



**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.23-10-011

**REPLY COMMENTS OF THE CALIFORNIA COMMUNITY CHOICE  
ASSOCIATION ON ORDER INSTITUTING RULEMAKING**

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## SUMMARY OF RECOMMENDATIONS

- CalCCA agrees with various parties that the Commission should consider the following items within the scope in this proceeding:
    - Unforced capacity's impact on the Planning Reserve Margin (PRM) and the level of PRM under Slice of Day (SOD);
    - Re-examination of penalties in Resource Adequacy (RA) given current market conditions and complete restructuring of RA;
    - Increased transparency into investor-owned utilities' effective PRM procurement;
    - Re-examination of import rules for RA;
    - Resource counting rules for hydroelectric resources;
    - The need for more efficient and effective transactions for load-serving entities (LSE) to meet SOD requirements; and
    - Allowing new resources that are not online at T-45 but are online for the operating month to count as RA.
  
  - CalCCA also agrees with various parties regarding the need to further consider the schedule of this proceeding to ensure it is effective at establishing the SOD requirements that will have their first binding obligation in less than one year from now. These include:
    - Timing of the Energy Division SOD report and the due date for proposals; and
    - Providing sufficient detail of any aggregate SOD shortfall.
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The California Community Choice Association<sup>1</sup> (CalCCA) submits these reply comments in response to the *Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Reforms and Refinements, and Establish Forward Resource Adequacy Procurement Obligations*<sup>2</sup> (OIR), issued on October 19, 2023, pursuant to Rule 6.2 of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure<sup>3</sup> and the directives provided by the OIR.

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<sup>1</sup> California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Ava Community Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, Energy For Palmdale’s Independent Choice, Lancaster 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.

<sup>2</sup> *Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Reforms and Refinements, and Establish Forward Resource Adequacy Procurement Obligations*, Rulemaking (R.) 23-10-011 (Oct. 12, 2023): <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M520/K576/520576484.PDF>.

<sup>3</sup> State of California Public Utilities Commission, Rules of Practice and Procedure, California Code of Regulations Title 20, Division 1, Chapter 1 (May 2021): <https://webproda.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/rules-of-practice-and-procedure-may-2021.pdf>.

## I. INTRODUCTION

CalCCA agrees with a number of parties' opening comments<sup>4</sup> that there are a substantial number of issues that should be included in scope for this proceeding. These issues include elements to ensure that slice-of-day (SOD) is implementable as well as issues that generally impact Resource Adequacy (RA) and customer affordability. In concert with or in addition to CalCCA's comments on scope and schedule, CalCCA replies to comments of other parties highlighting the needs in both areas as follows:

- CalCCA agrees with various parties that the Commission should consider the following items within the scope in this proceeding:
  - Unforced Capacity's (UCAP) impact on the Planning Reserve Margin (PRM) and the level of PRM under SOD;
  - Re-examination of penalties in RA given current market conditions and complete restructuring of RA;
  - Increased transparency into investor-owned utilities' effective PRM procurement;
  - Re-examination of import rules for RA;
  - Resource counting rules for hydroelectric resources (hydro);
  - The need for more efficient and effective transactions for load-serving entities (LSE) to meet SOD requirements; and
  - Allowing new resources that are not online at T-45 but are online for the operating month to count as RA.
- CalCCA also agrees with various parties regarding the need to further consider the schedule of this proceeding to ensure it is effective at establishing the SOD requirements that will have their first binding obligation in less than one year from now. These include:
  - Timing of the Energy Division report and the due date for proposals; and
  - Providing sufficient detail of any aggregate SOD shortfall.

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<sup>4</sup> All references herein to party Opening Comments are to parties' opening comments to the OIR, filed in this proceeding, R.23-10-011, on or about November 8, 2023.

## **II. ELEMENTS FOR CONSIDERATION IN THE SCOPE OF THIS PROCEEDING**

CalCCA agrees with a number of parties that there are a substantial number of issues that the Commission and parties must address in this proceeding. These issues will either help to ensure that SOD is implementable or address issues generic to RA and the current market conditions.

