



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

FILED

05/24/24

04:59 PM

R2005003

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

R.20-05-003

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S COMMENTS
ON ADMINISTRATIVE LAW JUDGE'S RULING SEEKING
COMMENTS ON NEED AND PROCESS FOR CENTRALIZED
PROCUREMENT OF SPECIFIED LONG LEAD-TIME RESOURCES**

Evelyn Kahl,
General Counsel and Director of Policy
Lauren Carr,
Senior Market Policy Analyst
Eric Little,
Director of Regulatory Affairs

CALIFORNIA COMMUNITY CHOICE
ASSOCIATION
1121 L Street, Suite 400
Sacramento, CA 95814
Telephone: (510) 980-9459
E-mail: regulatory@cal-cca.org

May 24, 2024

TABLE OF CONTENTS

I. INTRODUCTION2

II. THE COMMISSION MUST ADHERE TO PUB. UTIL. CODE SECTIONS 454.51 AND 454.52 WHEN ESTABLISHING THE CENTRAL PROCUREMENT PROCESS AND MAKING CENTRAL PROCUREMENT DECISIONS, INCLUDING THE RIGHT OF SELF-PROCUREMENT BY CCAS6

III. CALCCA RESPONSES TO QUESTIONS IN SECTIONS 2.1, 3.1, 4.1, 5.1, AND 6.1 OF THE RULING8

2.1. Eligible Resources8

1. Please comment on whether Figure 1 above outlines the appropriate criteria for considering whether a resource should be procured via the DWR centralized procurement mechanism. Are these the right criteria or are there others that should be added or substituted?.....8

2. Should other resource types (beyond OSW, OOS wind, geothermal, and LDES) also be considered for centralized procurement through DWR at this time? Provide rationale if you suggest other resources should be included.16

3. In addition to the list of criteria for eligible resources in the AB 1373 statute, are there additional criteria that should be taken into account by the Commission when determining which resources should be procured through the DWR centralized procurement mechanism? Specify.17

4. AB 1373 contains specific criteria for eligible pumped hydroelectric facilities. What particular projects currently under development can meet the criteria and should they be procured centrally by DWR?18

5. How could developers leverage the many incentive opportunities that are available from the Federal government through the Inflation Reduction Act and the Bipartisan Infrastructure Law to assist with the financing of LLT resource development? How could developers and contractors access the Department of Energy or other agency grants for resource and infrastructure development that are available for projects that improve reliability and grid flexibility? How might centralized procurement help leverage federal funds for each resource type?18

Table of Contents continued

3.1	Cost-Benefit Analysis	19
6.	Comment on the cost-benefit analysis conducted, including the analysis presented in the slide deck posted on the Commission’s web site. Does the analysis serve as a reasonable basis for a need determination? Specify how and why.....	19
7.	Are the quantities of resources contained in the PSP portfolio adopted in D.24-02-047 a reasonable basis for considering utilization of the centralized procurement mechanism? Provide your rationale.	20
8.	What need determination for centralized procurement should the Commission make before the September 1, 2024 AB 1373 deadline and why? Specify which resource types, in what amount, and by when.	21
9.	What other elements of future Commission need determinations (such as the scope of analysis, cost assumptions, ways to manage uncertainty) would provide the best foundation for a centralized procurement solicitation?.....	22
4.1	Integration	22
10.	Is the rationale described above for DWR centralized procurement to be used for new uncontracted resource types, such as OSW, as a public good for GHG reduction purposes reasonable? Why or why not?.....	22
11.	If DWR centrally procures undeveloped resources as a public good, how should that procurement relate to the individual LSE procurement (existing resources under contract and/or future procurement)?	24
12.	How should any DWR centralized procurement relate to the eventual RCPPP design, given that the Commission has not yet adopted an RCPPP design and yet must make an initial need determination by September 1, 2024?	25
13.	This ruling proposes that LSEs not be allowed to opt out of DWR centralized procurement requested by the Commission. If you disagree with that proposal, explain why with citations and discussion of relevant provisions of AB 1373.	25
14.	Should a need determination for DWR centralized procurement be made by the Commission during every IRP cycle during the consideration of the PSP or at some other time? Explain the rationale for your preferred approach.	26

Table of Contents continued

15.	A logical point for POU's to engage with DWR on opting into centralized procurement would be after the Commission makes a need determination, but prior to DWR initiating procurement activities. Comment on whether this is appropriate and include any necessary and relevant implementation concerns or details.27	27
16.	If DWR procures resources on behalf of POU's, it is possible that related costs currently socialized through existing processes, such as transmission costs flowing into the transmission access charge (TAC), may be incurred. What other costs of benefits might be implicated, and what is the best means for addressing them?.....27	27
17.	The centralized procurement mechanism could provide an alternative pathway towards procurement of diverse resources that are currently infeasible for individual LSEs or small consortiums of LSEs to develop. What process should the Commission develop to encourage parties, especially developers, to provide candid feedback about timing and pricing considerations necessary to develop LLT resources through this mechanism, while also providing the most value to ratepayers?27	27
5.1	Cost and Benefit Allocation.....28	28
18.	For centralized procurement of resources not yet in LSE portfolios such as OSW, is it appropriate for the costs of any DWR contract to be allocated to all LSEs based on the TAC area's share of a 12-month coincident peak load? If not, provide rationale and explanation for another cost allocation methodology.28	28
19.	For centralized procurement of resources that already exist in at least some LSE portfolios, what is the appropriate method for allocating costs and benefits?28	28
20.	How would DWR's solicitation and contracting process need to change for circumstances where POU's and/or individual LSEs seek additional volumes of procurement beyond the amount of need determination authorized by the Commission? How would those additional costs and benefits be allocated fairly to benefitting LSEs and/or POU's?29	29
21.	How should the allocation of benefits beyond energy and capacity (such as, but not limited to: RPS value, renewable energy credits, IRP compliance, or GHG-reduction value) be allocated to LSEs?.....29	29

Table of Contents continued

22.	How should the AB 1373 requirements for nonbypassable surcharges be implemented?	30
23.	Some LLT eligible resources may require substantial infrastructure development, the costs of which are incremental to costs related to the deployment of the resource itself (for example, OSW requires port and transmission development; geothermal requires transmission development and construction in challenging environments). How do these contingent, necessary costs influence the overall financial impact of resource development for different eligible resources?	30
24.	How do costs not directly related to the specific energy projects factor into the affordability question for ratepayers for deployment of LLT resources through centralized procurement? How could centralized procurement help address or mitigate these additional costs?	30
6.1	Timeline	31
25.	Is the proposed timeline and activities description appropriate for DWR’s initial solicitation activities? If not, what should be the expected timeline and why? What other activities and/or interim milestones should be considered or required?	31
26.	Is there an optimal contract structure for DWR to consider when contracting with resources through the centralized mechanism? Should the Commission review contract structures or other pre-bid activities in advance of their completion?	32
27.	Comment on how the “procurement group” for DWR required by AB 1373 should be implemented.....	33
28.	Is an application the appropriate mechanism for Commission consideration of individual contracts proposed by DWR after the conduct of its solicitation? Explain.....	33
29.	Include any other process recommendations for the Commission to request or require for DWR’s conduct of centralized procurement.....	34

Table of Contents continued

30. Specifically for developers of LLT resources: What would be the optimal timing and minimum threshold amount of a DWR centralized procurement solicitation from your perspective? Explain your rationale. In addition, delineate the categories of costs associated with your projects and when such costs should be firm enough to allow binding bids in a solicitation (for example, due to supply chain issues, components may only be available by a certain date to inform bid development; transmission availability is expected by a certain date; etc.). Be as specific as possible to assist the Commission in designing a reasonable process and timeframe. If desired, information in response to this question may be requested to be submitted under seal, if supported by relevant justification.34

31. Assuming that the Commission will give direction to DWR on the expected online date for centrally-procured LLT resources, how might such a directive be framed? For example, should the Commission specify commercial operation by a certain date, by a certain year, or within a range of years?35

