



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

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

R.20-05-003

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S COMMENTS
ON THE PROPOSED DECISION ORDERING SUPPLEMENTAL MID-TERM
RELIABILITY PROCUREMENT (2026-2027) AND TRANSMITTING ELECTRIC
RESOURCE PORTFOLIOS TO CALIFORNIA INDEPENDENT SYSTEM OPERATOR
FOR 2023-2024 TRANSMISSION PLANNING PROCESS**

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SUMMARY OF RECOMMENDATIONS

- The Proposed Decision (PD) must provide a pathway to transition away from the practice of ordering procurement in a rushed and unpredictable manner that is not supported by robust analysis;
- The PD errs in failing to allocate requirements in a manner consistent with cost causation principles;
- The PD errs in rejecting California Community Choice Association’s (CalCCA) proposed modifications to the penalty structure on the basis that it would relieve load serving entities (LSEs) of penalties up front;
- The PD errs by failing to clarify how procurement ordered in this proceeding interacts with procurement being considered in the Aliso Canyon proceeding;
- The PD errs by failing to clarify how resource procurement and transmission planning will reduce reliance on carbon-emitting resources in local areas;
- The PD errs by continuing to order procurement considering the California Independent System Operator (CAISO) system-wide needs, rather than the needs of California Public Utilities Commission (Commission) jurisdictional LSEs;
- If the Commission orders additional procurement, the PD must be clarified to expressly state each LSE’s requirement and Effective Load Carrying Capabilities through a decision, rather than through the service list;
- If the Commission orders additional procurement, the PD must be clarified to expressly allow procurement from earlier years to count towards future obligations;
- The Commission must clarify the baseline “swap” process to protect against the exercise of developer market power;
- The PD errs in adopting Cost Allocation Mechanism cost recovery for procurement obligations taken on by an Investor-Owned Utility from a deregistering LSE with no consideration for the timing in which customer returns occur;
- The Commission errs in rejecting CalCCA’s deliverability proposal on the basis that it is detrimental to reliability; and
- The Commission must clarify the PD to outline steps the Commission must take in response to Maximum Import Capability expansion requests that are denied by the CAISO due to lack of existing transmission capacity.

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FOR 2023-2024 TRANSMISSION PLANNING PROCESS**

The California Community Choice Association (CalCCA)¹ submits these comments pursuant to Rule 14.3 of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure on the *Proposed Decision Ordering Supplemental Mid-Term Reliability Procurement (2026-2027) and Transmitting Electric Resource Portfolios to California Independent System Operator for 2023-2024 Transmission Planning Process* (PD or Proposed Decision), mailed on January 13, 2023.

I. INTRODUCTION

The Proposed Decision provides modest but important measures to ease pressure on the short-term energy market, but still reflects the continued challenges the Integrated Resource Planning (IRP) proceeding has had in adequately coordinating procurement decisions with the planning process, considering the impacts of increased electrification, climate change, resource retirements, and other factors. Despite a separate track of the IRP proceeding aimed at developing a programmatic approach to procurement, the Proposed Decision circumvents that

¹ California Community Choice Association represents the interests of 24 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, Energy For Palmdale’s Independent Choice, 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.

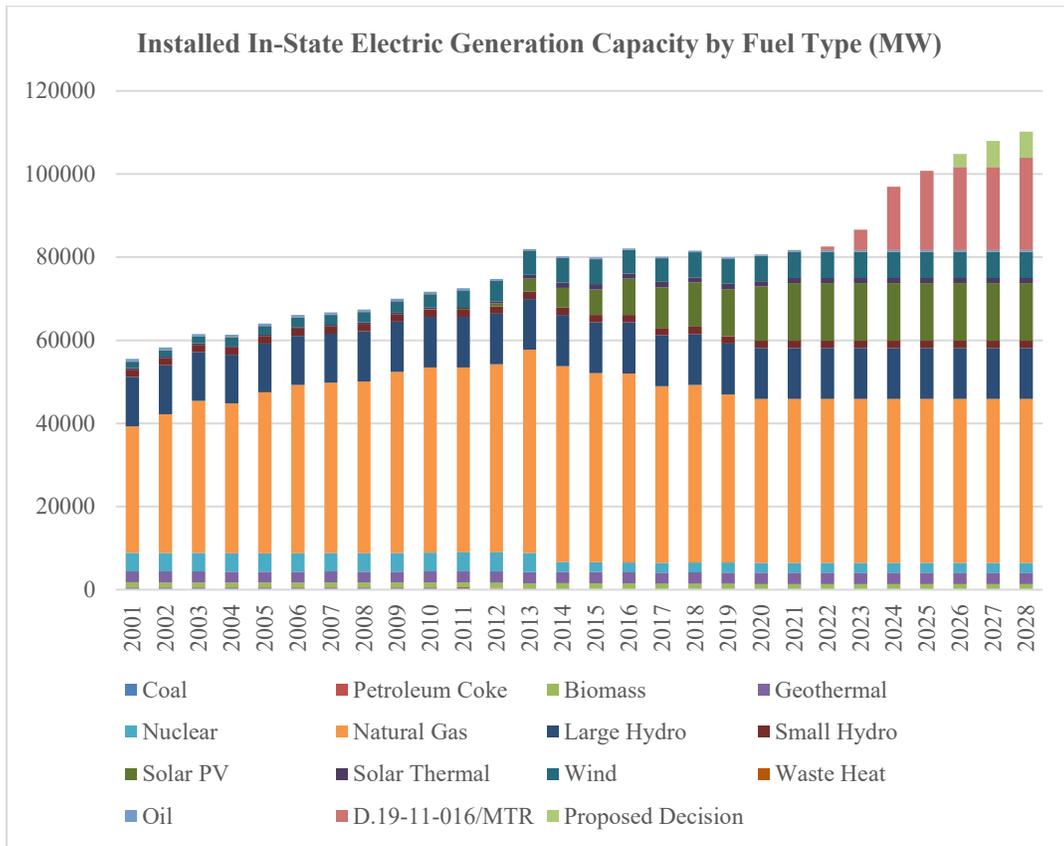
process by ordering procurement which is not based upon loss of load expectation (LOLE) analysis, setting compliance targets that do not allow sufficient flexibility for load serving entities (LSEs) to conduct orderly procurement, and exposing LSEs to penalties for non-compliance with aggressive requirements.