### **a. The Commission Should Include UCAP, Its Impact on PRM, and The Level of PRM Under SOD in Scope**

Within this proceeding, the Commission is considering the implementation of a UCAP methodology to account for outages of resources rather than continue to rely on the ineffective Resource Adequacy Availability Incentive Mechanism (RAAIM) that financially penalizes RA resources that are not available for the California Independent System Operator Corporation (CAISO) dispatch when on outage. The current PRM was established as a mechanism to account for Ancillary Service needs, load forecast error, and resource forced outages. If UCAP is implemented, the element of forced outages should be eliminated from PRM calculation as the Net Qualifying Capacity (NQC) of the resource will already be reduced to account for that resource's historical forced outage rate. However, in Decision 23-06-029 the Commission retained the 17 percent PRM for 2024 and 2025. Should this proceeding implement UCAP for 2025, the use of a 17 percent PRM will overstate the RA needs and simply drive up procurement and costs to customers through their LSEs compliance efforts. For this reason, CalCCA agrees with the comments filed by American Clean Power – California (ACP) that if the Commission adopts UCAP, the Commission must align the RA and PRM needs to be consistent with the UCAP methodology.<sup>5</sup>

In addition, ACP notes that Energy Division staff recently shared information on their PRM calibration tool that would significantly change the PRM under SOD. This change could be

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<sup>5</sup> ACP Opening Comments, at 4.

expected since the counting mechanism for resources is considerably altered under SOD where wind and solar are no longer a single value but are represented by an hourly profile.<sup>6</sup> Similar to the discussion above, any loss of load analysis where a variable resource like wind and solar is represented by a single value risks there being a “forced outage” during the loss of load expectation event as the hour may occur in a period where the resource is producing less than the single value dictated by Effective Load Carrying Capacity. Given the more granular and accurate approach to resource counting, the PRM can be expected to decrease as has been shown in the initial results from the Energy Division PRM calibration tool.<sup>7</sup> Since SOD is to be implemented for 2025, the PRM should match with the modeling and counting of resources at that time. Continuing to use a 17 percent PRM is likely to overstate the RA need and therefore increase the costs of RA procurement and exposure to penalties for LSEs by providing a PRM in excess of what is necessary to reliably serve the grid.

Contrary to these arguments, the Independent Energy Producers Association (IEPA)<sup>8</sup> recommends that the Commission maintain its 17 percent PRM for 2025 and only re-evaluate for 2026 and beyond. However, IEPA only includes two sentences with reference to earlier support for a 17 percent PRM for 2024 – 2025 while using 17 percent as a minimum for 2026 with a possible increase to account for the easing of supply chain constraints and potential funding from the federal government. Neither of these arguments addresses whether a 17 percent PRM addresses a reliability need or evaluates the changes in resource accounting and its impact on PRM which is presently occurring through the SOD implementation. The Commission should

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<sup>6</sup> *Id.*, at 2-3.

<sup>7</sup> Energy Division staff presentation, *Resource Adequacy Slide[sic] of Day Translation Tool and Update to Thermal Derate Model* (Oct. 25, 2023), slides 26-27: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/resource-adequacy-history/r2310011sodtranslationtoolthermalderatemodel.pdf>.

<sup>8</sup> IEPA Opening Comments, at 2.

dismiss simple assumptions that the PRM should not be less than 17 percent. Instead, the Commission should instruct Energy Division to continue its efforts to evaluate the correct level of PRM based on loss of load expectation and the new resource counting rules used for SOD. The deadline for those results should allow for 2025 RA year implementation, consistent with the implementation of SOD.

**b. The Commission Should Include a Re-Examination of Penalties in RA in Scope Given Current Market Conditions and Complete Restructuring of RA**

Concern over the ability to meet RA needs from the existing pool of resources and through new resource development is growing. In comments, both ACP and Southern California Edison Company (SCE) discuss this topic. It is noteworthy that ACP “is the voice of companies from across the clean power sector that are providing cost-effective solutions to the climate crisis while creating jobs, spurring massive investment in the American economy, and driving high tech innovation across the United States.”<sup>9</sup> Yet a party that is looking to support the development of new renewable resources is also concerned that, “[s]trict application of penalties can exacerbate RA prices by leading buyers to pay more for capacity, a dynamic exacerbated by a point-based penalty structure that leads to higher penalties for LSEs who have had incurred past shortfalls in their month-ahead filings.”<sup>10</sup> ACP recognizes that having some level of certainty and reasonableness in meeting regulatory compliance is an important aspect of the RA program leading ACP to conclude that the Commission should “providing clearer opportunities to appeal penalties for system shortfalls when buyers (or their suppliers) have made good faith efforts to mitigate shortfalls in capacity and delays in new project development.”<sup>11</sup>

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<sup>9</sup> See ACP Opening Comments.

<sup>10</sup> *Id.*, at 5.

<sup>11</sup> *Id.*



SCE's comments also support the notion that the combination of SOD and market tightness in California and in the West warrant the Commission taking a review of the penalty structure of RA for 2025 and 2026.<sup>12</sup> CalCCA agrees with SCE and ACP. The Commission should prioritize the RA Compliance and Penalties OIR scope item in this proceeding.