IV. CONCLUSION.....35

SUMMARY OF RECOMMENDATIONS

- The Commission must adhere to Public Utilities Code sections 454.51 and 454.52 when establishing the central procurement process and making central procurement decisions, including the right of self-procurement by community choice aggregators (CCAs).
 - Eligible Resources: The Commission should use central procurement sparingly since many of the resources described are either being procured by load-serving entities (LSE) or do not have a lead time greater than five years. If the Commission pursues any central procurement, it must focus on emerging technologies and prioritize affordability.
 - Cost-Benefit Analysis: The Commission must use the most up-to-date information from LSEs on their procurement activity and account for planned procurement that would result in LSEs contracting at a later time and still bringing those resources to commercial operation in time to meet their needs. Such analysis is likely to demonstrate that the only opportunity for central procurement is for a small amount of offshore wind.
 - Integration: The Commission must carefully proceed with central procurement decisions to avoid central procurement simply serving as competition to LSE procurement. This is particularly important given the upcoming Reliable and Clean Power Procurement Program.
 - Cost and Benefit Allocation: The Commission must ensure that its allocations do not disincentivize LSEs from procuring independently and do not penalize early actors. Benefits (e.g., Resource Adequacy, Renewable Portfolio Standard, green-house gas-free) should be allocated consistent with the allocation of costs.
 - Timeline: The Commission must be as transparent as possible so that LSEs have a clear understanding of the central procurement process and its costs. This process should occur within the defined Integrated Resource Plan (IRP) process so that it is fully informed by the most recent activities in the IRP which plan for LSE-based procurement and also allow for CCA self-procurement of the CCA share of any identified need. The Commission should also make clear that any need determination made by September 1, 2024, will not necessarily result in any procurement authorization. Rather, if the Commission determines a need, it should direct the Department of Water Resources (DWR) to solicit offers for resources. The Commission should then review the viability and pricing of offers against net-benefit scenarios to determine if the DWR should proceed with procurement.
-

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

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

R.20-05-003

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S COMMENTS
ON ADMINISTRATIVE LAW JUDGE'S RULING SEEKING
COMMENTS ON NEED AND PROCESS FOR CENTRALIZED
PROCUREMENT OF SPECIFIED LONG LEAD-TIME RESOURCES**

California Community Choice Association¹ (CalCCA) submits these comments pursuant to *Administrative Law Judge's Ruling Seeking Comments on Need and Process for Centralized Procurement of Specified Long Lead-Time Resources*² (Ruling), dated April 26, 2024, and *Analysis for Centralized Procurement of Specified Long Lead-Time Resources*, dated April 2024.³ The Ruling seeks feedback from parties on options for initial use of the centralized procurement mechanism created in Assembly Bill (AB) 1373 (Stats. 2023, Ch. 367), where the California Public Utilities Commission (Commission) may request that the California Department of Water Resources (DWR) procure electricity from certain types of resources, as a

¹ 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.

² *Administrative Law Judge's Ruling Seeking Comments on Need and Process for Centralized Procurement of Specified Long Lead-Time Resources*, R.20-05-003 (Apr. 26, 2024): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M530/K323/530323853.PDF>.

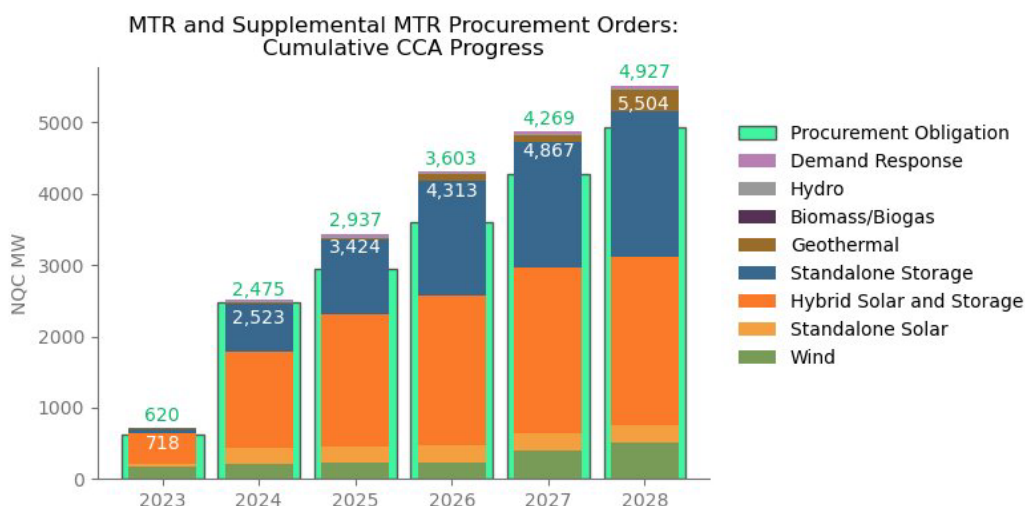
³ *Analysis for Centralized Procurement of Specified Long Lead-Time Resources* (Apr. 2024): <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltpp/ab1373/need-determination-analysis-centralized-procurement-of-specified-llt-resources.pdf>.

central procurement entity (CPE) on behalf of customers of all load-serving entities (LSE) under the Commission’s Integrated Resource Plan (IRP) purview.

I. INTRODUCTION

The development of diverse electric generation in untapped, resource-rich areas is critical to achieving the state’s Senate Bill (SB) 100 (De León, Chapter 312, Stats. of 2018) climate goals and maintaining system reliability. LSEs are making progress on this critical need by procuring a diverse set of resources, including long-lead time (LLT) resources, in response to Commission procurement orders and planning for additional procurement in their IRPs. Community choice aggregators (CCA), for example, have met their first mid-term reliability (MTR) procurement targets in aggregate and are on track to meet future targets, as demonstrated in Figure 1. Furthermore, LSE diversity means that CCAs’ elected boards have in many cases chosen more aggressive targets than the Commission, driving procurement above IRP targets. Since CCAs have a track record of being effective partners in achieving state goals, preserving that value should be a top consideration in designing the CPE.

Figure 1: Aggregate CCA Progress on IRP Procurement Orders
(Source: CalCCA Member Data Request)



AB 1373 authorizes another vehicle for the procurement of new resources: centralized procurement via DWR. AB 1373 requires the Commission to evaluate the need for centralized

procurement by September 1, 2024, and request that DWR conduct central procurement of certain eligible LLT resources until January 1, 2035. The Ruling puts forth a series of questions aimed at informing the Commission’s September 1, 2024, need determination. Several questions and narratives throughout the Ruling reflect inconsistencies with the statute that the Commission must remedy prior to making its initial need determination. Central procurement processes and decisions must fully adhere to the statute established in section 454.51.⁴

Of the resources identified in the Ruling as potential candidates for central procurement, offshore wind (OSW) appears to have the most potential for some level of central procurement if a need is identified. This is because of the significant investments in transmission and port infrastructure required, the relative newness of the technology, the potential for spurring economies of scale, and the fact that LSEs have not yet begun to contract with OSW.

As the Commission considers the possibility of centrally procuring OSW, it should exercise caution to protect customer costs by focusing on procurement that has demonstrated net benefits. Given the challenges with procuring OSW identified in the ruling, the Commission should consider the likelihood of DWR’s ability to successfully procure OSW now rather than some time in the near future.⁵ It should also recognize that LSEs are interested in a pathway to eventually procuring OSW themselves, as represented in California Community Power’s (CC Power) Memorandum of Understanding (MOU) with CADEMO,⁶ and minimize interference with LSE procurement efforts.

⁴ All subsequent code sections cited herein are references to the California Public Utilities Code (Cal. Pub. Util. Code) unless otherwise specified.

⁵ Ruling, at 8: “There may be many reasons why LSEs have not yet procured OSW projects, including insufficient port development, lack of turbine fabrication infrastructure, lack of installed offshore transmission infrastructure, or under-developed interconnection and permitting processes to accommodate OSW projects. These reasons may be compounded by the nascent global deployment of floating OSW technology, which may have culminated in developer bids that LSEs deemed to be unfavorable to their ratepayers.”

⁶ *California Community Power and CADEMO Execute Offshore Wind MOU*: <https://cal-cca.org/california-community-power-and-cademo-execute-offshore-wind-mou/>.

If the Commission identifies a need for central procurement by September 1, 2024, central procurement should not reach beyond OSW to the other types of technologies identified in the Ruling - out-of-state (OOS) wind, geothermal, and long-duration energy storage (LDES). These technologies generally do not meet AB 1373's eligibility criterion of having a construction and development lead time of at least five years. In addition, LSEs – particularly CCAs – are in the process of meeting the 18,800 megawatt (MW) procurement requirements ordered by the Commission over the last several years.⁷ Their efforts are hampered not by the ability to contract for such technologies, but by project delays arising from interconnection, supply chain, and permitting delays. Similarly, the lack of contracting with OSW is not because LSEs lack interest, but rather, because the OSW developers do not yet have complete information about their costs. These procurement challenges are present regardless of the procuring entity – a CPE or LSEs, suggesting that a CPE may not solve the issues California's LSEs are facing.