To date, the IRP and its successor have not adequately accounted for and planned for resource retirements. For many years, the state had excess capacity with thermal resources still operating and renewable resources coming online. Eventually, excess capacity suppressed resource adequacy (RA) and energy prices, making it difficult for resources to plan for the revenues they will receive and commit to making capital improvements needed to keep operating. Those conditions led to it being uneconomic to continue operating, resulting in a number of plants retiring. Since then, the IRP process has yet to catch up with this economic dynamic, and the state has yet to plan in manner that adequately replaces those resources to maintain excess capacity and ensure competitive RA prices. Instead, the state has razor-thin RA margins, making compliance difficult if not impossible, and with insufficient excess capacity to ensure competitive market forces keep prices reasonable.

To remedy this, LSEs have procured new resources at record paces in the last several years and will continue to do so. Figure 1 below shows actual and projected installed capacity from 2001 to 2028, including the procurement ordered through Decision (D.)19-11-016, D.21-06-035, and this Proposed Decision.² Procurement ordered in years 2021-2028 far surpasses the pace of procurement at any other time this century. In fact, the build rate between 2022-2028 is two and a half times higher than the build rate following the post 2000-2001 energy crisis build out from 2002-2008.

² Installed capacity values for procurement orders estimated using California Energy Commission (CEC) assumptions from its *SB 846 – Diablo Canyon Extension and CERIP* Presentation, at slides 37 and 38, and assumes no retirements between 2022 and 2028: <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248455&DocumentContentId=82897>.

Figure 1



While it is abundantly clear that transitioning to a clean system while maintaining reliability will require aggressive new resource build, this proceeding lacks a routine and systematic process for assessing portfolio needs and ordering procurement. Procurement ordered through D.19-11-016, D.21-06-035, and this Proposed Decision totals 18,800 megawatts (MW) of net qualifying capacity (NQC) or roughly 35 percent of the existing NQC on the system.

The Commission’s goal in the IRP proceeding should be to achieve the right balance of clean, reliable, and affordable procurement. It is not possible to achieve the affordability objective with unsystematic and unpredictable procurement orders that require LSEs to rush to procure resources to meet a need not justified by robust, probabilistic analysis. Additionally, compliance deadlines set in one-year tranches rather than longer blocks of time give significant market power to developers and significantly limit LSE’ flexibility to deliver resources cost-effectively. Adopting the three-year compliance periods utilized in the Renewable Portfolio Standard would alleviate some of this market power and provide valuable flexibility to LSEs. Without a clear and steady path to procure, affordability is not possible.

CalCCA supports aspects of the Proposed Decision, including the baseline proposal that would provide a pathway for fully developing all baseline resources, subject to modifications, and the clarification that LSEs can trade compliance obligations. However, the Commission should modify the Proposed Decision consistent with the following recommendations:

- The PD must provide a pathway to transition away from the practice of ordering procurement in an unsystematic and unpredictable manner that is not supported by robust analysis;
- The PD errs in failing to allocate requirements in a manner consistent with cost causation principles;
- The PD errs in rejecting CalCCA’s proposed modifications to the penalty structure on the basis that it would relieve LSEs of penalties up front;
- The PD errs by failing to clarify how procurement ordered in this proceeding interacts with procurement being considered in the Aliso Canyon proceeding;
- The PD errs by failing to clarify how resource procurement and transmission planning will reduce reliance on carbon-emitting resources in local areas;
- The PD errs by continuing to order procurement considering the California Independent System Operator (CAISO) system-wide needs, rather than the needs of Commission jurisdictional LSEs;
- If the Commission orders additional procurement, the PD must be clarified to expressly state each LSE’s requirement and Effective Load Carrying Capabilities (ELCCs) through a decision, rather than through the service list;
- If the Commission orders additional procurement, the PD must be clarified to expressly allow procurement from earlier years to count towards future obligations;
- The Commission must clarify the baseline “swap” process to protect against the exercise of developer market power;
- The PD errs in adopting Cost Allocation Mechanism (CAM) cost recovery for procurement obligations taken on by an Investor-Owned Utility (IOU) from a deregistering LSE with no consideration for the timing in which customer returns occur;
- The Commission errs in rejecting CalCCA’s deliverability proposal on the basis that it is detrimental to reliability; and
- The Commission must clarify the PD to outline steps the Commission must take in response to Maximum Import Capability (MIC) expansion requests that are denied by the CAISO due to lack of existing transmission capacity.

Ultimately, the Commission must transition away from the order-by-order approach to procurement and prioritize the development of a programmatic approach to need determination, need allocation, and compliance.

II. PROCUREMENT ORDER

A. **The PD Must Provide a Pathway to Transition Away from the Practice of Ordering Procurement in a Rushed and Unpredictable Manner that is Not Supported by Robust Analysis**

The Proposed Decision adopts 4,000 MW of new procurement between 2026 and 2027 to account for load forecast increases, climate change impacts, and additional retirements that may occur in advance of assumed retirement dates.³ The procurement ordered in the Proposed Decision is not based upon a robust probabilistic analysis that indicates the selected procurement amounts will result in a targeted level of reliability. Importantly, the Proposed Decision does not indicate the level of LOLE the ordered procurement will result in each year, so it remains unclear the amount of shortfall that exists without such procurement or the level of reliability the system would achieve with this new procurement. For these reasons, the Proposed Decision must further explain how the assumptions about climate change impacts and additional retirements were determined and how these assumptions support the 4,000 MW ordered in the Proposed Decision.

Additionally, the Commission and parties are currently considering a programmatic approach to procurement aimed at moving away from the order-by-order approach to procurement. As Staff has correctly pointed out, the order-by-order approach has “proved unpredictable for LSEs, cannot fully address load migration, does not facilitate proactive LSE self-provision of the needed resource attributes, and does not expressly address existing resource retention, which can result in uncertainty for LSEs and the broader market, ultimately posing a barrier to efficient procurement and putting reliability at risk.”⁴ The Proposed Decision short circuits this effort, in another example of procurement orders failing to rely on the modeling and other processes in IRP.

To ensure the Commission does not repeat the practice of rushed order-by-order procurement in the future, the Commission must focus on developing a more transparent long-

³ Proposed Decision at 20.

⁴ *Reliable and Clean Power Procurement Program Staff Options Paper*, R.20-05-003 (Sept. 2022): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M496/K684/496684997.PDF>.

term programmatic procurement framework that routinely assesses needs, establishes realistic procurement schedules, and provides more stability to the market and customers in the long term.

B. The PD Errs in Failing to Allocate Requirements in a Manner Consistent with Cost Causation Principles

The Proposed Decision indicates that the Commission will allocate the 4,000 MW of incremental procurement in the same way that it allocated the 11,500 MW from D.21-06-035 – by load ratio share. Allocating requirements by load ratio share fails to follow cost causation principles by not allocating the procurement responsibility to LSEs that have moved slowly to build new clean resources. LSEs that have done more than their fair share of clean resource build should not be allocated more responsibility by “peanut-buttering” requirements across all LSEs. Instead, the Commission should make allocations on a net clean capacity need basis, as described in CalCCA’s Opening Comments to the Staff Options Paper considering a programmatic approach to procurement.⁵ This approach would allocate the need in terms of each LSE’s share of the total need for clean capacity and allow LSEs to show total clean resources procurement from new and existing clean resources. This avoids the problem of penalizing early procurers of clean capacity present in a load ratio share allocation approach.

C. The PD Errs in Rejecting CalCCA’s Proposed Modifications to the Penalty Structure on the Basis that it Would Relieve LSEs of Penalties up Front

The Proposed Decision rejects CalCCA’s modified version of Southern California Edison Company’s (SCE’s) penalty waiver proposal on the basis that it would relieve LSEs of penalties up front, therefore loosening the penalty structure and potentially harming ratepayers that did not receive a waiver.⁶ CalCCA’s proposal would not waive penalties upfront. Instead, it would allow LSEs to defer compliance for one year if the LSE took reasonable efforts, yet its procurement faced delays for reasons outside the control of the LSE. CalCCA even discussed in its proposal the evidence an LSE would need to submit to demonstrate that it made good faith efforts to qualify for a single year deferral of penalties. This would not result in a waiver of penalties up front, as the LSE would maintain responsibility for bringing the resource online. The Commission would simply defer the assessment of penalties to allow the LSE and project

⁵ *California Community Choice Association’s Comments on Administrative Law Judge’s Ruling Seeking Comments on Staff Paper on Procurement Program*, R.20-05-003 (Dec. 12, 2022): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M499/K887/499887293.PDF>.