**c. The Commission Should Include Increased Transparency Into Investor-Owned Utility (IOU) Effective PRM Procurement in Scope**

The Alliance for Retail Energy Markets (AReM) notes that the IOUs may be procuring RA in excess of their RA requirements the IOU then shows on a supply plan. However, the costs of these excess RA resources are paid by all customers while those customers do not receive RA credit. The result then is that these resources are used to meet IOU needs in the event of a CAISO backstop while all other LSEs that pay for these resources are left only with their own showing and supply plans to meet their obligations and avoid CAISO backstop.<sup>13</sup>

While CalCCA generally agrees with the position of AReM, CalCCA recognizes that the cost shift is dependent on whether those excess resources procured by the IOUs were RA-eligible. CalCCA notes that a review of the Commission's spreadsheets on excess IOU RA procurement shows a significant amount of procurement listed in each IOU spreadsheet as being a "Subset of the resources below shown on the IOU's supply plan".<sup>14</sup> As of November 15, 2023, these spreadsheets show significant quantities of what would appear to be RA-compliant megawatts (MW) for each IOU as shown in Figure 1 below.

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<sup>12</sup> SCE Opening Comments, at 4.

<sup>13</sup> AReM Opening Comments, at 4-5.

<sup>14</sup> Resource Adequacy Compliance Materials: <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-power-procurement/resource-adequacy-homepage/resource-adequacy-compliance-materials> (emphasis added).

Figure 1

<b><i>IOU Supply Plan Summer Reliability MW Amount</i></b>					
IOU	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23
PG&E	517.15	250.00	250.00	300.00	466.32
SCE	653	207	124	27	379
SDG&E	96	50	22	116	89
<b>Total</b>	<b>1,266.29</b>	<b>506.95</b>	<b>395.65</b>	<b>443.00</b>	<b>934.13</b>

CalCCA notes that prior to the current data, the MW quantities were significantly larger for August and September (*see* Figure 2) but were revised downward with no explanation of the changes.

Figure 2

<b><i>IOU Supply Plan Summer Reliability MW Amount</i></b>					
IOU	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23
PG&E	517.15	250.00	250.00	300.00	466.32
SCE	653	207	997	552	379
SDG&E	96	50	22	116	89
<b>Total</b>	<b>1,266.29</b>	<b>506.95</b>	<b>1,269.00</b>	<b>968.00</b>	<b>934.13</b>

Transparency into the quantity of capacity that is available for LSEs to meet their RA obligations is critical. It is not clear why SCE revised the quantities for August and September. It is further not clear that the resources remaining on these tables would not have otherwise been eligible for LSEs to meet their own RA obligations.

Given the potential for significant penalties and the cost shifts noted by AReM, the Commission must provide more transparency into the IOU excess procurement efforts. This transparency should include an analysis of whether the IOUs reasonably made these resources available to the market so that other LSEs could meet their RA obligations, as well as an assessment of whether the efforts by the IOUs to procure excess exacerbated RA market tightness and raised prices.

**d. The Commission Should Include a Re-examination of RA Import Rules in Scope**

Bonneville Power Administration (Bonneville) notes that a requirement to bid between \$150 and \$0 in the CAISO market will not allow them to make RA sales that are not resource-specific but that do rely on hydroelectric generating facilities to provide such capacity.<sup>15</sup> Agreeing to make sales from potentially use-limited resources such as hydro at prices below its opportunity cost can be expected to significantly limit the capacity made available by such resources. CalCCA has previously demonstrated that the current must-offer obligation for non-specific imports can cause those resources to operate at a loss.<sup>16</sup> This is true of not only import hydro but all other imports from non-specified resources as well. Given the tightness of the capacity market in California and throughout the West, the Commission should examine rules that may limit capacity that could otherwise be used to meet reliability needs in the RA program and as such, should consider import bidding rules in the scope of this proceeding.

**e. The Commission Should Include Resource Counting Rules for Hydro in Scope**

Microsoft Corporation (Microsoft) recommends including hydro counting in the scope of this proceeding due to the potential for prolonged drought conditions that could limit available capacity from hydro.<sup>17</sup> Prolonged drought conditions are particularly important for planning activities that would build new resources like the IRP. For RA, the accuracy of what the resource can be expected to bring in the RA compliance year is critical. It is worth noting that for the year-ahead (YA) filings for 2023 made in October 2022, hydro conditions were forecast to be minimal with snowpack levels at zero and reservoir levels in some instances at very low levels. However, this changed dramatically as the year progressed, with snowpack levels ultimately

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<sup>15</sup> Bonneville Opening Comments, at 2-3.

