



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

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Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Reforms and Refinements, and Establish Forward Resource Adequacy Procurement Obligations.

R.23-10-011

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S PROPOSALS ON
ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING TRACK 2
CENTRAL PROCUREMENT ENTITY FRAMEWORK AND IRP COORDINATION**

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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	COMMENTS ON THE REPORT	3
	A. The Report Makes Misleading and Incorrect Statements about the State of the RA Market	3
	B. Given the Significant Ongoing RA Market Challenges and Structural Changes, the Commission Should Retain the Current CPE Framework with Modifications to Address Known Issues at This Time.....	6
III.	PROPOSAL: THE COMMISSION SHOULD ADJUST THE CPE TIMELINE.....	8
	A. Background.....	8
	B. Objective.....	10
	C. Proposal.....	10
IV.	CONCLUSION.....	12

SUMMARY OF RECOMMENDATIONS

- Energy Division’s *Report on the 2021-2023 Central Procurement Entity Framework* (May 31, 2024) makes misleading and incorrect statements about the state of the Resource Adequacy (RA) market;
 - Given the significant ongoing RA market challenges and structural changes, the California Public Utilities Commission (Commission) should retain the current Central Procurement Entity (CPE) framework with modifications to address known issues at this time; and
 - The Commission should adjust the CPE timeline.
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California Community Choice Association¹ (CalCCA) submits the following proposals pursuant to the *Assigned Commissioner’s Scoping Memo and Ruling*² (Ruling), dated December 18, 2023. The Ruling seeks proposals on the Central Procurement Entity (CPE) framework and a revised loss-of-load expectation (LOLE) study and planning reserve margin (PRM).

I. INTRODUCTION

Decision (D.) 20-06-002 adopted a “hybrid” CPE framework for local Resource Adequacy (RA) in Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) service areas, beginning with the 2023 RA compliance year.³ D.20-06-002 also

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 *Assigned Commissioner’s Scoping Memo and Ruling*, Rulemaking (R.) 23-10-011 (Dec. 18, 2023): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M521/K589/521589385.PDF>.

³ D.20-06-002, *Decision on Central Procurement of the Resource Adequacy Program*, R.17-09-020 (June 12, 2020): <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M340/K671/340671902.PDF>.

authorized Energy Division to produce a report on the CPE framework and its effectiveness. In response, the Commission issued Energy Division’s *Report of the 2021-2023 Central Procurement Entity Framework*, on May 31, 2024.⁴ The Report inaccurately or misleadingly characterizes the state of the RA market and local RA landscape on numerous occasions. The Report cites “market fragmentation” as one reason for tight system RA market conditions,⁵ and the emergence of community choice aggregators (CCA) as one driver for the need to centrally procure local RA resources.⁶ These comments address why these statements are inaccurate and correct the record on the sources of system RA market tightness.

These comments also propose that the Commission adjust the CPE timeline to direct CPEs to conclude procurement after its first 100 percent requirement. This proposal would focus on addressing the major known issue with the CPE framework rather than advancing broader structural changes. Addressing priority issues within the existing framework is prudent at this time, given the significant ongoing RA market challenges and other structural changes to the RA program already in progress. This proposal would provide more time for load-serving entities (LSE) to conduct their system and flexible RA procurement after receiving their CPE allocations. CalCCA has advanced this proposal in previous RA proceedings⁷ and does so again here, given its potential to greatly improve the way CPE and LSE procurement interact within the existing RA CPE framework.

⁴ *Report on the 2021-2023 Central Procurement Entity Framework*, R.23-10-011 (May 31, 2024) (Report) <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M533/K098/533098500.PDF>.

⁵ Report at 6.

⁶ *Id.* at 4-5.

⁷ *California Community Choice Association’s Phase 1 Proposals in Response to the Assigned Commissioner’s Scoping Memo and Ruling*, R.21-10-002 (Dec. 13, 2021) at 8-12: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M431/K692/431692715.PDF>.

While the proposal has obvious benefits for LSEs, it also has no negative impacts on CPEs or local area reliability. It aligns with the CPE's existing procurement timelines by leveraging the existing 100 percent local RA requirement in year two and with the existing local RA backstop process, which considers CPE and LSE procurement of local resources before determining if backstop procurement is necessary.