Ongoing and future procurement obligations for new resources with demonstrated commercial viability must remain with LSEs. Introducing a CPE for technologies that LSEs are already in the process of procuring could impair LSEs' efforts and delay new resources. This is particularly true if the uncertainty leads to reduced participation by developers in LSEs' resource solicitations or exacerbates sources of delay LSEs are already experiencing. It could also increase customer costs by adding excess demand into a market with limited sources of supply. Central procurement, thus, must be limited to circumstances that (1) require a long lead time, (2) accelerate required transmission or regional infrastructure needed to spur the development of emerging technologies, and (3) avoid interference with ongoing LSE procurement.

⁷ See footnote 4, supra.

With these considerations in mind, CalCCA offers the following recommendations through its responses to the questions in the Ruling:

- The Commission must adhere to sections 454.51 and 454.52 when establishing the central procurement process and making central procurement decisions, including the right of self-procurement by CCAs.
- Eligible Resources: The Commission should use central procurement sparingly since many of the resources described are either being procured by LSEs or do not have a lead time greater than five years. If the Commission pursues any central procurement, it must focus on emerging technologies and prioritize affordability.
- Cost-Benefit Analysis: The Commission must use the most up-to-date information from LSEs on their procurement activity and account for planned procurement that would result in LSEs contracting at a later time and still bringing those resources to commercial operation in time to meet their needs. Such analysis is likely to demonstrate that the only opportunity for central procurement is for a small amount of OSW.
- Integration: The Commission must carefully proceed with central procurement decisions to avoid central procurement simply serving as competition to LSE procurement. This is particularly important given the upcoming Reliable and Clean Power Procurement Program (RCPPP).
- Cost and Benefit Allocation: The Commission must ensure that its allocations do not disincentivize LSEs from procuring independently and do not penalize early actors. Benefits (e.g., resource adequacy, Renewable Portfolio Standard (RPS), green-house gas (GHG) -free) should be allocated consistent with the allocation of costs.
- Timeline: The Commission must be as transparent as possible so that LSEs have a clear understanding of the central procurement process and its costs. This process should occur within the defined IRP process so that it is fully informed by the most recent activities in IRP which plan for LSE-based procurement and also allow for CCA self-procurement of the CCA share of any identified need. The Commission should also make clear that any need determination made by September 1, 2024, will not necessarily result in any procurement authorization. Rather, if the Commission determines a need, it should direct DWR to solicit offers for resources. The Commission should then review the viability and pricing of offers against net-benefit scenarios to determine if DWR should proceed with procurement.

Adoption of these recommendations will ensure the development of a diverse resource portfolio, promote customer affordability, and preserve LSEs' ability to procure for their customers.

II. THE COMMISSION MUST ADHERE TO PUB. UTIL. CODE SECTIONS 454.51 AND 454.52 WHEN ESTABLISHING THE CENTRAL PROCUREMENT PROCESS AND MAKING CENTRAL PROCUREMENT DECISIONS, INCLUDING THE RIGHT OF SELF-PROCUREMENT BY CCAS

Several instances in the Ruling depart from or overlook section 454.51, which outlines the provision for the Commission to “[i]dentify a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy in a cost-effective manner.”⁸ Section 454.51(d) states that the Commission shall:

Permit community choice aggregators to submit proposals for satisfying their portion of the renewable integration and diverse resources need identified in subdivision (a). If the commission finds this need is best met through long-term procurement commitments for resources, community choice aggregators shall also be required to make long-term commitments for resources. The commission shall approve proposals pursuant to this subdivision if it finds all of the following:

- (1) The resources proposed by a community choice aggregator will provide equivalent integration of renewable energy.
- (2) The resources proposed by a community choice aggregator will promote the efficient achievement of state energy policy objectives, including reductions in greenhouse gas emissions.
- (3) Bundled customers of an electrical corporation will be indifferent from the approval of the community choice aggregator proposals.⁹

The Ruling, however, diverges from section 454.51(d) in three key areas. First, when discussing the Commission’s authority for IOU-based central procurement, it states:

Nothing would prohibit the Commission from assigning one or more IOUs to conduct centralized procurement of LLT resources in addition to, or instead of, the option to utilize the new mechanism of centralized procurement by DWR authorized in AB 1373.¹⁰

⁸ Cal. Pub. Util. Code § 454.51(a).

⁹ Cal. Pub. Util. Code § 454.51(d).

¹⁰ Ruling, at 2.

Neither section 454.51 nor 454.52 provide such authorization in the broad manner characterized by the Ruling. While the Commission indeed may assign central procurement to an IOU, it may not do so before allowing CCAs to self-procure. Section 454.51(d) provides CCAs a right of self-procurement for their portion of the identified need to support “a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy in a cost-effective manner.”¹¹

Second, the Ruling contemplates central procurement of resources that it has not demonstrated meet AB 1373’s requirement that a resource procured by DWR have construction and development timelines of five years or more. For the reasons described in response to Question 1, OOS wind, geothermal, and LDES fall outside this authorization since there is no evidence in the record that these resources take longer than five years to build and construct.

Third, the Ruling overlooks the statute’s intent to allow LSEs an opportunity to self-procure prior to DWR contracting based on the Commission’s identified need. As described in response to Question 13, section 454.52 states that the Commission is to provide six months between determining that there is a need for the procurement of eligible energy resources and requesting DWR exercise its central procurement function.¹² This mandatory six-month windows’ intent is to allow LSEs to procure their fair share of the need. As the Senate Energy and Utilities Committee made clear in their August 31, 2023, analysis:

¹¹ Cal. Pub. Util. Code § 454.51(a).

¹² Cal. Pub. Util. Code § 454.52.

The intent for the six month window is to allow other LSEs the opportunity to procure their share of their load if they elect to do so. This approach is a long-held principle of CCAs whose primary (if not exclusive) mission is to procure energy on behalf of their load. Such an approach seems appropriate to ensure LSEs exercise their responsibility to procure resources for their load, prior to a state agency stepping in. In this regard, it's possible DWR procurement may not ever be used, or perhaps only used when truly necessary because the resource was too difficult for any individual LSE, or a few LSEs, to procure.¹³

The Commission must remedy these legal errors to ensure its central procurement processes and decisions adhere to the statute.

III. CALCCA RESPONSES TO QUESTIONS IN SECTIONS 2.1, 3.1, 4.1, 5.1, AND 6.1 OF THE RULING

2.1. Eligible Resources

- 1. Please comment on whether Figure 1 above outlines the appropriate criteria for considering whether a resource should be procured via the DWR centralized procurement mechanism. Are these the right criteria or are there others that should be added or substituted?**
 - a. The Commission Should not use Four of the Five Criteria Identified in Figure 1 to Justify the Need to Procure a Technology through Central Procurement, Especially When Considered Independently**

The Ruling identifies five criteria for considering whether DWR should procure a resource as a CPE. It classifies the criteria in Figure 1 as either “procurement challenges” or “market transformations.” The procurement challenges identified in the Ruling are either (1) insufficient justification for central procurement, or (2) challenges that shifting the procuring entity—from LSEs to a CPE—will not address. The first procurement challenge is “mismatched size of resource and/or transmission between buyers and sellers.” This challenge is not a justification for the use of CPE. There are numerous examples of developers selling large projects that require transmission upgrades to multiple off-takers. For example, the SunZia OOS wind project is moving forward with

¹³ AB 1373 Senate Committee on Energy, Utilities and Communications Bill Analysis (Version Aug. 31, 2023, published Sept. 6, 2023), at 14.

construction after securing multiple California LSE off-takers and planning to use the Subscriber Participating Transmission Owner (PTO) model to fund the needed transmission build.¹⁴

Similarly, there are numerous instances of LSEs jointly procuring large LLT resources. For example, CC Power, a joint powers authority comprised of nine CCAs, contracted for a 50 MW/400-megawatt hour (MWh) LDES project. While the Ruling classifies LDES as a large-scale resource that “may be challenging to finance and build without a single contract,”¹⁵ LSEs have proven that they can contract for large LLT projects without the assistance of a CPE. The first challenge alone is, therefore, not sufficient justification to direct central procurement by DWR.