<sup>16</sup> *California Community Choice Association's Proposals in Response to Assigned Commissioner's Amended Scoping Memo and Ruling*, R.21-10-002 (Jan. 20, 2023), at 13-25.

<sup>17</sup> Microsoft Opening Comments, at 8-9.

reaching over 300 percent of normal prior to the summer of 2023. Given these circumstances, it is clear that the counting of hydro should indeed reflect the available capacity given current conditions when known. In addition, the Commission should report on the NQC values claimed for hydro to ensure that the current counting allowing a choice of NQC values is not placing undue pressure on resource availability. To avoid providing LSE-specific or confidential information, the Commission should aggregate this information and provide it to the market. The Commission should include hydro counting rules within the scope but not focus only on prolonged drought but also on the quantities claimed from these resources should drought conditions ease between the YA and month-ahead (MA) showings.

**f. The Commission Should Include the Need for More Efficient and Effective Transactions for LSEs to Meet SOD Requirements in Scope**

REV Renewables, LLC (REV Renewables) recommends that the scope of this proceeding consider hourly transactability of load obligations. REV Renewables notes that such a mechanism would allow LSEs to more cost-effectively meet the SOD compliance obligations and still result in a total system of resources that meets reliability needs.<sup>18</sup> REV Renewables is correct that the objective of the RA program should be to allow LSEs to cost-effectively meet reliability needs. Given that no evidence has been provided that the expected resources in 2025 can meet the SOD obligation as a whole and further, no studies have been done or are being planned to show whether a system that does not allow hourly transactions or load obligation trading would inhibit LSEs from meeting their obligations, the Commission must scope this very important topic in this proceeding. Blindly implementing a complex RA program in a tight market without enabling LSEs to use every option to meet reliability needs will not minimize cost nor maximize compliance.

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<sup>18</sup> REV Renewables Opening Comments, at 3.

**g. The Commission Should Include in Scope the Allowing of New Resources That Are Not Online at T-45 but Are Online for The Operating Month to Count as RA**

Both REV Renewables and the California Energy Storage Alliance (CESA) note that with the current difficulty of bringing new resources to commercial operation, requiring a resource to be operational 45 days prior to the month to count in the MA showing may be artificially limiting.<sup>19</sup> Both are correct in that if the resource is operational for the entire RA month, it can still provide its capacity and the associated reliability benefit. However, today if this were to occur, the LSE may find themselves short of their compliance obligation and face a fine even though the resource was operational for the operating month. The Commission should include this topic in scope and work with the CAISO to evaluate how to implement a must-offer obligation on a new resource that does not meet its commercial operation date 45 days ahead of the operating month but is online upon the start of the operating month.

**III. ELEMENTS FOR CONSIDERATION IN THE OIR SCHEDULE**

A few parties put forth valuable comments for consideration in the scheduling of this OIR where certain information will be necessary to help inform other aspects of the OIR. The Commission should therefore consider the following items in the schedule of this proceeding.

**a. The Commission Should Sequence the Timing of The Energy Division Report and The Due Date for Proposals**

Pattern Energy Group LP (Pattern Energy) states that the market must know the hours in which the SOD framework is the most constrained.<sup>20</sup> Since parties are to submit proposals by January 19, 2024, any report from the Energy Division on SOD testing and sufficiency of the fleet to meet all hours must be scheduled to occur prior to party comments. As noted by CESA,

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<sup>19</sup> *Id.* at 4, CESA Opening Comments, at 5-6.

<sup>20</sup> Pattern Energy Opening Comments, at 4.

this report is presently due February 1, 2024,<sup>21</sup> meaning that parties will not have the benefit of this report in developing their proposals. Finally, REV Renewable asks that parties be required to file proposals no sooner than two weeks after the Energy Division issues its report.<sup>22</sup> Given the importance of knowing the results of the SOD test showings and the importance of better understanding the fleet of resources expected and its ability to fulfill the SOD compliance needs, the Commission should schedule proposals to be due after the Energy Division report with sufficient time for parties to understand the report and account for it in their proposals.

This report should include an evaluation of any aggregate supply shortfall under the new SOD requirements and counting rules. As stated in section II.b., parties are becoming increasingly concerned with RA market tightness and it has yet to be tested within this proceeding or the prior RA proceeding how the shift to SOD will improve or worsen the supply and demand balance.

#### **IV. CONCLUSION**

For all the foregoing reasons, CalCCA requests that the Assigned Commissioner and Administrative Law Judge modify the scoping issues and procedural schedule consistent with CalCCA's recommendations in these and its opening comments.

Respectfully submitted,



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November 20, 2023

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<sup>21</sup> CESA Opening Comments, at 4.

<sup>22</sup> REV Renewables Opening Comments, at 4.