



**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 REPLY 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**

Evelyn Kahl,
General Counsel and Director of Policy
Lauren Carr,
Senior Market Policy Analyst
CALIFORNIA COMMUNITY CHOICE
ASSOCIATION
One Concord Center
2300 Clayton Road, Suite 1150
Concord, CA 94520
(415) 254-5454
regulatory@cal-cca.org

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TABLE OF CONTENTS

I. INTRODUCTION1

II. THE COMMISSION MUST MAINTAIN OBLIGATION TRADING IN THE PD.....1

III. THE COMMISSION SHOULD ADOPT AREM/UC AND SCE’S CLARIFICATIONS REGARDING ONGOING APPLICATION OF PENALTIES3

IV. ALLOCATION OF BACKSTOP COSTS MUST BE LIMITED IN TIME AND CONSISTENT WITH THE BENEFITS.....3

V. THE COMMISSION SHOULD NOT MODIFY THE PD TO ORDER PROCUREMENT BEYOND THE 4,000 MW ALREADY INCLUDED IN THE PD.....4

VI. PCIA VINTAGING MUST BE CONSISTENT WITH THE LOAD FORECAST USED TO ALLOCATE REQUIREMENTS5

VII. CONCLUSION.....5

SUMMARY OF RECOMMENDATIONS

- The California Public Utilities Commission (Commission) must maintain obligation trading in the Proposed Decision;
 - The Commission should adopt AReM/UC and SCE's clarifications regarding ongoing application of penalties;
 - Allocation of backstop costs must be limited in time and consistent with the benefits;
 - The Commission should not modify the Proposed Decision to order procurement beyond the 4,000 MW already included in the Proposed Decision; and
 - Power Charge Indifference Adjustment vintaging must be consistent with the load forecast used to allocate requirements.
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FOR 2023-2024 TRANSMISSION PLANNING PROCESS**

I. INTRODUCTION

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, 2023.²

II. THE COMMISSION MUST MAINTAIN OBLIGATION TRADING IN THE PD

The PD allows load-serving entities (LSEs) with compliance obligations under Decisions (D.) 19-11-016³ and D.21-06-035⁴, and this order to trade obligations between LSEs, a change CalCCA strongly supports.⁵ Pacific Gas and Electric Company (PG&E), on the other hand,

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.

² All references herein to party Opening Comments are to the February 2, 2023 Comments filed in this Rulemaking (R.) 20-05-003.

³ D.19-22-016, *Decision Requiring Electric System Reliability Procurement For 2021-2023*, R.20-05-003 (Nov. 7, 2019).

⁴ D.21-06-035, *Decision Requiring Procurement To Address Mid-Term Reliability (2023-2026)*, R.20-05-003 (June 24, 2021).

⁵ Proposed Decision, Ordering Paragraph 9.

recommends the Commission “[s]trike the language on obligation trading and utilize resource trading provisions already provided in the PD for bridging purposes.” PG&E basis its recommendation on claims that obligation trading will complicate compliance and implicitly allow an LSE to “opt-out” of its procurement obligation.⁶