The second procurement challenge is “cost-effective across a broad range of future scenarios but not being procured in significant volumes.” Rather than directing central procurement based on this criterion, the Commission should question why the technology is not being selected despite its cost-effectiveness. The Commission will find that it likely cannot resolve procurement challenges for cost-effective resources simply by shifting the procurement responsibility from the LSEs to DWR. The Commission should consider the sources of the following procurement challenges and seek to resolve those challenges specifically rather than directing central procurement:

- **Generation Availability:** If a certain technology is not readily offered in LSE request for offers (RFO), adding a CPE will likely exacerbate such availability challenges. Introducing a central procurement opportunity for technologies LSEs are already in the process of procuring or attempting to procure could impair LSEs’ efforts if the uncertainty leads to reduced participation by developers in LSEs’ resource solicitations. LSEs have already had experiences in the market causing concern that developers may have reduced their participation in RFOs with the anticipation of a new central procurement opportunity. Adding a CPE to the

¹⁴ Howland, Ethan, *Pattern Energy Secures \$11b in Financing, Starts Full Construction on Sunzia Wind, Transmission Projects* (Jan. 3, 2024): <https://www.utilitydive.com/news/pattern-energy-sunzia-transmission-wind/703508/>.

¹⁵ *California Community Power Members Approve Second Lithium Ion Long-Duration Energy Storage Contract* (Mar. 7, 2022): <https://cacommunitypower.org/cc-power-members-approve-second-long-duration-contract/>.

mix would add additional demand to a limited supply pool (e.g., geothermal resources can only be sited in very specific locations dependent on geography). Providing a clear signal that the procurement responsibility lies with the LSE should improve availability for these technology types.

- Transmission and Interconnection: Some projects require large or complex transmission builds or network upgrades to interconnect to the California Independent System Operator (CAISO) Balancing Authority Area (BAA). The LSE and the developer are not in control of such infrastructure build or upgrade timelines, which can often become delayed due to supply chain issues, workforce, shortages, network upgrade delays, or other factors. The Commission should communicate with developers to understand the issues they are facing. The Commission should also work with the CAISO to ensure a close link between resource planning, procurement, transmission planning, and interconnection that ensures coordinated progress on resource development.
- Deliverability Uncertainty: OOS resources require maximum import capability (MIC) allocations to ensure they are deliverable to the CAISO BAA. LSEs cannot receive MIC multiple years in advance of a resource's commercial online date. Deliverability uncertainty may present barriers to procuring OOS resources because LSEs do not have assurances that the resources will be deliverable to California load. The Commission should work with the CAISO to consider ways to resolve this uncertainty rather than introduce another procuring entity.
- Infrastructure needs: There is a significant need for port infrastructure to enable OSW as a resource. Without this infrastructure, regardless of the entity contracting with a developer, completion and deployment of the resource will be difficult if not impossible. The Commission should investigate how it and the state can better encourage port infrastructure development directly rather than indirectly by contracting for OSW.

Each of these procurement challenges can impact contracting regardless of the procuring entity. When this is the case, the Commission should defer to LSEs to procure, given their experiences and successes navigating such challenges thus far and the adverse impacts adding a CPE may have on the market.

The “market transformation” criteria identified in the Ruling are (1) large resource potential, (2) serves a key role in future portfolios without readily available substitutes, and (3) emerging technology with likelihood of cost reductions through learning. The first two market

transformation criteria are not relevant for determining if a technology type is a good candidate for central procurement.

The first market transformation criterion, “large resource potential” is not relevant for making central procurement decisions because many technologies have large resource potential but are not good candidates for central procurement because they are not LLT and have proved commercial viability through LSE procurement (e.g., solar, wind, lithium batteries). Other technologies have large resource potential but require significant transmission investment and development to make these resources deliverable (e.g., OOS wind). It is not central procurement that will get technologies with large resource potential built, but rather the development of transmission in zones that will better enable the development of these technologies.

The second market transformation criteria, “serves a key role in future portfolios without readily available substitutes,” also does not sufficiently justify a resources’ candidacy for central procurement. In particular, the Commission has not demonstrated in the record that one net qualifying capacity (NQC) MW of one technology is not a reasonable substitute for one NQC MW of another. For example, if the Commission finds a need that OSW can satisfy, some combination of other resources could presumably fill the same need if that combination of resources can produce the same output profile as the OSW can. When making central procurement decisions, the Commission must determine whether central procurement has greater net benefits than an alternative combination of resources with an equivalent profile procured by LSEs.

b. The Commission Should Only Approach Central Procurement Decisions with the Goal of Promoting The “Emerging Technology with Likelihood of Cost Reductions Through Learning” Criterion

Of the criteria documented in Figure 1, the Commission should only consider the “emerging technology with likelihood of cost reductions through learning” criterion in making

its central procurement decisions. Emerging technologies are typically high-risk projects, and there may be cases where those risks should be borne broadly when investments will result in spurring future development opportunities for LSEs, enhancing development efficiencies, or promoting economies of scale. OSW, for example, would benefit from state and federal coordination to minimize risks and ensure the most cost-effective path forward to deploying the technology, given its unique infrastructure needs.

Centralized procurement of emerging technologies can help bring the resources to maturity. When determining what technologies qualify as emerging technologies, the Commission should not include those that LSEs have proven they can procure on their own so as not to disrupt procurement efforts already in place. The Commission must make careful considerations to ensure it directs the right quantities of central procurement at the right times, balancing the benefits of procuring emerging technologies with the risks and costs of doing so.

c. The Commission Should Adhere to the Eligibility Requirements in the Statute and Add Criteria to Further Narrow Down the Scope of Central Procurement

First and foremost, the Commission should add the criterion, “meets the eligibility criteria mandated in AB 1373.” All other criteria, including the emerging technology criterion and the criteria described below, should serve to further focus the Commission’s efforts for central procurement to minimize its risks and adverse impacts. AB 1373 lists one of the eligibility criteria as having a construction and development lead time of at least five years. The construction and development lead time must not include the transmission and interconnection time associated with bringing the resource online. Those factors do not contribute to construction and development timelines for the resource and do not signal procurement challenges that the Commission can resolve by shifting the procurement responsibility from the LSE to DWR.

Before including any resource in the scope of a request to DWR, the Commission will need to develop a record of substantial evidence of the timelines of construction and development.

Apart from OSW, the technologies contemplated in the Ruling do not appear to meet this five-year criterion. There are recent examples of each of the technologies identified in the Ruling indicating they do not require five years or more to build and construct. Recent examples of geothermal construction are sparse, but Fervo Energy has constructed or is constructing several projects, including the Cape Station project, which has a timeline from groundbreaking to initial delivery of under four years.¹⁶

In addition, the Commission should use the additional criteria to determine if a resource should be procured via central procurement:

- Requires upfront commitments and investments in the development of additional non-transmission infrastructure/unique transmission infrastructure;
- Has significant potential for economies of scale that cannot be captured by selling off projects to several off-takers; and
- Removes barriers that prevent other LSEs from conducting similar procurement.

These criteria focus on ensuring that central procurement will accelerate the required transmission or regional infrastructure needed to spur the development of emerging technologies while supporting, not interfering with, ongoing LSE procurement.

d. The Commission Should Not Direct Central Procurement of OOS Wind, Geothermal, and LDES as They Do Not Meet the Criteria for Central Procurement

The Ruling's qualitative analysis of the criteria in Figure 1, as supplemented and modified by the observations in sections 1.a., 1.b., and 1.c., above, leads to the conclusion that some large-scale OSW in the federal leased areas is the best potential fit for centralized

¹⁶ The Cape Station project broke ground on September 25, 2023, and will begin delivering in 2026: <https://fervoenergy.com/fervo-energy-breaks-ground-on-the-worlds-largest-next-gen-geothermal-project/>.

procurement. The other identified resource types are not good fits for centralized procurement for the reasons described below, and the Commission should, therefore, refrain from directing DWR to procure them.

Offshore Wind: Of all the resource types identified as potential candidates for central procurement, OSW is likely the most compatible with central procurement. It is an emerging technology LSEs have not yet begun contracting for yet, that requires unique transmission infrastructure and investment in port infrastructure to prompt resource development. Before ordering central procurement of OSW, however, the Commission must:

- Protect against excessive customer costs by focusing on procurement that has demonstrated net benefits relative to procurement by LSEs of other combinations of resources with the same profiles.
- Consider the likelihood of DWR’s ability to successfully procure OSW at this time, given the challenges with procuring OSW identified in the Ruling that exist regardless of the procuring entity[ies].¹⁷
- Recognize that LSEs are interested in a pathway to procuring OSW themselves, as represented in CC Power’s MOU with CADEMO,¹⁸ and minimize interference with LSE procurement efforts.

