their 2023 system and flexible RA procurement despite reasonable efforts.

Conclusions of Law

NEW. It would be unreasonable to excuse the CPE from penalties for failing to meet its local RA requirements due to market conditions without similarly providing a waiver to LSEs making reasonable efforts to procure their system and flexible RA requirements.

Ordering Paragraphs

NEW. A portion of an LSE's annual system and flexible RA compliance requirement in the PG&E TAC area equal to its load share of the CPE's local RA deficiency shall be suspended until after the California Independent System Operator Corporation (CAISO) has performed local RA backstop for the CPE.

NEW. A portion of an LSE's January, February, and March monthly system and flexible RA requirements in the PG&E TAC area shall be suspended until after the CAISO has performed local RA backstop for the CPE.

NEW. Once the CAISO has completed its backstop of the CPE's local RA requirements, but not later than January 15, 2023, the Energy Division shall update annual system and flexible RA requirements in the PG&E TAC area for the suspended portions of the requirements accounting for system and flexible allocations resulting from backstop; and

14. For 2023 year-ahead Resource Adequacy compliance only, Energy Division will not assess or send deficiency notices to load-serving entities serving load in the Pacific Gas and Electric Company transmission access charge area earlier than January 1 following the year-

ahead showing deadline the unsuspended portion of their system and flexible requirements and May 1 for the suspended portion of these requirements.

NEW. The Energy Division is authorized to waive non-compliance penalties for system and flexible RA for 2023 in all TAC areas if an LSE has exercised reasonable efforts to procure its requirements, considering the waiver factors for local RA adopted in D.06-06-064 and the waiver requirements implemented for the CPE in D.20-06-002.