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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Senate Bill 520 and Address Other Matters Related to Provider of Last Resort.	R.21-03-011

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S (CALCCA) REPLY COMMENTS ON THE PROPOSED DECISION

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SUMMARY OF RECOMMENDATIONS

- The PD correctly focuses financial security requirement (FSR) calculation modifications on those that will improve its accuracy rather than comprehensive changes to what the calculation is intended to cover. The California Public Utilities Commission (Commission) should therefore reject Pacific Gas and Electric Company's (PG&E) recommendation to change the FSR calculation to cover liquidity by requiring the FSR to cover two months of energy costs with no revenue offset.

- The Commission should reject San Diego Gas and Electric Company's (SDG&E) and Southern California Edison Company's (SCE) recommendations regarding seasonal resource adequacy (RA) costs.

- The Commission should reject SDG&E's recommendation to increase the tier 2 financial reporting trigger for the adjusted debt service coverage ratio from 1.0 to 1.25.

- The Commission should reject recommendations from The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) and PG&E that would make confidential information available to the Provider of Last Resort (POLR) and the market.

- The Commission should reject SDG&E's proposed modification to the tier 2 trigger related to bankruptcy and insolvency.

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S (CALCCA)
REPLY COMMENTS ON THE PROPOSED DECISION

CalCCA submits these reply comments pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure on the proposed *Decision Implementing Senate Bill 520 Regarding Standards for Provider of Last Resort*[1] (PD), mailed March 14, 2024.

I. THE COMMISSION SHOULD REJECT PG&E'S RECOMMENDATION TO CHANGE THE FSR CALCULATION TO COVER LIQUIDITY BY REQUIRING THE FSR TO COVER TWO MONTHS OF ENERGY COSTS WITH NO REVENUE OFFSET

PG&E reiterates its concerns over its ability to finance energy costs for an approximate two-month period where PG&E will have expenses to the California Independent System Operator while awaiting customer revenues from retail billing. PG&E points to a lack of credit facilities, potential blackout dates for financing, the need to use PG&E's capital in other endeavors (e.g. wildfire hardening), and stressed market conditions.[2, 3] As a result, "PG&E requests that Phase 2 of this proceeding commence expeditiously and should include procedures and mechanisms to address the liquidity needs of the POLR, including reasonable cost recovery of financing costs incurred to be ready to serve returning load under emergency conditions."[4]

CalCCA agrees phase 2 (P2) should be pursued expeditiously but not to address POLR liquidity needs in the manner that PG&E suggests. Neither SCE nor SDG&E has asked the Commission to implement the solutions that PG&E recommends, demonstrating not every entity is in the dire need of financing that PG&E has represented. The Commission should, therefore, expedite P2 of this proceeding to determine if there is a more cost-effective entity capable of providing POLR service and relieve PG&E of that responsibility.

II. THE PD SHOULD REJECT SDG&E'S AND SCE'S RECOMMENDATIONS REGARDING SEASONAL RA COSTS

SDG&E attempts to submit new evidence in an untimely manner in this case. SDG&E states:

> Using SDG&E as a test case, seasonal rates were incorporated into the sample May 2022 and November 2022 FSR calculations on top of the other changes approved in the PD, which have already been built into the presented calculator. For the May 2022 sample calculation that covers the summer months, seasonal customer rates did not increase the required FSR above the minimum amount, which is where it

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1 Proposed *Decision Implementing Senate Bill 520 Regarding Standards for Provider of Last Resort*, Rulemaking (R.) 21-03-011 (Mar. 14, 2024).

2 References to Parties' Opening Comments refer to those submitted in this proceeding, R.21-03-011 on April 3, 2024.

3 PG&E Opening Comments at 4-7.

4 PG&E Opening Comments at 9.

> was previously. However, for the sample November 2022 calculation that covers the winter months, the required FSR posting was increased from the minimum amount of $147,000 to approximately $14M, resulting from a ~$38M decrease in forecast utility revenue over the period from November 2022 to April 2023. (footnote omitted)[5]

SDG&E concludes that this change would "skew" the FSR calculation, resulting in an "artificially low" FSR in the summer, and could require a community choice aggregator (CCA) to post higher collateral in the winter.[6] On this basis, SDG&E concludes that the PD should be revised to "eliminate the requirement to incorporate seasonal customer generation rates into the FSR calculator."[7]