OOS Wind: The Ruling correctly identifies OOS wind as a resource that LSEs have demonstrated the ability to self-procure.¹⁹ Given that LSE demand for the resource is already high, the Commission’s concern that additional centralized procurement will hurt competition and increase California ratepayer costs is real and warranted.²⁰ Furthermore, OOS does not

¹⁷ Ruling, at 8: “There may be many reasons why LSEs have not yet procured OSW projects, including insufficient port development, lack of turbine fabrication infrastructure, lack of installed offshore transmission infrastructure, or under-developed interconnection and permitting processes to accommodate OSW projects. These reasons may be compounded by the nascent global deployment of floating OSW technology, which may have culminated in developer bids that LSEs deemed to be unfavorable to their ratepayers.”

¹⁸ *California Community Power and CADEMO Execute Offshore Wind MOU*: <https://cal-cca.org/california-community-power-and-cademo-execute-offshore-wind-mou/>.

¹⁹ Ruling, at 6.

²⁰ *Id.*, at 24.

appear to be eligible under AB 1373 since interconnection and transmission development are separate from the resource's construction and development, and there is no evidence that OOS wind cannot be constructed and developed in under five years. In addition, many OOS wind resources' first point of interconnection may not be part of the California Balancing Area Authority, a requirement of AB 1373.²¹

The serious commitment of LSEs to procure OOS wind is demonstrated in the viability of the subscriber PTO model—where LSEs see the resource as viable even with the full burden of the transmission infrastructure cost. The serious commitment of LSEs to procure OOS wind is demonstrated in the viability of the subscriber PTO model—where LSEs see the resource as viable even with the full burden of the transmission infrastructure cost. The Commission should send a clear signal that LSEs have the procurement responsibility for OOS wind to prevent OOS wind developers from reducing participation in LSE procurement efforts due to the prospect of central procurement.

Geothermal Resources: CCAs have demonstrated LSEs' ability to self-procure geothermal resources, with several CCAs reported to have entered contracts in recent years.²² Supply of geothermal capacity is limited, however, and the industry is still responding to the high level of demand that Commission procurement orders and changing California market conditions have catalyzed. Adding demand beyond the existing 1 gigawatt of Commission-ordered procurement at this time is likely to further increase costs for ratepayers without meaningfully increasing the near-term supply. The Commission should again send a clear signal

²¹ Cal. Pub. Util. Code § 80810(c).

²² Summary of Compliance with Integrated Resource Planning (IRP) Order D.19-11-016 and Mid Term Reliability (MTR) D.21-06-035 Procurement: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltp/publicirpcompliancecercereport080123.pdf>.

that LSEs have the procurement responsibility for geothermal capacity. This will ensure developers have the right incentives to offer their geothermal capacity in LSE RFOs rather than waiting for uncertainty around CPE procurement opportunities to be resolved and further delaying the development of these resources.

LDES: CCAs have also demonstrated the ability to procure LDES to meet their MTR requirements. As the Ruling notes, “...overall many LSEs already have resources that meet their share of [LDES and clean firm resource] requirements under contract and may be in the process of contracting for more such resources.”²³ As of their August 2023 compliance filings, CCAs procured 116 percent of their LDES MTR requirements in aggregate.²⁴ The Commission should, therefore, not consider LDES for the September 1, 2024, need determination. If in the future, emerging LDES technologies become available and meet the criteria identified in Section 1.b. and 1.c. above, the Commission can consider those in future need determinations that are coordinated with the Reliable and Clean Power Procurement Program (RCPPP).

2. Should other resource types (beyond OSW, OOS wind, geothermal, and LDES) also be considered for centralized procurement through DWR at this time? Provide rationale if you suggest other resources should be included.

As described in response to question 1, the Commission should not consider central procurement of OOS wind, geothermal, or LDES. Likewise, the Commission should not consider other resource types for central procurement. Central procurement should be limited to only those resources that have significant barriers that (1) prohibit any one entity (or a small number of joint entities) from procuring and (2) can be overcome by shifting the procurement responsibility from the

²³ Ruling, at 24.

²⁴ *Summary of Compliance with Integrated Resource Planning (IRP) Order D.19-11-016 and Mid Term Reliability (MTR) D.21-06-035 Procurement*, at 42: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltpp/publicirpcomplianceport080123.pdf>.

LSEs to DWR. The Commission should only consider technologies not yet proven on a larger scale, where initial DWR procurement would enhance market transformation and reduce the cost of entry for LSEs, for central procurement.

The DWR should not procure commercially viable and established resource types. The Commission should not include resources that LSEs have demonstrated they can procure, or whose only limitations are those that would also limit CPE procurement (e.g., resource availability, transmission limitations, etc.), in the list of eligible CPE technologies.

For the initial September 1, 2024, statutory requirement, if the Commission finds a need, the Commission should direct the procurement of a limited amount of OSW only. This is the only resource the Commission has conducted an in-depth analysis on and that meets the criteria discussed in response to Question 1. The RCPPP can consider future central procurement needs in a more fully developed procurement framework following the initial September 1, 2024, need determination.

3. In addition to the list of criteria for eligible resources in the AB 1373 statute, are there additional criteria that should be taken into account by the Commission when determining which resources should be procured through the DWR centralized procurement mechanism? Specify.

See response to Question 1 for additional criteria that the Commission should consider. In addition to the criteria above, DWR will need to determine the feasibility of its procurement based on responses to its solicitations. OSW seems like a potential candidate for central procurement, but the OSW industry is so young that DWR may find it infeasible from a risk or affordability perspective to sign contracts at this early stage.

The Commission should incorporate the affordability metrics used to approve project and program costs by their impacts on customers into its procurement decisions. This would require a rigorous analysis of the impact of DWR procurement on overall costs and the increase in customer bills that would result. In addition to the current affordability metrics (Affordability Ratio, Hours at

Minimum Wage, CalEnviroScreen),²⁵ the Commission should consider the value of market transformation, a metric that should weigh the benefits of long-term cost reductions achieved through market transformation with project costs passed on to customers. This analysis will also require substantial evidence in the record estimating the expected cost reductions in the global market for those technologies resulting from the marginal increase of capacity expected to be procured by California LSEs and DWR. Although it is very unlikely an emergent technology that has yet to be procured by LSEs will be considered cost-effective if simply compared to existing resources, a declining cost model should act as a one guardrail to ensure that customers and the grid will benefit from DWR projects.

4. **AB 1373 contains specific criteria for eligible pumped hydroelectric facilities. What particular projects currently under development can meet the criteria and should they be procured centrally by DWR?**

CalCCA has no comments at this time but reserves the right to respond in replies.

5. **How could developers leverage the many incentive opportunities that are available from the Federal government through the Inflation Reduction Act and the Bipartisan Infrastructure Law to assist with the financing of LLT resource development? How could developers and contractors access the Department of Energy or other agency grants for resource and infrastructure development that are available for projects that improve reliability and grid flexibility? How might centralized procurement help leverage federal funds for each resource type?**

It is not yet clear whether centrally procured resources will have a better chance of obtaining grants and other sources of federal funding than resources procured by LSEs. If the Commission orders central procurement, however, the ability to obtain these funds will be a critically important

²⁵ Decision (D.) 20-07-032, *Decision Adopting Metrics and Methodologies For Assessing the Relative Affordability of Utility Service*, R.18-07-006 (July 16, 2020), established adopted three metrics to assess the affordability of residential electric, natural gas, water, and communications services: “1) the hours at minimum wage required to pay for essential utility services, 2) the socioeconomic vulnerability index of communities in California, and 3) the ratio of essential utility service costs to non-disposable household income – known as the affordability ratio.”: <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M344/K049/344049206.PDF>.

element of ensuring DWR can affordably accomplish market transformation. The DWR should have dedicated staff members or consultants who investigate grant opportunities and assist potential project developers in reducing costs to maximize the use of funding opportunities in its centralized procurement efforts.

3.1 Cost-Benefit Analysis

6. Comment on the cost-benefit analysis conducted, including the analysis presented in the slide deck posted on the Commission’s web site. Does the analysis serve as a reasonable basis for a need determination? Specify how and why.