With these considerations in mind, CalCCA makes the following comments and recommendations:

- The Report makes misleading and incorrect statements about the state of the RA market;
- Given the significant ongoing RA market challenges and structural changes, the Commission should retain the current CPE framework with modifications to address known issues at this time; and
- The Commission should adjust the CPE timeline.

These recommendations aim to ensure the Commission and parties focus on the root causes of the challenges faced by the local RA CPE and LSEs in procuring local and system RA within the existing hybrid local RA CPE framework.

II. COMMENTS ON THE REPORT

A. The Report Makes Misleading and Incorrect Statements about the State of the RA Market

The Report mentions multiple apparent causal effects that imply CCAs were a significant contributor to the difficulty in procuring local RA resources prior to a CPE. These statements have proven to be untrue over time yet continue to surface in documents like the Report. The Commission must stop framing local RA issues in this inaccurate manner so that parties and the Commission can have meaningful discussions to address the true issues.

The Report states, for example:

Beginning in 2017, the Commission acknowledged several emerging trends affecting the state's electric sector and procurement outlook,

including (1) the growth in Community Choice Aggregation (CCA) entities which, at the time, had fewer long-term RA contracts...The Energy Division reasoned that numerous small CCA LSEs purchasing small strips of available local RA was cost-ineffective and potentially creates market power concerns.⁸

Certainly, this outdated way of thinking should no longer prevail, but the Report continues to advance it as if it remains relevant. The Commission itself has reported that CCAs have made great progress in meeting mid-term reliability procurement obligations, including from long-lead time resources.⁹ Unlike RA contracts, these contracts are generally with the developer of the facility, for long contract durations, and of sufficient size to enable the development of the resource. RA on the other hand can be procured for an entire resource and for long durations but, increasingly is procured from brokers selling portions of a resource's capacity for many durations, including monthly.

Despite the Report's outdated framing of local RA issues, it also states that:

To address these trends, the Energy Division undertook an assessment on whether structural modifications to the RA program were necessary, given the: ...(4) acceleration in load migration from the IOUs to both new and existing CCAs, and (5) divergent trends in local procurement activity, with the portion of contracted capacity held by CCAs remaining low, whereas the portion of contracted capacity held by IOUs through 2022 remain high.¹⁰

The Commission implemented the CPE for local RA in 2021 for compliance year 2023 via D.20-06-002. The Commission's *2022 Resource Adequacy Report* demonstrates that for

⁸ Report at 4.

⁹ *Summary of Compliance with Integrated Resource Planning (IRP) Order D.19-11-016 and Mid Term Reliability (MTR) D.21-06-035 Procurement*, August 2023 Data Filings Energy Division Staff Findings: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltpp/publicirpcompliancec080123.pdf>.

¹⁰ Report at 5.

2022 the weighted average price for system RA was \$7.64/ kilowatt (kW) -Month.¹¹ The same report shows the weighted average price for local RA was lower than this amount in only four local areas, with the other eight local areas showing prices from \$8.00/kw-month to \$11.88/kw-month.¹² The Commission should not blame decreasing local RA procurement on CCAs when they had no local RA obligation, were subject to paying for CPE local procurement, and when local area resources were trading at a premium. Declining amounts of local RA procurement is a factor of the structure of the RA regulations and not an indictment of CCA procurement activity.

When discussing the state of system RA procurement, the Report states:

In response to these decisions, LSEs procured resources throughout the state, as well as imports from other areas in the West. However, despite the retention of DCNPP and the new procurement, the system capacity market has remained tight due to a variety of factors: ... (c.) market fragmentation and lumpiness of procurement contracting resulting from 38 LSEs attempting to balance their individual energy and capacity portfolios.¹³

The Commission must not imply that system capacity market tightness has resulted from “market fragmentation and lumpiness of procurement contracting.” As described above, CCAs have been able to procure new resources, including long-lead-time resources, despite developer desires to sell large facilities to take advantage of economies of scale for such resources. At the same time, the RA market has moved significantly to selling via brokered deals, where the broker sells various quantities and for various terms. In addition, despite significant CPE shortfalls in local RA procurement,¹⁴ the CAISO has not backstopped for a local RA deficiency.