⁶ Proposed Decision at 32.

developer to complete the project on an extended timeline. The Commission should revise the Proposed Decision to adopt this proposal given the exogenous factors happening in the market that could result in project delays.

D. The PD Errs by Failing to Clarify How Procurement Ordered in This Proceeding Interacts with Procurement Being Considered in the Aliso Canyon Proceeding

Separate from the 4,000 MW of incremental procurement adopted in this Proposed Decision, the Commission is considering procurement of a similar magnitude in I.17-02-002 to reduce reliance on Aliso Canyon. In testimony submitted in I.17-02-002, CalCCA stressed the importance of performing procurement planning within the IRP proceeding rather than within both the IRP proceeding and the Aliso Canyon proceeding.⁷ Concentrating procurement efforts within one proceeding will ensure that the Commission assesses procurement needs considering multiple drivers (in this case, reduced reliance on Aliso Canyon and reliability) and issues procurement orders in a coordinated manner. For this reason, the Commission must modify the Proposed Decision to clarify how the incremental procurement ordered here and the incremental procurement currently being considered in the IRP proceeding interact. If the two are separate, the Commission should provide additional assurance that they are not duplicative. If LSEs can procure in a manner that meets the objectives of both proceedings, the Commission should also make that clear so as not to over procure at the expense of customer affordability.

E. The PD Errs by Failing to Clarify How Resource Procurement and Transmission Planning will Reduce Reliance on Carbon Emitting Resources in Local Areas

The Proposed Decision lists “accelerating goals for clean energy production and reductions in greenhouse gas (GHG) emissions through 2045 and earlier”⁸ as one of the driving factors behind previous procurement orders and the need for additional procurement. Accelerating clean energy production and reducing GHG emissions will be difficult without considering local capacity area constraints, given many local areas currently rely on fossil fuel resources to maintain reliability and meet local RA requirements. Without robust upfront

⁷ *Prepared Direct Testimony of Andrew D. Mills, Ph.D. on Behalf of the California Community Choice Association in Order Instituting Investigation Pursuant to Senate Bill 380 to Determine the Feasibility of Minimizing or Eliminating the Use of the Aliso Canyon Natural Gas Storage Facility Located in the County of Los Angeles While Still Maintaining Energy and Electric Reliability for the Region, I.17-02-002 (Dec.12 2022).*

⁸ Proposed Decision at 6-7.

planning focused specifically on how to reliably phase out local carbon-emitting resources, California risks jeopardizing the fast-approaching Senate Bill (SB) 100 target of zero-carbon resources supplying 100 percent of electric retail sales to end-use customers by 2045.

The state can achieve local reliability by locating generation within the local area or building new transmission to relieve the local area constraints. The ability to retire fossil fuel resources in local areas will depend on either (1) eliminating transmission constraints that limit the number of resources capable of serving load in the local area, or (2) bringing online enough effective carbon-free resources inside of the local area to replace the existing fossil fuel resources. Despite this, the Proposed Decision is devoid of any discussion of where to locate the incremental 4,000 MW to reduce reliance on local area gas resources. Additionally, the Proposed Decision declines to adopt a TPP sensitivity portfolio that would consider transmission needed to eliminate reliance on local area gas resources. Rapid procurement orders without considering the need to locate resources strategically complicates transmission planning. To remedy this, the Commission should modify the Proposed Decision to direct the CAISO to study as a sensitivity the transmission needed to reliably serve local areas without relying on gas resources and direct Energy Division to consider ways to incentivize local area procurement.

F. The PD Errs by Continuing to Order Procurement Considering CAISO System-Wide Needs, Rather than the Needs of Commission Jurisdictional LSEs

The Proposed Decision continues to "... require procurement for our IRP jurisdictional LSEs, without regard to procurement needs that may be attributable to load being served by publicly-owned utilities within the CAISO."⁹ In doing so, the Commission risks requiring its LSEs to take on more than their fair share of procurement and/or requiring its LSEs to conduct procurement that is duplicative of non-Commission jurisdictional entities' procurement efforts. Commission jurisdictional LSEs make up 88 percent of CAISO load with the remaining 12 percent being the load of non-Commission jurisdictional entities. By assessing procurement needs of the CAISO system as a whole, rather than procurement needs of its own entities, the Commission could risk ordering 12 percent excess procurement. The Commission must immediately modify this practice to assess future procurement needs of its jurisdictional LSEs and allocate only those needs to its LSEs.