The OSW cost-benefit analysis documented in the Ruling is an excellent example of modeling uncertainty to inform robust decisions. The Commission should strive to use such quantitative analysis in its implementation of legislative mandates like AB 1373. Some assumptions behind the benefits side of the equation are somewhat opaque and require clarification before parties can opine whether the assumptions have merit, including:

- Data from the IRPs used in the analysis is not up to date (e.g., it does not include the SunZia OOS wind project) and may meaningfully impact results.
- The optimistic cost scenario is not likely to come to fruition in the near term absent significant government subsidies (e.g., Earthshot targets appear to be the end-goals intended for technologies when they are no longer emerging).
- The analysis assumes NREL's ATB cost assumption is defined as conservative, rather than the median, despite being the most current and robust cost assumption available.

Given the September 1, 2024, timeline for need determination, it is likely not feasible for the Commission to update the analysis. However, relying on data from IRPs that are not up to date could meaningfully impact the results of the need determination. The Commission should, therefore, consider these more up to date contracted resources when making its determination of need. Additionally, the observation that concentrating too heavily on OSW has considerable cost and risk should inform the level of upfront commitment. The Commission should start planning infrastructure

to accommodate scenarios with lower OSW build but allow opportunities to decline to move forward with DWR contracts if the scenarios and costs do not come to fruition in offers. Finally, the Commission should consider that a proper evaluation of the statewide portfolio need under section 454.51(a) may not be possible at this time. Evaluating state needs takes significant time, and if the current analysis is not adequate, the Commission can opt not to find any need at this time and reevaluate a need during the more rigorous portfolio evaluation during the next IRP cycle.

7. Are the quantities of resources contained in the PSP portfolio adopted in D.24-02-047 a reasonable basis for considering utilization of the centralized procurement mechanism? Provide your rationale.

The Preferred System Plan (PSP) quantities are informative for assessing the potential role of central procurement, but the PSP is still subject to several significant risks and uncertainties. First, the PSP portfolio is based on LSE's 2022 IRP data, which is now outdated. The under-contract, expected online, and forecasted resources presented in Table 1 of the Ruling are also outdated.²⁶ The Commission should update the portfolios in Table 1 to utilize the most recent procurement data from LSEs.

Second, LSEs were directed to use the cost information provided by the Commission in their 2022 IRPs; those cost trajectories, especially for OSW, have substantially changed since then. The Commission should ensure that, if it directs DWR to procure OSW, it retains the flexibility to adjust the quantity of procurement downward if costs reflected in bids do not result in net benefits at this time.

Finally, the current capacity LSEs have under contract is not an accurate measure of LSEs' plans to procure capacity for needs 10-plus years forward. It is not typical industry practice to procure so far in advance. This means that if the Commission analyzes central procurement needs based only

²⁶ Ruling, at 13.

on procured capacity rather than procured *and* planned capacity, it will always signal a need for central procurement. Acting on an apparent need that ignores LSEs' plans would interfere with LSEs' future procurement or result in duplicative procurement. Additionally, the Commission will have a difficult time fairly allocating costs and attributes for resource types that LSEs already have under contract. The Commission should, therefore, use LSE contracted capacity and LSE plans to assess needs and focus on central procurement that will support LSEs' ability to realize their plans through their own procurement.

8. What need determination for centralized procurement should the Commission make before the September 1, 2024 AB 1373 deadline and why? Specify which resource types, in what amount, and by when.

Prior to making any need determination, the Commission should update its analysis based on the most recently available monthly procurement status reports or a separate data request instead of relying on 2022 IRPs. Alternatively, the Commission should defer any need determination until the next IRP cycle when more up-to-date information will be available. Updated procurement data will show far higher amounts of LSE procurement of OOS wind forecasted through June 2028 than represented in Table 1 of the Ruling.

Even without those updates, the information provided does not appear sufficient to inform any need determination by September 1, 2024. As described in response to Question 1 and Question 2 above, OOS wind, geothermal, and LDES are not eligible for central procurement. The Commission should dismiss them as possibilities to better position LSEs to procure them at a competitive price. For OSW, the Commission must include in its analysis a consideration of the tradeoffs of contracting at different stages of project maturity. As demonstrated in the recent uptick in OOS wind procurement following transmission approvals, the reason LSE contracting may be lagging is that the projects are not suitably mature for a contract—whether with an LSE or central entity.

The Commission should only order central procurement for clearly demonstrated needs that will provide net benefits for California customers. Because the Commission's analysis does not demonstrate a clear need at this time, the Commission should revisit central procurement in future IRP cycles in coordination with the RCPPP so that the Commission does not rush into a central procurement order with significant risks, as described in response to Question 14.

If any need for central procurement is identified, it should be limited to the minimum amount of OSW in federal leased areas needed to establish the requisite infrastructure to kickstart OSW generation. The Commission should: 1) ensure the initial quantity is such that any potential CPE failures to contract or project delays do not risk reliability requirements or clean energy targets, 2) consider, if only qualitatively, the impact of OOS wind and any other LSE LLT procurement not yet modeled, and 3) require DWR to defer procurement if it cannot find viable bids (including tax incentives) at costs aligned with the scenarios justifying procurement in the cost-benefit analysis.

9. What other elements of future Commission need determinations (such as the scope of analysis, cost assumptions, ways to manage uncertainty) would provide the best foundation for a centralized procurement solicitation?

The need determination process must be a public stakeholder process, including opportunities for stakeholders to participate in developing and reviewing different scenarios. Ultimately, central procurement needs assessments must allow the Commission and stakeholders to answer the following: Are the costs and risks associated with central procurement less than the costs and risks of substitute resources with the same profile procured by LSEs? If the answer to this question is no, central procurement should not be utilized.

4.1 Integration

10. Is the rationale described above for DWR centralized procurement to be used for new uncontracted resource types, such as OSW, as a public good for GHG reduction purposes reasonable? Why or why not?

No. As stated above, the Commission must ensure it adheres to the statute when establishing the central procurement process and making central procurement decisions. Nowhere in the enabling statute is central procurement contemplated to be used as a public good for GHG reduction purposes. Central procurement must only occur with an established and justified need and benefit as established in section 454.51(a). That is, the Commission must only call upon central procurement in circumstances where there is a clearly identifiable need for additional capacity beyond that planned for by LSEs and the social benefit-cost ratio significantly exceeds the private (developer + LSE) benefit-cost ratio. These circumstances will likely only occur in the beginning tranches of emerging technologies like OSW, where a lot of investment in public infrastructure (e.g., ports, specific transmission needs, specialized equipment manufacturing) is required and where LSEs and developers themselves cannot exclusively capture the benefits. However, they may also occur in circumstances of elevated risk of completion of the project, meaning that whether LSE or centrally procured, there is a significant risk that the resource will not reach commercial operation.

The Commission must recognize the "genuine desire on the part of LSEs to help develop the OSW resource" and other LLT technologies.²⁷ The CCAs know that early adoption of these technologies in the near term is needed to bring costs down over the long run, just as the solar, wind, and battery industries benefitted from. CCAs continue to conduct procurement activities to support those newer industries (e.g., geothermal and LDES procurement and OSW requests for information). Lack of contracting is not due to a lack of desire but because the OSW developers are not ready to contract because they do not have complete information about their costs (e.g., floating platforms, supply chain, and lack of port infrastructure in California).

²⁷ Ruling, at 22.

CalCCA agrees with the ruling’s statement that it is reasonable to broadly “share the cost, timing and technology risks of development” associated with OSW.²⁸ However, the benefits of broadly sharing costs and risks do not by themselves make the resource a public good. The central procurement of OSW may have some positive externalities, including lower subsequent costs for LSEs who procure such resources. However, as GHG-free resources create a defined quantity of clean energy, they do not meet the common definition of a public good as non-rivalrous and non-excludable. The attributes of clean energy resources have a defined market value which those who pay for this procurement – California ratepayers – should benefit from.

11. If DWR centrally procures undeveloped resources as a public good, how should that procurement relate to the individual LSE procurement (existing resources under contract and/or future procurement)?

The Commission must exercise caution to avoid direct (or anticipated) competition between LSEs and DWR for procurement of the same resources, scarce interconnection deliverability, or transmission capacity. It can accomplish this by pursuing uncontracted resource types like OSW and staging central procurement within the RCPPP in a manner that considers past LSE procurement and informs future LSE procurement. Failing to do so will introduce risk to LSEs that are actively exceeding procurement targets.