SDG&E's statement ignores that CalCCA already performed a calculation of the FSRs accounting for a variety of proposals using the summer-winter retail rates provided by the investor-owned utilities (IOU) pursuant to a CalCCA data request. In CalCCA's April 18, 2023, comments, a table showing the results of its calculation shows that the winter FSR for SDG&E does not become positive as SDG&E contends.[8] Notably, while the incremental procurement cost calculations do not turn positive for SDG&E, they do for SCE and PG&E. Despite this outcome, CalCCA supported the change to better reflect the costs and revenues the POLR would be expected to incur over the relevant period. Given SDG&E had the opportunity to address this issue one year ago and chose not to, SDG&E should not be allowed to present new evidence and arguments now that were known previously.

SCE recommends that the Commission should move more expeditiously on evaluating whether a reasonable summer and winter price for RA can be developed. SCE states:

> For these reasons, SCE requests that the final decision require, rather than permit, the Commission to address this issue in Phase 2 of this proceeding if the parties, after being directed to do so in the final decision and having devoted good faith efforts in one or more meet and confers, fail to put forward a reasonable recommendation acceptable to the Commission on how to adjust the RA MPB in the CCA FSR and Re-Entry Fee calculations to account for summer seasonality. The final decision should permit the IOUs to submit a joint Tier 3 advice letter

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5 SDG&E Opening Comments at 11.

6 *Id.*

7 *Id.*

8 *CalCCA Comments on the Ruling of the Assigned Administrative Law Judge Entering Staff Proposal Into the Record and Noticing Public Workshops*, R.21-03-011 (Apr. 18, 2023) at Appendix B, page 4. Line 4 of this table depicts the proposed changes that are adopted by the PD including the most recent RA and RPS benchmark, differentiating both summer and winter retail rates and residential v. non-residential rates, excluding the PCIA from the generation revenues, and removing CAM capacity from the RA cost.

within 120 days to report on the meet and confers on this RA issue and put forward any reasonable recommendation for resolving this issue.[9]

While CalCCA does not oppose a seasonal pricing framework for RA, CalCCA does object to the notion that the IOU should submit a Tier 3 advice letter to "put forward any reasonable recommendation". Since RA transactions encompass a large variety of terms from a single month, to a quarter, to all months for multiple years, the ability to come to meaningful consensus on a "reasonable recommendation" is unlikely. Relying upon an IOU-initiated advice letter to resolve an important item in this OIR with nothing more than a meet-and-confer process is unreasonable. For these reasons, the Commission should reject SCE's proposal and address this contentious issue in P2 of the OIR.

III. THE COMMISSION SHOULD REJECT SDG&E'S RECOMMENDATION TO INCREASE THE TIER 2 FINANCIAL REPORTING TRIGGER FOR THE ADJUSTED DEBT SERVICE COVERAGE RATIO (DSCR) FROM 1.0 TO 1.25

SDG&E recommends the Commission modify the PD such that the Commission would require any CCA with a DSCR below 1.25, rather than 1.0, to report under the tier 2 financial monitoring requirements.[10] SDG&E claims that raising the threshold to include a "buffer" will allow CCAs "to withstand potential fluctuations in cash flow without defaulting on its obligations."[11] The Commission should reject SDG&E's recommendation.

A DSCR of 1 or more would indicate a CCA has enough cash flow to cover its debt service obligations. The Commission purposefully set multiple evaluations for triggers within this proceeding. As a result, the Commission is not dependent on only the DSCR calculation. The Commission set the appropriate level for the adjusted DSCR based on information in the record. There is insufficient information in the record to adjust the DSCR threshold based on the justification provided by SDG&E in its comments to the PD. If the Commission identifies a need to reevaluate this number after implementation of the financial reporting framework, the Commission can reevaluate the tier 2 metrics in a later phase of the proceeding.

