



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

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

R.20-05-003

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

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SUMMARY OF RECOMMENDATIONS

- Once a need is identified, the California Public Utilities Commission (Commission) must provide load-serving entities (LSE) an opportunity to meet the need with their own procurement;
 - The Commission should only direct central procurement in a manner that balances market transformation benefits with ratepayer risk mitigation, and only after identifying a need and allowing LSEs to meet the need with their own procurement;
 - The Commission should not consider investor-owned-utility-based central procurement within the scope of this Ruling; and
 - The Commission should not consider non-offshore wind technologies for central procurement.
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LONG LEAD-TIME RESOURCES**

California Community Choice Association¹ (CalCCA) submits these reply comments pursuant to the *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 the *Analysis for Centralized Procurement of Specified Long Lead-Time Resources*³ (April 2024). 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

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*, Rulemaking (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* (April 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>.

Department of Water Resources (DWR) procure electricity from certain types of resources, on behalf of customers of all load-serving entities (LSE) under the Commission’s integrated resource plan (IRP) purview.

I. INTRODUCTION

CalCCA appreciates the opportunity to reply to parties’ Opening Comments on the use of the central procurement entity (CPE) authorized in AB 1373.⁴ As an initial matter, AB 1373 requires the Commission to make a determination of need before ordering central procurement. To date, neither the Commission nor the parties have made a compelling demonstration of a need for procurement that LSEs themselves cannot accomplish. When this is the case, LSEs must retain procurement responsibility.

If the Commission does identify a need for central procurement by September 1, 2024, central procurement should not reach beyond offshore wind (OSW). Other candidate technologies identified in the Ruling - out-of-state (OOS) wind, geothermal, and long-duration energy storage (LDES) 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 community choice aggregators (CCA) – have already demonstrated the ability to procure these types of resources, and the Commission should not interfere with their ongoing efforts. The Commission should limit central procurement to (1) meet identified needs that must be met with resources that 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.

⁴ References to parties’ opening comments refer to those filed in R.20-05-003 on May 24, 2024.

Parties offer a wide range of recommendations regarding the need and process for central procurement. Some recommendations do not adhere to the requirements established in AB 1373, like ordering central procurement without a demonstrated need or ordering central procurement of resources with no evidence that they take longer than five years to develop and construct. Other recommendations extend beyond the scope of the Ruling, like recommending the use of investor-owned utility (IOU) central procurement. CalCCA offers the following reply comments in response:

- Once a need is identified, the Commission must provide LSEs an opportunity to meet the need with their own procurement;
- The Commission should only direct central procurement in a manner that balances market transformation benefits with ratepayer risk mitigation, and only after identifying a need and allowing LSEs to meet the need with their own procurement;
- The Commission should not consider IOU-based central procurement within the scope of this Ruling; and
- The Commission should not consider non-OSW technologies for central procurement.

II. ONCE A NEED IS IDENTIFIED, THE COMMISSION MUST PROVIDE LSES AN OPPORTUNITY TO MEET THE NEED WITH THEIR OWN PROCUREMENT

Several parties make recommendations that would limit or discourage LSE procurement in favor of central procurement. The Commission should reject these recommendations and take every possible measure to ensure ongoing and future procurement obligations for new resources with demonstrated commercial viability remain with LSEs.

As Southern California Edison Company (SCE) states, “any central procurement of LLT clean energy resources must be based on a clear finding of need.”⁵ Need determination is a crucial first step in determining whether the Commission should order central procurement. Once

⁵ SCE Opening Comments at 6.

the Commission identifies a need, the next step is determining whether the need can only be met by the specific centrally procured resources (i.e., OSW) or if the need can be met by a combination of other resources that can provide the same attributes. If a combination of alternative resources can provide the same attributes in a more cost-effective manner, there is no need for central procurement. For example, SCE puts forth a proposal to use the least-cost portfolio, the portfolio that meets reliability and greenhouse gas (GHG) targets at least cost, “to validate whether any LLT clean energy resource is “needed” by the system before considering whether it should be centrally procured under AB 1373.”⁶ This proposal would result in no central procurement need, as the least-cost portfolio includes no OSW, the only eligible candidate resource for the reasons described in Section V. If a need can be met by attribute-based LSE procurement of commercially viable and cost-effective technology, there is no need for a CPE procurement order in the first place.