The Commission should reject PG&E’s recommendation for several reasons. First, obligation trading is no more complicated than other procurement mechanisms in place LSEs use to optimize their portfolios, such as trading or selling resources. Second, obligation trading *is not* the same as opting out. Obligation trading would allow one LSE to pay another LSE to take on its procurement obligation voluntarily under terms and conditions agreed upon by both LSEs. In effect, the entity paying another LSE to take on their obligation has determined that it is the most cost-effective way to meet their customer capacity needs while new capacity is indeed brought online. The same effect can be had by an LSE procuring more than their need and selling that excess to another LSE, but obligation trading may not be as complicated because it avoids interfering with contracts with the generator provider. Put simply, this is another mechanism for new resources to be built, brought to service, and all done based on the requirements for each LSE to procure to meet their customers’ needs. Third, PG&E misrepresents previous Commission decisions by stating that load obligation trading is a “practice prohibited by the Commission in the Resource Adequacy (RA) proceeding.”⁷ In D.22-06-050, the Commission states that it declines to adopt hourly load obligation trading under a 24-hour slice framework “at this time” and “[i]f transactability and inefficiency concerns arise once the new 24-hour framework is implemented, the Commission may consider proposals to include hourly obligation trading.”⁸ The Commission did not “prohibit” load obligation trading in the D.22-06-050. Rather, the Commission left it as an option on the table for adoption in the future. Given the extenuating circumstances complicating LSEs’ ability to get new generation online quickly and affordably, the PD correctly adopts obligation trading to provide LSEs with additional opportunities and mechanisms to meet their obligations. For these reasons, the Commission should maintain obligation trading in the PD and reject PG&E’s recommendation to remove it.

⁶ PG&E Opening Comments at 4.

⁷ *Id.*

⁸ D.22-06-050, *Decision Adopting Local Capacity Obligations for 2023 - 2025, Flexible Capacity Obligations For 2023, and Reform Track Framework*, R.20-05-003 (June 23, 2022), at 97.

III. THE COMMISSION SHOULD ADOPT AREM/UC AND SCE'S CLARIFICATIONS REGARDING ONGOING APPLICATION OF PENALTIES

The PD states that “[p]enalty amounts assessed in 2025 will be based on the capacity obligations for 2023-2025, and not future years. In other words, the **penalties will not be ongoing**, but are for those specific years’ worth of capacity obligations.” Later in the PD, however, the Commission states that LSEs “[w]ill pay an annual penalty **for each year** it is deficient, for up to ten years” when an LSE fails to meet its procurement obligation.⁹ To clarify these contradictory statements, the Alliance for Retail Energy Markets and the Regents of the University of California (AReM/UC) and Southern California Electric Company (SCE) recommend the Commission clarify the PD to state that the Commission will only subject LSEs to potential penalties for the year of the deficiency, not for any future years.¹⁰

The Commission should adopt AReM/UC’s and SCE’s recommendations. Requiring LSEs to pay penalties for multiple years when the Commission could also issue backstop procurement will result in duplicative procurement costs if an LSE procures a resource to avoid penalties and the LSE is also charged for backstop procurement done on their behalf to fill their deficiency. Because backstop procurement will be conducted to cure deficiencies, there is no need to continue to penalize LSEs for the same deficiency multiple years because the reliability need will be filled after backstop occurs.

IV. ALLOCATION OF BACKSTOP COSTS MUST BE LIMITED IN TIME AND CONSISTENT WITH THE BENEFITS

Conclusion of Law (COL) 10 states: “Backstop procurement, if ordered, should be covered and the costs allocated for a period of ten years.” PG&E and SCE recommend the Commission modify this COL such that cost recovery for backstop procurement would not be limited to a ten-year period.¹¹ The Commission and the investor-owned utilities (IOUs) should aim to limit backstop procurement contracts to terms of at most ten years such that deficient LSEs can continue to conduct procurement on behalf of their own customers in future years, rather than having procurement allocated to them. If the Commission does allow backstop procurement for terms longer than ten years as suggested by PG&E and SCE, however, then the Commission must also

⁹ Proposed Decision (emphasis added) at 33.

¹⁰ AReM Opening Comments at 10 and SCE Opening Comments at 10.

¹¹ PG&E Opening Comments at 8-9 and SCE Opening Comments at 10.

allocate the benefits associated with that procurement to all LSEs for as long as it allocates the costs of that procurement.

Additionally, the Commission should not allow the IOUs to backstop using utility-owned generation (UOG) because unlike a contract for a non-UOG resource that expires after a certain number of years, UOG could be cost-allocated to LSEs in perpetuity. If the Commission allows the IOUs to backstop using UOG, then it must put a time limit on how long those costs and benefits can be allocated to deficient LSEs.