⁹ Proposed Decision at 29.

G. If the Commission Orders Additional Procurement, the PD Must Be Clarified to Expressly Allow Procurement from Earlier Years to Count towards Future Obligations

The Proposed Decision states:

Finally, with respect to concerns raised by GPI, among other parties, we encourage LSEs to continue procuring resources in advance of any additional orders or our adoption of a comprehensive procurement program framework. Using whatever mechanism we adopt, we expect to give credit for and take into account proactive and early procurement by LSEs.¹⁰

CalCCA supports encouraging LSEs to procure in advance of a need. The Commission must make it expressly clear that LSEs can count excess procurement from one compliance year in future compliance years. Failure to do so introduces unnecessary risk upon LSEs which proactively meet or exceed compliance requirements. Indeed, as noted in section II.B. above, the Commission's load share allocation ignores the procurement already done by early moving LSEs and is inconsistent with the Commission's statement above. The Commission should therefore modify the Proposed Decision to expressly state excess procurement from one compliance period *will* count in future compliance periods, rather than framing it as an expectation.

H. If the Commission Orders Additional Procurement, the PD Must Be Clarified to Expressly State Each LSE's Requirement and ELCCs Through a Decision, Rather than Through the Service List

The Proposed Decision fails to expressly state LSEs' individual procurement requirement allocations and leaves parties uncertain of the value of resources the Commission could order them to procure to meet these requirements. Unlike the previous approach in D.21-06-035 where LSEs' procurement requirement allocations were individually listed, the Proposed Decision provides the additional 4,000 MW ordered for 2026 and 2027 as an aggregate procurement obligation across all LSEs and indicates that the Commission may provide new ELCCs that would apply to this procurement by the end of 2023 via notice to the service list.¹¹ In its current form, the Proposed Decision's delay in providing LSEs' individual procurement requirement allocations complicates the process of timely fulfilling those requirements. Further, the Proposed Decision's method of notifying individual LSE procurement requirements through the service list is unclear around the process for contesting any potential errors. If the Commission orders

¹⁰ Proposed Decision at 30.

¹¹ *Id.* at 27.

additional procurement, the Commission must modify the Proposed Decision to (1) expressly provide individual LSE obligations through a table in a Decision featuring each LSE's load share amount, akin to the table provided in D.21-06-035 so LSEs can adequately plan for the ordered amount of incremental procurement, and (2) provide ELCCs through a ruling and Decision process that allows parties to properly vet well in advance of the compliance deadline.

III. OTHER MID-TERM PROCUREMENT ISSUES

A. The Commission Must Clarify the Baseline “Swap” Process to Protect Against the Exercise of Developer Market Power

CalCCA generally supports the proposed baseline “swap” process adopted in the Proposed Decision which would give an LSE the option to swap a resource they hold in the baseline to count it towards its IRP obligation provided it adds the same amount of capacity to its procurement obligation at a later date.¹² This process balances preserving the baseline while providing a pathway for fully developing all resources included in baseline, even in the event of project delay.

The Commission must modify two elements of the swap process, however, to protect against the exercise of market power by developers and avoid duplicative obligations. First, the Proposed Decision indicates that the Commission would allow a new LSE to contract for and count a baseline resource towards its IRP procurement obligation, when that LSE had previously not held a contract with the project and the original purchasing LSE has terminated its contract with the resource.¹³ The Commission must modify the Proposed Decision to only allow this type of swap if the contract between the original LSE and developer had been terminated by the developer prior to the date of issuance of this Proposed Decision or if the contract between the original LSE and developer had been terminated by the original LSE. The Commission must make this modification to prevent the situation in which a developer of a resource in the baseline terminates a contract in order to contract with an LSE for its IRP procurement obligations at a higher price.

Second, the Commission should clarify the Proposed Decision to allow resources in the D.21-06-035 baseline to count towards an LSE's D.21-06-035 procurement requirements as long as the LSE fulfilled its D.19-11-016 obligation with the equivalent NQC of another eligible

¹² *Id.* at 17.