The Coalition of California Utility Employees (CUE) and California Unions for Reliable Energy (CURE) assert:

Individual LSEs are not capable of procuring things like offshore wind that require large-scale procurement which exceeds the need of any single LSE or even a group of LSEs, and require a long, complex development process. Moreover, procurement by the state will save money for electric customers by enabling use of state-backed financing with lower interest rates.⁷

The Commission should dismiss this assertion because (1) LSEs have demonstrated that they can procure large-scale projects with long and complex development processes; and (2) central procurement risks raising customer costs if it results in the CPE interfering with LSE procurement. As described in CalCCA’s Opening Comments,⁸ LSEs have demonstrated they can

⁶ SCE Opening Comments at 7.

⁷ CUE and CURE Opening Comments at 1.

⁸ CalCCA Opening Comments at 8-9.

procure large-scale projects with complex infrastructure needs. Examples include LSEs contracting with OOS wind projects using the Subscriber Participating Transmission Owner (PTO) model and LSEs jointly procuring large LLT resources through joint powers authorities like California Community Power (CC Power). Introducing a CPE for technologies that LSEs are already in the process of procuring could impair LSEs' procurement efforts, reduce participation by developers in LSEs' resource solicitations, or exacerbate sources of delay LSEs and developers are already experiencing. This will *not* save money for electric customers. Instead, it will risk exacerbating customer affordability challenges by adding excess demand into a market with limited sources of supply.

American Clean Power-California (ACP-California), Calpine Corporation (Calpine), the Green Power Institute (GPI), Pacific Gas and Electric Company (PG&E), and SCE caution against offering LSEs the ability to opt out of CPE procurement or considering LSE procurement when defining need and allocating cost and benefits.⁹ These parties cite complications for reliability assessments or cost and benefit allocations, or future opportunities to evaluate how to ensure LSE procurement and CPE procurement do not conflict.

Rather than considering whether the Commission should allow LSEs to opt-out, the Commission should consider how it should account for LSE procurement when determining needs and allocating costs and benefits. Failure to do so would discourage LSEs from conducting their own procurement because they would pay for central procurement even if they procured the same type of resource as the DWR or sufficient attributes to be the equivalent thereof to meet their own need. Further, as discussed in CalCCA and the California Wind Energy Association's (CalWEA) Opening Comments, section 454.51(d) provides CCAs a statutory right of self-

⁹ ACP-California Opening Comments at 21, Calpine Opening Comments at 7, GPI Opening Comments at 22, PG&E Opening Comments at 16, and SCE Opening Comments at 17-18.

procurement that the Commission must adhere to in its CPE process.¹⁰ In addition, the intent for the six-month window in AB 1373 is to allow LSEs the opportunity to procure for their share of load if they elect to do so.¹¹

Vague and unsupported arguments that it is “inappropriate”¹² or too “complicate[d]”¹³ for the Commission to allow LSEs to conduct their own procurement and consider that procurement when allocating costs and benefits must not outweigh the benefits of maintaining incentives for LSE procurement. They cannot supersede statutory requirements and intent.

III. THE COMMISSION SHOULD ONLY DIRECT CENTRAL PROCUREMENT IN A MANNER THAT BALANCES MARKET TRANSFORMATION BENEFITS WITH RATEPAYER RISK MITIGATION, AND ONLY AFTER IDENTIFYING A NEED AND ALLOWING LSEs TO MEET THE NEED WITH THEIR OWN PROCUREMENT

Parties offer a range of recommendations regarding the initial need determination the Commission must make by September 1, 2024, but most recommendations focus on the central procurement of OSW. The Public Advocates Office of the California Public Utilities Commission (Cal Advocates), Calpine, Green Power Institute, PG&E, SCE, and San Diego Gas & Electric Company (SDG&E) recommend the Commission contemplate the need for a conservative amount of OSW, with most suggesting that if there is a need identified, it must not exceed 1-3 gigawatts (GW) of centrally procured OSW.¹⁴ Other parties, including ACP-California, CUE and CURE, Golden State Wind LLC (GSW), Offshore Wind California,

¹⁰ CalCCA Opening Comments at 26, and CalWEA Opening Comments at 18-19.