The Commission should not direct DWR to procure undeveloped resources as a public good. It should instead focus on procurement driven by a clearly demonstrated need. Once the Commission identifies a need, it must afford LSEs the opportunity to procure themselves to reduce their allocations of central procurement. Additionally, the RCPPP should credit LSEs that individually procure resources and reduce their cost/benefit allocation from centrally procured resources. Central procurement orders should occur well ahead of when an LSE would solicit its own solicitations for an

²⁸ *Id.*, at 23.

identified need in RCPPP, ensuring room in LSEs' portfolio for central procurement and their own procurement. Finally, the Commission must allow LSEs to sell the attributes associated with their central procurement allocations to create market liquidity – the ability of the LSE to optimize its portfolio is in itself a customer benefit that would promote customer affordability. Given California's affordability crisis, there is little justification for restricting LSEs in ways that place ever greater burdens on ratepayers.

12. How should any DWR centralized procurement relate to the eventual RCPPP design, given that the Commission has not yet adopted an RCPPP design and yet must make an initial need determination by September 1, 2024?

As described in response to Question 11, the Commission must consider central procurement within the RCPPP to ensure coordination between DWR and LSE procurement efforts. The Commission should account for DWR central procurement activity in the RCPPP need determination and allocation process such that DWR does not take on procurement responsibilities LSEs already plan to fill, and LSEs' procurement needs are discounted by the amount of CPE allocations they will receive. This way, DWR and LSE procurement will not be duplicative.

Given the Commission has not yet finalized or implemented the RCPPP design, coupled with the lack of certainty of successfully bringing OSW to commercial operation even with central procurement, the Commission should limit the use of the CPE now, and align the two types of procurement – RCPPP procurement and central procurement – including need determination, need allocation, etc. The Commission will have further opportunities to evaluate the need for central procurement after it implements RCPPP to ensure that the two processes work effectively together.

13. This ruling proposes that LSEs not be allowed to opt out of DWR centralized procurement requested by the Commission. If you disagree with that proposal, explain why with citations and discussion of relevant provisions of AB 1373.

The Ruling makes an error by proposing that LSEs would not be able to opt out of DWR centralized procurement and failing to discuss the opportunity for LSEs to self-procure afforded in AB 1373. Instead, after the Commission identifies a need for central procurement, CCAs must have an opportunity to procure prior to DWR contracting based upon the Commission's identified need. AB 1373 authorizes the Commission to request DWR to procure needs identified under section 454.51(a), but in section 454.51(d), CCAs have a statutory right of self-procurement. Thus, the Commission makes a legal error in not providing for this right of self-procurement. This reading is also consistent with the spirit of AB 1373. Section 454.52 states "[w]ithin six months of determining that there is a need for the procurement of eligible energy resources, the commission may request the Department of Water Resources to exercise its central procurement function[...]."²⁹ The August 31, 2023, Senate Committee on Energy, Utilities and Communications Analysis for AB 1373 indicates, "[t]he intent for the six month window is to allow other LSEs the opportunity to procure their fair share of their load if they elect to do so."³⁰ Therefore, it is not a question of opting-out of procurement, but rather following the intent of AB 1373 and providing LSEs the right to procure ahead of DWR.

14. Should a need determination for DWR centralized procurement be made by the Commission during every IRP cycle during the consideration of the PSP or at some other time? Explain the rationale for your preferred approach.

Yes. The Commission should regularly consider the cost-benefit ratios for the central procurement of only emerging technologies as part of each IRP cycle. Need determination should be based, at a minimum, on LSEs' IRP schedule, utilizing the most recent publicly available procurement status reports to inform need and allowing LSEs ample time to factor in central procurement into their own IRP plans and procurement efforts. Due to the risks

²⁹ Cal. Pub. Util. Code § 454.52.

³⁰ AB 1373 Senate Committee on Energy, Utilities and Communications Bill Analysis (Version Aug. 31, 2024), at 14.

associated with projects such as OSW, planning efforts should allow for a least-regrets approach (e.g., pursuing needs that appear over multiple planning cycles, allowing for off-ramps if needs significantly change, not over-committing in early stages before technology has become established, etc.). Regularly reconsidering the need for central procurement will allow the Commission to exercise caution for its initial September 1, 2024, need determination, given a need has yet to be identified and the OSW industry may not be ready for contracting, with the understanding it will have future central procurement opportunities.

- 15. A logical point for POU's to engage with DWR on opting into centralized procurement would be after the Commission makes a need determination, but prior to DWR initiating procurement activities. Comment on whether this is appropriate and include any necessary and relevant implementation concerns or details.**

CalCCA has no comments at this time, but reserves the right to respond in replies.

- 16. If DWR procures resources on behalf of POU's, it is possible that related costs currently socialized through existing processes, such as transmission costs flowing into the transmission access charge (TAC), may be incurred. What other costs of benefits might be implicated, and what is the best means for addressing them?**

CalCCA has no comments at this time, but reserves the right to respond in replies.

- 17. The centralized procurement mechanism could provide an alternative pathway towards procurement of diverse resources that are currently infeasible for individual LSEs or small consortiums of LSEs to develop. What process should the Commission develop to encourage parties, especially developers, to provide candid feedback about timing and pricing considerations necessary to develop LLT resources through this mechanism, while also providing the most value to ratepayers?**

Developers are likely only to provide complete and candid information about pricing and timing within the context of an RFP with a procurement opportunity attached. The Commission should seek the latest developer feedback on development timelines, including permitting, procurement, transmission timelines, etc. If the Commission obtains pricing information outside

of DWR's RFP process, however, it should consider such information highly uncertain, as the information would not be tied to actual commitments from developers.

5.1 Cost and Benefit Allocation

- 18. For centralized procurement of resources not yet in LSE portfolios such as OSW, is it appropriate for the costs of any DWR contract to be allocated to all LSEs based on the TAC area's share of a 12-month coincident peak load? If not, provide rationale and explanation for another cost allocation methodology.**

Prior to any cost allocation, the Commission should ensure that it does not penalize early actors. It can accomplish this by allocating centralized procurement based on load share, net of LSE procurement of their share of the need. As described in Section II and in response to Question 13, LSEs have a right to self-procure and AB 1373 affords time for LSEs to do so. Those who self-procure should not be allocated the costs and benefits of central procurement. The purpose behind central procurement should be to spur an industry such that LSE-based procurement becomes the normal course of business. Allocating a full cost share to an entity that has already done its own procurement will strongly disincentivize LSEs from procuring early, which will ensure that the only procuring entity is the DWR, and slow evolution to LSE-based procurement.

- 19. For centralized procurement of resources that already exist in at least some LSE portfolios, what is the appropriate method for allocating costs and benefits?**

The Commission should not recommend centralized procurement of resources that LSEs are procuring. The Commission will soon engage with LSEs through the RCPPP, which will establish goals and monitor progress toward procurement of new renewable resources. Before parties can fully develop an answer to this question, the Commission must gain insight into this new RCPPP process. However, as noted in response to Question 18, any allocation of costs to

those already procuring resources considered in their RCPPP will likely have the negative consequence of moving all demand for such products to the Commission and DWR.

20. How would DWR's solicitation and contracting process need to change for circumstances where POU's and/or individual LSEs seek additional volumes of procurement beyond the amount of need determination authorized by the Commission? How would those additional costs and benefits be allocated fairly to benefitting LSEs and/or POU's?

At a minimum, if any POU's or individual LSEs request additional volumes, the Commission must ensure that those volumes do not increase the costs to those that have central procurement costs allocated to them but did not request additional volumes. This will mean that either the incremental volumes reduce the average cost of procurement or that the Commission charges incremental volumes separately to those entities requesting the additional volume if the cost is higher than the average.

21. How should the allocation of benefits beyond energy and capacity (such as, but not limited to: RPS value, renewable energy credits, IRP compliance, or GHG-reduction value) be allocated to LSEs?

Any and all attributes of centrally procured resources should be allocated to those that pay for the resource. This would mean that the Commission should provide the LSE for the paying customers with those attributes with no restrictions. The Commission should leave LSEs to manage their portfolio of resources and attributes in the most beneficial and cost-effective manner possible for their customers. In some cases, this may mean selling attributes from a centrally procured and allocated resource to best meet their customers' needs. Therefore, the Commission should allocate all attributes from centrally procured resources to the LSEs whose customers pay for the resources with no restrictions on the LSEs' use of those attributes.