¹³ *Id.*

resource. For example, assume a 50 MW solar resource A was in the D.21-06-035 baseline and was used to meet an LSE's D.19-11-016 procurement requirement. Solar resource A did not get built. However, 50 MW solar resource B (which was not in the D.21-06-035 baseline) did get built. If solar resource A then gets built in time to meet 2023 or 2024 D.21-06-035 requirements, then the Commission should allow the LSE to count solar resource A towards its 2023 or 2024 obligation without a "swap" and therefore without adding additional requirements to its 2025 obligation. This change is necessary to maintain consistency with previous guidance provided by the Commission and accurately recognize the interaction of the two Decisions. Staff guidance issued earlier this year applied consistent treatment, and outlined a procedure for allowing a resource in the D.21-06-035 baseline to count for D.21-06-035 compliance if replacement capacity is found to satisfy D.19-11-016.¹⁴ Defining this as a "swap" and adding a supplemental obligation in 2025 in this case would be duplicative given that a resource procured for D.21-06-035 already represents cumulative incremental capacity compared with the original baseline assumptions. To avoid double-counting and provide consistent treatment with recent directives, the Commission should clarify the Proposed Decision would require supplemental obligations for swapped resources in both the D.19-11-016 and D.21-06-035 baselines to allow resource in the D.21-06-035 baseline to count towards its D.21-06-035 procurement requirements as long as the LSE fulfilled its D.19-11-016 obligation with the same NQC of another eligible resource.

B. The PD Errs in Adopting CAM Cost Recovery for Procurement Obligations Taken on by an IOU from a Deregistering LSE with no Consideration for the Timing in Which Customer Returns Occur

The Proposed Decision adopts CAM cost recovery for procurement done by the IOU in its role as Provider of Last Resort (POLR) if the IOU takes on the obligation of an LSE no longer providing retail service and if the LSE's customers are not already paying for the same capacity under the Modified Cost Allocation Mechanism (MCAM).¹⁵ The Proposed Decision claims, "this is the most fair mechanism, because the IOU's bundled customers should not be obligated

¹⁴ See *Filing Requirements Overview for February 1, 2023, IRP Procurement Compliance Filing & Data Request*, R.20-05-003 (Jan. 4, 2023): https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltpp/february-2023-irp-procurement-compliance-and-dr-overview_20230104.pdf.

¹⁵ Proposed Decision (O¶) 10.

to take on the full responsibility for the costs on behalf of customers previously served by another LSE.”¹⁶

The Proposed Decision adopts this rule in error. The issue the Proposed Decision attempts to resolve is one of timing. If customers return from a deregistering LSE to the POLR on a date that falls close to IRP compliance deadline, then the IOU as POLR may need to quickly procure resources to meet their IRP obligations. This could result in the IOU paying higher prices than it otherwise would have if it had further forward notice to meet its obligations. However, the PD errs by putting no time bounds on the rule adopted in Ordering Paragraph (OP) 10, such that any IRP procurement done on behalf of returning customers could be charged to all customers via CAM, even if the IRP compliance is many years into the future, which would allow the IOU sufficient time to conduct procurement in advance to meet the increased compliance obligation.

In the POLR proceeding, parties have made alternative proposals on this issue. CalCCA proposed a deferral process that would allow the IOU additional time to procure so that they can avoid rushed procurement and pay competitive prices for their procurement.¹⁷ If the Commission adopted such a mechanism here, there would be no reason for the IOU to CAM the costs of IRP procurement to serve the returning customers, as the returning customers are now bundled customers and fall under the IOUs’ procurement responsibility.

The Commission should modify the Proposed Decision to direct the Commission to consider this issue in the POLR proceeding including the solutions proposed by CalCCA and SCE. If the Commission does move forward with CAM cost recovery for IRP procurement done by the IOU in its role as POLR, the Commission must modify the Proposed Decision to put time bounds on the proposal. The Commission should modify the Proposed Decision to only allow for CAM cost recovery if the time to procure between notification of customer return and D.21-06-035 compliance deadlines is less than 24 months and after the life of the contract, the resource is taken out of CAM. Further, the contract should not allow for any contract extension provisions as this would have all customers pay for a bundled load asset during a period in which

¹⁶ *Id.* at 39.

¹⁷ In its Mar. 28, 2022 comments in the POLR proceeding (R.21-03-011), CalCCA has proposed a deferral process, in which the IOUs could request a deferral of IRP obligations if customers return shortly before compliance deadlines. See 11-13 at: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M463/K619/463619721.PDF>.

the IOU is not facing a decision with limited time to execute which was the original basis for SCE's proposal. Instead, the resource would become available to the market and the IOU could choose to pursue a new contract with the resource for its bundled load customers. This would ensure CAM cost recovery only applies when timelines to procure are short enough such that procurement cannot be done in a cost-effective manner. Additionally, any POLR CAM procurement should be authorized by a decision of the Commission that follows a stakeholder process that is tailored to the urgency of the reliability concern.