¹¹ 2022 Resource Adequacy Report (May 2024) at 27: https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/2022-ra-report_05022024.pdf.

¹² *Id.* at 21.

¹³ Report at 6.

¹⁴ Advice Letter 6706-E, *Pacific Gas and Electric Company (“PG&E”) Central Procurement Entity (“CPE”) Annual Compliance Report* (Sept. 19, 2022), at Public Attachment A – PG&E CPE

LSE procurement of system RA has covered CPE shortfalls, not the other way around. It is, therefore, incorrect to state that “market fragmentation” or “lumpiness” is a significant factor, if any factor, in the system capacity market tightness currently present in the RA market or in the need for centralized procurement.

System capacity market tightness instead stems from the California RA market’s razor-thin supply and demand balance, regulatory dynamics that further constrain that market like the effective PRM or the non-resource-specific RA import bidding rules, and tightening capacity conditions across the Western Electric Coordinating Council (WECC).¹⁵ The inability for LSEs to transact at the same granularity as the requirement under the slice-of-day (SOD) framework will further exacerbate market tightness.

For these reasons, the Commission must stop implying the source of local RA issues or system RA capacity constraints lies with the growth of CCAs. Continuing to do so prevents parties and the Commission from having meaningful discussions on the true issues facing the local and system RA markets.

B. Given the Significant Ongoing RA Market Challenges and Structural Changes, the Commission Should Retain the Current CPE Framework with Modifications to Address Known Issues at This Time

The Report provides three main options for parties to consider when determining next steps for the CPE framework. These options include:

Aggregate Procurement Summary (2022 PG&E CPE Compliance Report): https://www.pge.com/tariffs/assets/pdf/adviceletter/ELEC_6706-E.pdf and Advice Letter 7027-E, *Pacific Gas and Electric Company (“PG&E”) Central Procurement Entity (“CPE”) 2023 Annual Compliance Report* (Advice Letter 7027-E), at Public Attachment 2 - *PG&E CPE Aggregate Procurement Summary and Additional Reporting* (Public Attachment A): https://www.pge.com/tariffs/assets/pdf/adviceletter/ELEC_7027-E.pdf.

¹⁵ *California’s Constrained Resource Adequacy Market: Ratepayers Left Standing in a Game of Musical Chairs* (Updated Jan. 16, 2024): https://cal-cca.org/wp-content/uploads/2024/02/CalCCA-Stack-Analysis-2023-2026-updated-01_16_24-.pdf.

- Retaining the CPE framework with modifications to address known issues, including timing, transparency, procurement levels, and coordination with the IRP proceeding's orders for new resources;
- Repurposing the CPE framework to focus on areas of concern, like the retention of large gas fired resources located in local areas or procurement of new resources to meet local needs; and
- Dismantling the CPE framework by reverting to the former local RA program or removing local RA obligations entirely.¹⁶

The Commission should focus on the first option in this proceeding. As described in Section II.A., the RA program is currently facing significant challenges. The Commission should avoid further RA market disruption at a time when supply constraints make it difficult for all LSEs to comply in a cost-effective manner and the RA framework is undergoing significant transition. The Commission is in the process of implementing its SOD system RA framework. As expected with any major structural change to the RA program, this implementation has been rife with complications. Therefore, the Commission will continue to develop and modify the SOD framework through its implementation in 2025.¹⁷

The Commission should not consider a new drastic change to the RA program before allowing SOD, a drastic change already in progress, to be implemented and tested. Constant shifting of LSE compliance frameworks, rules, and obligations make it difficult for the market to adjust and settle into changes as they occur. While broader structural changes to the CPE framework may be beneficial or necessary, developing and adopting them now could do more harm than good given the state of the RA market today and the transitions already in progress.

¹⁶ Report at 54.

¹⁷ Proposed *Decision Adopting Local Capacity Obligations for 2025-2027, Flexible Capacity Obligations for 2025, and Program Refinements*, R.23-10-011 (May 17, 2024) at 16: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M531/K786/531786491.PDF>.