IV. THE PD SHOULD REJECT RECOMMENDATIONS THAT WOULD MAKE CONFIDENTIAL INFORMATION AVAILABLE TO THE POLR AND THE MARKET

Cal Advocates requests the Commission modify the PD to remove language that states, "[d]etailed financial information as requested by the Commission including, but not limited to, the

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9 SCE Opening Comments at 3.
10 SDG&E Opening Comments at 3.
11 *Id.*

CCA's most recent financial statements and [days liquidity on hand (DLOH)]."[12] Cal Advocates attempts to justify its request by stating, "[i]nformation that has been disclosed to the public loses its confidentiality" and keeping the information confidential would be "antithetical to promoting greater awareness for CCA decision-makers, such as CCAs' board…and CCAs' customers." The Commission should reject Cal Advocates' recommendations and keep CCA financial reporting metrics confidential.

While Cal Advocates is correct that some of the reportable information is publicly available (e.g., financial statements and DLOH), the reporting requirements in the PD may result in CCAs providing documents to Energy Division before providing them to the public. The POLR and market participants should not receive information that the CCA has not yet made public, as this could disadvantage the CCA. The POLR is a market participant in competition with other load-serving entities (LSE) and a counterparty to other LSEs. It should, therefore, not receive information about another market participant or counterparty that is not publicly available.

For these same reasons, the Commission should also reject Cal Advocates' second alternative recommendation: "ED send a letter notifying the CCA's board of directors that Energy Division has received a confidential letter notifying Energy Division that the CCA has triggered a Tier 2 reporting requirement. ED's letter should be distributed to the RA and POLR proceeding service lists." By distributing this information to the service lists, information would be made public that is not required to be disclosed to those same service lists from other parties buying or selling RA including, marketers, generators, brokers, exchanges, the IOUs, Electric Service Providers, and Municipal Utilities. It is not clear the benefit of making this information public is not outweighed by the clearly uneven market position in which it would place CCAs.

The Commission should also reject Cal Advocates' first alternative recommendation: "CCA staff place an agenda item on the next CCA board meeting agenda formally notifying their board of directors that they have triggering Tier 2 reporting requirements." CCAs should keep their boards apprised of their financial situation and many include their financial statements in their board packets. However, since CCA board meetings are public, it is possible that this notification would contain information that is not publicly available. Such a mechanism should not be used to provide confidential information on an uneven basis as described in the prior paragraph.

The Commission should also reject PG&E's recommendation that "Energy Division should be authorized to develop procedures, including confidentiality procedures, to inform the POLR within three

[12] Cal Advocates Opening Comments at Appendix A.

business days of CCA reporting of conditions that could lead to a potential mass involuntary return of customers …"[13] PG&E overstates the POLR's need for "advance warning" of customer return. The PD properly decides the POLR will not conduct advanced procurement or hedging and the POLR would procure the same products for returning customers that it already procures for its existing customers.

There is insufficient record demonstrating the advance actions the POLR would take upon receipt of CCAs' reported information. Because the POLR is a competitor and counterparty to CCAs reporting their financial information, the POLR should not be able to use its status as the POLR to get information that the rest of the market does not have. If, during P2, a record is developed documenting the need for the POLR to have advanced warning, then the Commission should ensure in P2 of this proceeding that the IOUs do not serve as the POLRs.

V. THE COMMISSION SHOULD REJECT SDG&E'S PROPOSED MODIFICATION TO THE BANKRUPTCY/INSOLVENCY TRIGGER

SDG&E recommends the Commission modify the tier 2 trigger that requires a CCA to report upon insolvency or bankruptcy "to provide that Tier 2 financial reporting requirements are triggered upon insolvency or bankruptcy of the CCA, *or a reasonable expectation by Commission staff that either event may occur.*"[14] The Commission should reject this recommendation.

The Commission should maintain tier 2 triggers that are measurable metrics that the CCAs preemptively evaluate based on clearly defined standards. The Commission should not introduce a metric that gives staff discretion to decide when a CCA needs to report. Giving the Commission this type of discretion would provide CCAs with no practical way to monitor that trigger and no upfront achievable standard. It is also not clear that the Commission has the staff with the right expertise to develop a reasonable expectation that either event may occur.

VI. CONCLUSION

CalCCA appreciates the opportunity to reply to Parties' Opening Comments.

Respectfully submitted,

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April 8, 2024

[13] PG&E Opening Comments at 13.
[14] SDG&E Opening Comments at 4.