C. The Commission Errs in Rejecting CalCCA's Deliverability Proposal on the Basis that it is Detrimental to Reliability

In its Opening Comments on near-term actions to support reliability, CalCCA proposed that the Commission allow projects without a deliverability study to count towards D.21-06-035 requirements temporarily as long as the project completes the deliverability study process, obtains full capacity deliverability status, or performs the necessary upgrades to obtain full capacity deliverability status.¹⁸ The Proposed Decision declines to adopt this proposal and states, "... the interconnection study process is important to ensure reliability, and therefore the deliverability studies should not be subjected to shortcuts." CalCCA agrees that the interconnection and deliverability study process is important for reliability, and did not suggest shortcuts to the deliverability study process in its proposal. Instead, CalCCA's proposal would require all resources counting towards D.21-06-035 requirements to go through the existing deliverability study process with no changes to the methodology. If, after completion of the deliverability study, the resource is not fully deliverable, network upgrades must be conducted to make the resource fully deliverable, or the LSE must show a new fully deliverable resource. Additionally, LSEs would still need to meet their RA requirements with fully deliverable resources while waiting for their D.21-06-035 project to obtain full capacity deliverability status. The alternative is to hold the IRP procurement process hostage to the timing of the deliverability study process, creating uncertainty for each project as to whether any individual project may or may not eventually count toward IRP targets. Therefore, the Proposed Decision errs in suggesting that the CalCCA proposal would result in a "shortcut" in the deliverability study process and would harm reliability and should be modified to adopt CalCCA's proposals.

¹⁸ *California Community Choice Association's Comments on Section 2 of the Administrative Law Judge's Ruling Seeking Comments on Potential Near-Term Actions to Encourage Additional Procurement*, R.20-05-003 (Sept. 26, 2022), at 10.

IV. CAISO TRANSMISSION PLANNING PROCESS RECOMMENDATIONS

A. The Commission Must Clarify the PD to Outline Steps the Commission Must Take in Response to MIC Expansion Requests that are Denied by the CAISO Due to Lack of Existing Transmission Capacity

In its November 17, 2022, 2022-2023 Transmission Planning Process (TPP) presentation, the CAISO presented the results of its assessment of MIC expansion requests. The assessment indicated that, given the current transmission system, all the MIC expansion requests studied by the CAISO failed the TPP deliverability study, meaning the CAISO cannot expand MIC. MIC expansion would necessitate transmission upgrades due to a lack of available deliverability.

While the Proposed Decision asks the CAISO to continue the studies that will inform MIC expansion opportunities to support the development of incremental transmission capacity to support long-lead-time resources in the base portfolio,¹⁹ the Proposed Decision does not explain what steps the Commission will take when the CAISO cannot expand MIC due to a lack of existing transmission capacity. It will be very difficult for LSEs to invest in the development of new out-of-state resources necessary to satisfy the variety of requirements (Renewable Portfolio Standard (RPS), clean energy, IRP, and RA) with significant uncertainty that those resources will count due to the lack of MIC both short and long-term.

The Commission should therefore clarify in the Proposed Decision that if a MIC expansion request results in a “fail” of the CAISO’s deliverability assessments, the Commission would use those requests to inform future base case resource portfolios for study in the next TPP cycle if those requests include projects that are not already included in previous base cases. This will allow the CAISO to study transmission needs that would allow for the expansion of MIC associated with MIC expansion requests. The CAISO has stringent requirements for studying MIC expansion requests (*e.g.*, LSE demonstration of an executed contract), so the Commission should take MIC expansion requests as an indication that there are high levels of commercial interest in the resources at those locations.

¹⁹ Proposed Decision at 51.

V. 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,

A handwritten signature in blue ink that reads "Evelyn Kahl".

Evelyn Kahl,
General Counsel and Director of Policy
CALIFORNIA COMMUNITY CHOICE
ASSOCIATION

February 2, 2023

**ATTACHMENT A
TO
CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S COMMENTS
ON THE PROPOSED DECISION ORDERING SUPPLEMENTAL MID-TERM
RELIABILITY PROCUREMENT (2026-2027) AND TRANSMITTING ELECTRIC
RESOURCE PORTFOLIOS TO CALIFORNIA INDEPENDENT SYSTEM OPERATOR
FOR 2023-2024 TRANSMISSION PLANNING PROCESS**

**PROPOSED CHANGES TO FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS**

FINDINGS OF FACT

New: A programmatic approach to IRP procurement will result in more effective procurement than the order-by-order approach.

CONCLUSIONS OF LAW

3. CAM resources should not be eligible to participate in a baseline resource swap for reasons of cost allocation fairness. Resources with a contract with a new purchasing LSE and a terminated contract with the original purchasing LSE shall be eligible only if the contract with the original LSE had been terminated prior to the date of issuance of this Proposed Decision, January 13, 2023.

4. The Cal Advocates proposal for an additional 4,000 MW NQC of procurement is reasonable and should be adopted, with modifications. For future procurement orders, the Commission should avoid repeating the practice of order-by-order procurement not based on an LOLE study by developing a programmatic procurement framework that routinely assesses needs, establishes realistic procurement schedules, and allocates procurement in a manner that considers past clean resource procurement.