In addition, the Commission is also in the process of developing the Reliable and Clean Power Procurement Program (RCPPP). The RCPDP development process has begun contemplating a number of the questions put forth in Options B and C. For example, RCPDP has begun contemplating how to address local areas currently reliant on the gas fleet to maintain reliability. This is a critically important issue, and the Commission should work to ensure the RA and IRP proceedings are coordinated in their development of solutions.

Retaining the CPE framework with modifications to address known issues will allow RA market participants to focus on adjusting to changes already in progress. For these reasons, the Commission should focus on improving the existing CPE framework through the proposal in Section III. Once the RA market calms and the Commission has fully transitioned to its permanent system RA framework, the Commission can consider broader structural changes to the CPE framework.

III. PROPOSAL: THE COMMISSION SHOULD ADJUST THE CPE TIMELINE

A. Background

The Commission allows the local RA CPE to conduct procurement until only a few months prior to LSEs submitting their year-ahead system RA showings,¹⁸ despite the local RA CPE having a 100 percent local RA requirement two-years forward.¹⁹ This leaves LSEs with substantial uncertainty around their system and flexible RA procurement given they will not know their system and flexible RA allocations from CPE-procured resources as they conduct their procurement. Because LSEs do not receive allocations from self-shown resources, only from

¹⁸ D.22-03-034 gives the local RA CPE until mid-August the year prior to the start of the RA year to finalize its procurement. LSEs make their system and flexible RA showings at the end of October the year prior to the start of the RA year.

¹⁹ Local RA requirements are three years forward, 100 percent in year 1, 100 percent in year two, and 50 percent in year three.

resources bought by the CPE, it is not possible for LSEs to assume the amount of CPE allocations they will receive in advance. LSEs have only two months before their own year-ahead showings to shore up supply in response to their CPE allocations. This timeline is unacceptably short given it is not possible for LSEs to reasonably predict their allocations in advance.

The CPE report states that this timeline was designed to “strike a reasonable balance between the need for LSEs to have sufficient time for RA portfolio planning and the need for the CPEs to have adequate time to complete an all-source solicitation.” While this may have been the Commission’s objective, the reality is that the proposal does not strike this balance. Instead, it gives LSEs significantly less time to do their procurement. While the CPE report says, “The adopted timeline provides LSEs and CPEs a similar amount of time (6-8 weeks) to complete necessary procurement after receiving allocations,” it actually provides the CPEs significantly more time than LSEs to do procurement, years rather than weeks. This is because the local RA program is three years forward with a 100 percent obligation in year two, and requirements generally do not change drastically from year two to year one, and the system RA program is only one year forward.

Finally, as the Report notes:

This near-term tight supply and demand balance has caused capacity prices to increase substantially for both existing and new generation, leading local generators to forego multi-year local contracts with CPEs and instead contract with individual LSEs for system capacity RA obligations.²⁰

The Commission does not require the CPE to procure local capacity at any price and may allow the CPE to defer procurement to the CAISO’s backstop if the prices are too high. Given the current scarce market conditions and increase in prices noticed within the Report, the

²⁰ Report at 6.

additional time for the CPE to procure is unlikely to be fruitful and only serves to delay the much-needed certainty for LSEs.

B. Objective

The objective of the proposal below is for the Commission to provide LSEs with their CPE allocations at least one year prior to their year-ahead RA filings. This will improve LSE certainty around how much system and flexible RA they will need to procure. It also aligns with the existing timeline for both local and system RA procurement and showings by leveraging the 100 percent year two local RA requirement, making the change administratively simple for the Commission, CPE, and LSEs.

C. Proposal

Given the uncertainty created by the existing timeline, the Commission should modify the timeline to move up the CPE's final showing requirement by one year. In other words, the CPE would make its final showing one year – rather than the current one to two months -- in advance of LSE year ahead showings, consistent with the 100 percent local RA requirement for year two. For example, for compliance year Y, the CPE would complete its local procurement in Y-2 by October 31 (consistent with when other RA filings are submitted) rather than in Y-1 by mid-August.²¹

This deadline would apply regardless of whether the CPE fully met its obligation. That is, even if the CPE is short on its Y-2 obligations by October 31, its procurement efforts would conclude at that time, LSEs would receive their allocations, and LSEs would then finalize their system and flexible procurement considering their CPE allocations. If the CPE does not fulfill its obligation, the CAISO would make any CPM designations as it does currently, following LSE