In addition, to the extent central procurement is relied upon to meet obligations, a failure of the CPE should not result in a penalty to LSEs. For example, if RCPPP obligations are set based upon procurement being met in part by the CPE and in part by LSEs, if the LSEs complete

their procurement but the CPE does not, the Commission cannot then penalize the LSEs for a failure to meet the procurement assigned to the CPE.

22. How should the AB 1373 requirements for nonbypassable surcharges be implemented?

The answer to this question depends on the method selected for resource and attribute allocation. It is dependent on whether the cost allocation is done by TAC area, statewide (similar to Diablo Canyon Nuclear Power Plant), or through existing DWR non-bypassable charges. Whichever method is selected, it must allocate costs and benefits to all parties for which the costs have been incurred.

23. Some LLT eligible resources may require substantial infrastructure development, the costs of which are incremental to costs related to the deployment of the resource itself (for example, OSW requires port and transmission development; geothermal requires transmission development and construction in challenging environments). How do these contingent, necessary costs influence the overall financial impact of resource development for different eligible resources?

First, the Commission must determine if these infrastructure development costs are separable from the contract itself. Will the state make separate efforts to develop port infrastructure necessary to develop OSW facilities and in doing so, will it charge those development costs to parties other than the OSW developer? If the OSW developer is expected to incur port development costs, the developer would include those costs in their bids. In evaluating the costs and benefits for such projects, the Commission must evaluate costs and benefits correctly to avoid double counting. Similarly, while transmission development may occur, once built, the CAISO process for dispatching the grid may use a different set of resources on the transmission system that was “built for OSW”. Any cost-benefit analysis must account for the multiple uses of transmission once built since it is not truly dedicated to a single generator but is dedicated to serving needs and resources on the grid, including imports and exports.

24. How do costs not directly related to the specific energy projects factor

into the affordability question for ratepayers for deployment of LLT resources through centralized procurement? How could centralized procurement help address or mitigate these additional costs?

Central procurement may prove to harm customer affordability if (1) developers are not offering projects to LSEs due to central procurement opportunities, (2) adding additional demand puts pressure on already limited supply, or (3) central procurement efforts are duplicative of or interfere with LSE procurement efforts. In addition, if the CPE fails to meet its procurement responsibility, then LSEs could need to backstop for the CPE, creating a rushed procurement environment and increasing affordability concerns. This would cause significant challenges if LSEs do not have full visibility into the CPE process and, therefore, cannot mitigate the risks of central procurement or lack thereof.

Additionally, the CPE will not help reduce infrastructure costs like transmission, roads, and ports because the CPE itself does not control infrastructure builds. Absent a state or federal funding mechanism, such large infrastructure project costs would show up in contract prices or transmission and distribution costs, impacting affordability to ratepayers. As described in response to Question 5 above, centralized procurement could help address or mitigate these additional costs by taking advantage of all available opportunities for state or federal funding.

6.1 Timeline

25. Is the proposed timeline and activities description appropriate for DWR's initial solicitation activities? If not, what should be the expected timeline and why? What other activities and/or interim milestones should be considered or required?

The timeline and activities described in Table 2 of the Ruling appear generally reasonable for DWR's initial solicitation activities.³¹ The Commission and DWR will need to remain flexible with the timing, however. The procurement timing for OSW must coordinate closely

³¹ Ruling, at 39.

with transmission and port costs and funding so developers can price their bids with as much certainty as possible on these other potential cost items. The complex process of OSW development requires substantial coordination between state and federal agencies and stakeholders. Assuming the Commission directs DWR to procure OSW resources, the entire process must include a high level of transparency and regular information sharing into the various California planning programs to ensure that progress stays on track.

In addition to regular transparency and information sharing with stakeholders, the Commission should update the timeline to incorporate the “procurement group’s” activities described in Question 27. These activities should coincide with DWR’s bid evaluation activities so that DWR can submit the procurement group’s input along with its proposed contracts for Commission consideration.

The Ruling states that “[i]f necessary, a need determination could also be made outside of the regular process for PSP consideration.”³² The Commission should avoid making central procurement need determinations outside of an established process. Instead, it should establish a regular cadence for determining central procurement needs that fits within the existing IRP process. The Commission should establish such a cadence in a manner that allows it to consider the PSP portfolio, supplemented by the most up-to-date procurement information from LSEs including the June 1, 2024, IRP filings, and make central procurement need determinations with enough time for LSEs to factor those decisions into their individual IRPs.

- 26. Is there an optimal contract structure for DWR to consider when contracting with resources through the centralized mechanism? Should the Commission review contract structures or other pre-bid activities in advance of their completion?**

³² Ruling, at 38.

The Commission, in coordination with DWR and other state entities, should explore the viability of different contract structures to maximize ratepayer benefits and balance risk. This exploration should include discussions with federal agencies and experts in federal funding opportunities to better understand how different contract structures would impact federal funding opportunities, including grants, loans, and tax benefits.

Prior to initiating procurement activities, DWR should provide its procurement plan, including timelines and contract structures, on the record so that parties can weigh in before the Commission makes a final determination and DWR begins procurement activities. One critical component of any procurement plan is the potential for off-ramps, such as conditions that would allow the Commission to modify central procurement decisions based upon transmission or port infrastructure build-out, which the state, CAISO, or other entities are responsible for completing.

27. Comment on how the “procurement group” for DWR required by AB 1373 should be implemented.

The “procurement group” should include at least one representative from each LSE type, including IOUs, CCAs, Electric Service Providers, and POUs if the POUs opt-in to use the CPE. Since the DWR is not an LSE nor market competitor, and while CCA customers are paying for the resources, non-market participant CCA representatives should be included in the procurement group. A third-party auditor should evaluate and document DWR’s procurement activities with publicly available reporting. The procurement group should be able to communicate concerns about the CPE’s procurement activities and recommendations to the Commission for its consideration before the Commission approves CPE procurement recommendations.

28. Is an application the appropriate mechanism for Commission consideration of individual contracts proposed by DWR after the conduct of its solicitation? Explain.

Yes, applications are the appropriate mechanisms for the Commission to consider contracts proposed by DWR. The application mechanism will ensure the Commission thoroughly vets the contracts for just and reasonableness with opportunities for party input. Further, if the actual costs or likelihood of the scenarios with net benefits are not coming to fruition, the Commission should have the opportunity to consider dismissing the application.

29. Include any other process recommendations for the Commission to request or require for DWR’s conduct of centralized procurement.

Since the Commission's goals are to spur an industry, the Commission should start by committing to a limited amount of capacity. When coupled with the RCPMP, this will also help to ensure that any risk of CPE failure is mitigated by continuing to procure other renewable resources necessary to meet both state policy and reliability needs. Should the Commission order central procurement, such an order should occur well ahead of when an LSE would conduct its own solicitations so that duplicative and costly over-procurement does not occur.

The Commission should also follow the Ruling’s described path forward for evaluating bids the DWR receives. That is, central procurement is, “not intended as a commitment to procure LLT resources at any cost. If the premium required to develop the initial tranche of resources exceeds the portfolio diversity and initial investment values of taking an initial step, the Commission could elect to suspend or postpone the procurement by DWR.”³³

30. Specifically for developers of LLT resources: What would be the optimal timing and minimum threshold amount of a DWR centralized procurement solicitation from your perspective? Explain your rationale. In addition, delineate the categories of costs associated with your projects and when such costs should be firm enough to allow binding bids in a solicitation (for example, due to supply chain issues, components may only be available by a certain date to inform bid development; transmission availability is expected by a certain date; etc.). Be as specific as possible to assist the Commission in designing a reasonable process and timeframe. If desired, information in response

³³ Ruling, at 38.

to this question may be requested to be submitted under seal, if supported by relevant justification.

While this question is specifically directed towards developers, CalCCA reserves the right to respond to this question in reply comments based upon its members' experience working with such developers.

31. Assuming that the Commission will give direction to DWR on the expected online date for centrally-procured LLT resources, how might such a directive be framed? For example, should the Commission specify commercial operation by a certain date, by a certain year, or within a range of years?

Should the Commission direct DWR to centrally procure LLT resources, the Commission should order DWR to issue a solicitation and then, like with IOU procurement, approve DWR's proposed procurement only if the Commission finds the contract terms just and reasonable. The Commission should give DWR a range of years that it could procure for depending on an identified need and allow DWR to assess bids with timing as one consideration.

IV. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests consideration of the recommendations herein.

Respectfully submitted,



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

May 24, 2024