7. The D.21-06-035 2,000 MW NQC requirements for LLT resources that were due in 2026 should be adjusted to be required before 2028, similar to the timeframe already provided for in D.21-06-035. An LSE should not be required to seek an extension of the 2026 deadline, but should instead be allowed to use the LLT resources defined in D.21-06-035 to count toward its obligations at any time during 2026 through 2028. If an LSE already has procured its share of the LLT resources by 2026 or 2027, it may substitute that resource for the requirements of this order and conduct additional procurement in 2028, such that in each year the total procurement obligations of all LSEs will be met with 2,000 MW NQC in each year, inclusive of the LLT resources. If an LSE already has procured its share of procurement for one compliance period, it may count any excess procurement from that compliance period in future compliance periods.

8. Capacity requirements to individual LSEs should be on the same basis as assigned in D.21-06-035, for reasons of fairness in cost allocation. Future procurement requirements should be allocated procurement in a manner that considers past clean resource procurement, for reasons of

avoiding penalizing early actors.

15. CAM cost recovery is the most reasonable approach to the situation where an IOU takes on the D.21-06-035 or this order's compliance obligations because the LSE is in bankruptcy or no longer providing retail service only if the compliance deadline falls within 24 years of date the IOU is notified of customer return and the resource is taken out of CAM after the life of the contract, if the LSE's customers are not already paying for the same capacity under the MCAM mechanism. This provision is subject to change based upon the outcome of the POLR proceeding.

19. The Commission should seek CAISO TPP analysis of ~~one~~ two sensitivity cases in this TPP cycle: a case that tests the transmission needs of a significant amount of offshore wind and a portfolio that assumes the retirement of gas plants in local capacity areas.

New: The Commission should consider procurement needs identified in the Aliso Canyon proceeding within this proceeding to ensure procurement efforts are aligned.

New: The Commission should assess future procurement needs of its jurisdictional LSEs, rather than CAISO system-wide needs, and allocate only those needs to its LSEs.

New: CalCCA's proposal that the Commission allow projects without a deliverability study to count towards D.21-06-035 requirements temporarily as long as the project completes the deliverability study process, obtains full capacity deliverability status, or performs the necessary upgrades to obtain full capacity deliverability status is adopted.

ORDERING PARAGRAPHS

1. Any load-serving entity subject to procurement requirements from Decision (D.) 19-11-016 or D.21-06-035 may file a Tier 2 Advice Letter seeking to count an individual electric generation or storage resource listed on the baseline generator list for either decision toward its obligation, but then must have an equal amount of net qualifying capacity added to its procurement requirement associated with D.21-06-035 for 2025. The capacity counting will be based on the relevant effective load carrying capability (ELCC) value for the order for which the resource is being counted, and the additional 2025 capacity procurement will be based on 2025 ELCC values. Commission staff shall maintain on our web site and up-to-date baseline generator list for both D.19-11-016 and D.21-06-035 compliance purposes. Resources with costs allocated under the Cost Allocation Mechanism shall not be eligible for this capacity swap. Resources with a contract with a new purchasing LSE and a terminated contract with the original purchasing LSE shall be eligible only if the contract with the original LSE had been terminated prior to the date of issuance of this Proposed Decision, January 13, 2023.

5. Any penalties associated with failure to comply with the requirements of Decision 21-06-035 or this order will be based on a calculation of the net cost of new entry, a calculation which the Commission will maintain for this purpose. The penalty will be assessed for each relevant compliance year. LSEs will be able to request a deferral of penalty assessments for one year if the LSE can demonstrate it took reasonable efforts to procure yet faced delays for reasons outside the control of the LSE.

10. If an investor-owned utility takes on the D.21-06-035 compliance obligation of another load serving entity (LSE) due to a bankruptcy or other reason for the LSE no longer providing retail service, cost recovery for capacity procurement shall be through the Cost Allocation Mechanism only if the compliance deadline falls within 24 years of date the IOU is notified of customer return and the resource is taken out of CAM after the life of the contract, unless the LSE's customers are already paying for the same capacity under the Modified Cost Allocation described in Decision 22-05-015.

13. The Commission transfers to the California Independent System Operator for its 2023-2024 Transmission Planning Process ~~one~~ two policy-driven sensitivity portfolios for study purposes, that ~~have~~ been updated with assumptions from the California Energy Commission's 2021 Integrated Energy Policy Report: a portfolio that tests the transmission needs associated with approximately 13 gigawatts of offshore wind and a portfolio that assumes the retirement of gas plants in local capacity areas. The details of the portfolio will be posted at the following link: <https://www.cpuc.ca.gov/industries-and-topics/electricalenergy/electric-power-procurement/long-term-procurement-planning/2022-irpcycle-events-and-materials/portfolios-and-modeling-assumptions-for-the-2023-2024-transmission-planning-process>.

New: The Commission shall issue a decision allocating requirements to individual LSEs and providing ELCCs to be used for procurement in this order.