V. THE COMMISSION SHOULD NOT MODIFY THE PD TO ORDER PROCUREMENT BEYOND THE 4,000 MW ALREADY INCLUDED IN THE PD

Several parties recommend the Commission adopt additional procurement obligations for long-lead time or firm resources in addition to the 4,000 megawatts (MW) already ordered in the PD.¹² For example, Form Energy, Inc. (Form Energy) proposes that in addition to the 4,000 MW of new capacity proposed in the PD, the Commission also require 1,000 MW of firm, zero-carbon resources by 2028 with interim goals of at least 200 MW by June 1, 2026 and 500 MW by June 1, 2027.¹³ The Commission should not modify the PD to order additional procurement above and beyond the 4,000 MW already ordered in the PD. Opening Comments recommending additional procurement do not include the amount of analysis and stakeholder vetting necessary to conclude that there is a reliability gap filled by these proposals.

Instead, the Commission should turn its efforts towards developing a programmatic procurement framework that can replace the order-by-order procurement approach. A programmatic procurement framework should be based on robust planning and analysis and communicate the need with long enough lead time for LSEs to conduct orderly procurement. Several parties correctly support the Commission focusing on this effort,¹⁴ which will prevent the need for procurement orders outside the regular IRP process in the future. When developing a new procurement program, the Commission should take into account that a blanket long lead time or firm resource requirement for all LSEs may not reflect the unique needs of individual LSEs. LSEs should have the flexibility to procure resources with the right attributes for their own load needs, which is not possible with prescriptive, technology-specific procurement orders.

¹² Environmental Defense Fund Opening Comments at 5 and Form Energy Opening Comments.

¹³ Form Energy Opening Comments at 2-5.

¹⁴ California Independent System Operator Corporation Opening Comments at 3, CEERT Opening Comments at 5, PG&E Opening Comments at 7, and SCE Opening Comments at 2.

Form Energy also proposes a definition of firm, zero-carbon resources to mean “electrical resources that can individually, or in combination, deliver zero-carbon electricity with 95 percent availability at rated capacity for a minimum of 50 hours during a 1-in-10 weather year.”¹⁵ The Commission should also reject Form Energy’s definition of firm, zero-carbon resources, as the Commission defined this term in D.21-06-035.¹⁶

VI. PCIA VINTAGING MUST BE CONSISTENT WITH THE LOAD FORECAST USED TO ALLOCATE REQUIREMENTS

Several parties, including AReM/UC, SCE, San Diego Gas and Electric Company (SDG&E), and Shell Energy North America (US), L.P. d/b/a Shell Energy Solutions (Shell Energy) recommend the Commission use the most up-to-date load forecast for allocating the 4,000 MW of procurement to LSEs rather than the 2021 Integrated Energy Policy Report (IEPR) load forecast.¹⁷ SCE also recommends that if the Commission modifies the PD to use the most recent load forecasts for allocating obligations, then any resources procured in response to this order should be subject to Power Charge Indifference Adjustment (PCIA) vintage cost responsibility based on the effective date of the final decision. If the Commission does not modify the PD to use the most recent load forecasts, then SCE recommends the Commission use the 2021 PCIA vintage cost responsibility based on the date of D.21-06-035.¹⁸ CalCCA agrees with SCE that the PCIA vintage used for cost responsibility should be consistent with the load forecast used to allocate obligations.

VII. CONCLUSION

CalCCA appreciates the opportunity to submit these reply comments and requests adoption of the recommendations proposed herein.

Respectfully submitted,



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

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¹⁵ Form Energy Opening Comments at 5.

¹⁶ D.21-06-035 at 36.

¹⁷ AReM/UC Opening Comments at 5, SCE Opening Comments at 8, SDG&E Opening Comments at 2, and Shell Energy Opening Comments at 2-3.

¹⁸ SCE Opening Comments at 14.