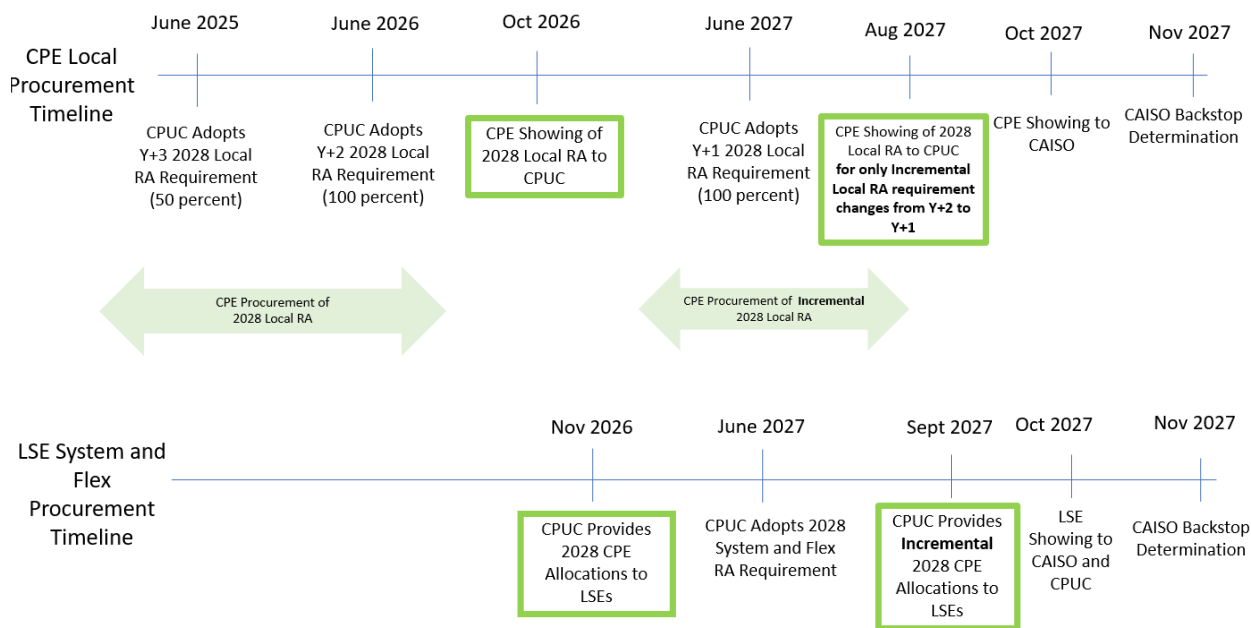
²¹ Y refers to the RA compliance year; Y-X refers to the year that is X years before Y.

showings in October for Y-1, so that it can consider CPE procurement and LSE procurement when determining if a local need is not met.

It is worth noting that the local RA need can change from year to year. If there is an increase in the local RA need after Y-2, the Commission could allow the CPE to procure only for this incremental need. Based upon a review of historical LCR changes, the change in local RA need year over year is typically small, and such incremental procurement by the CPE will have minimal impact on LSE allocations.

Concluding CPE procurement activities after Y-2 would result in the timeline depicted in Figure 1.

Figure 1: Example CPE Timeline for RA Year 2028



While the example in Figure 1 shows the timeline for RA year 2028 to provide a complete picture of future local and system RA activities, the Commission should implement this proposal as soon as possible for RA year 2026. It could accomplish this by requiring a CPE showing for 2026 on October 31, 2024, and directing the CPE not to continue with additional

procurement for 2026 unless the CAISO's local capacity technical study indicates an increase in local requirements.

IV. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests consideration of the comments and proposal herein and looks forward to an ongoing dialogue with the Commission and stakeholders.

Respectfully submitted,

A handwritten signature in blue ink that reads "Evelyn Kahl". The signature is written in a cursive, flowing style.

Evelyn Kahl,
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CALIFORNIA COMMUNITY CHOICE
ASSOCIATION

June 14, 2024