¹¹ CalCCA Opening Comments at 26.

¹² PG&E Opening Comments at 19.

¹³ SCE Opening Comments at 28.

¹⁴ Cal Advocates Opening Comments at 11, Calpine Opening Comments at 5, PG&E Opening Comments at 2, SCE Opening Comments at 4, and SDG&E Opening Comments at 10.

Vineyard Offshore, LLC (Vineyard Offshore), recommend a more significant amount of OSW central procurement, ranging from 10 GW or more.¹⁵

CalCCA agrees with the parties who recommend a conservative initial need determination if a need is identified at all. Limiting the initial central procurement needs determination to the minimum amount of OSW in federal leased areas needed to establish the requisite infrastructure to kickstart OSW generation would:

- Allow the Commission to 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;
- Minimize negative impacts to LSE procurement of LLT resources already underway; and
- Ensure the closest alignment possible with the scenarios justifying procurement in the cost-benefit analysis.

The Commission should not adopt the recommendations of parties who ask for the Commission to determine a need for 10 GW of centrally procured OSW or more. As stated by Cal Advocates, the federal government estimates 4.5 GW of OSW capacity can be supported in leased areas, and therefore, “a DWR solicitation of 4.5 GW or greater would require DWR to procure every last megawatt from the entire collection of bidders.”¹⁶ CalCCA agrees with Cal Advocates that such a high volume of demand relative to available supply would introduce concerns over potential supplier market power and risk exorbitant customer costs.¹⁷ California’s statutory goal for offshore wind procurement is 25 GW by 2045.¹⁸ If the Commission took these parties’ recommendations and ordered 10 GW of centrally procured OSW, it would order 40

¹⁵ ACP-California Opening Comments at 15, CUE and CURE Opening Comments at 3, GSW Opening Comments at 3, Offshore Wind California Opening Comments at 2, and Vineyard Offshore Opening Comments at 3.

¹⁶ Cal Advocates Opening Comments at 10.

¹⁷ *Id.*

¹⁸ AB 525 (Chiu, Ch. 231, Stats. of 2021).

percent of the state’s total OSW goal in its initial order. This amount is excessive, given (1) central procurement should be limited to the amount of capacity needed to spur an industry; and (2) LSEs have expressed interest in procuring OSW on their own.¹⁹

If a need is identified, CalCCA agrees with parties who recommend an offramp to protect customers.²⁰ This should allow the Commission to direct the DWR not to move forward with a contract if the results of its solicitations do not result in cost-effective bids. The cost-effectiveness of OSW is still highly uncertain, given developers are unable to provide cost estimates to date. Parties have also identified some shortcomings with the Commission’s OSW cost-benefit analysis. For example, the Bay-Area Municipal Transmission Group (BAMx) notes that the OSW cost-benefit analysis failed to include some of the grid connection costs associated with conservative and optimistic OSW scenarios.²¹ The Commission should consider revising this analysis before contracting, in addition to providing an offramp.

IV. THE COMMISSION SHOULD NOT CONSIDER IOU-BASED CENTRAL PROCUREMENT WITHIN THE SCOPE OF THIS RULING

GPI, Form Energy, Inc. (Form), and SCE suggest exploring different variations of central procurement through the IOUs rather than DWR.²² GPI recommends the Commission “consider the full range of options” for CPE procurement, including the IOUs acting as CPEs.²³ Similarly, SCE suggests the Commission consider whether a CPE other than DWR is better positioned to procure LLT resources in a cost-effective manner, given the IOUs possess the qualities needed to

¹⁹ LSEs are interested in a pathway to eventually procuring OSW themselves, as represented in CC Power’s Memorandum of Understanding (MOU) with CADEMO: <https://cal-cca.org/california-community-power-and-cademo-execute-offshore-wind-mou/>.

²⁰ PG&E Opening Comments at 2, SDG&E Opening Comments at 12.

²¹ BAMx Opening Comments at 3.

²² GPI Opening Comments at 2-3, Form Opening Comments at 4, and SCE Opening Comments at 4.

²³ GPI Opening Comments at 2.

“best act as CPEs.”²⁴ The Commission should reject these recommendations, as IOU-based CPE procurement extends beyond the scope of the Ruling. This Ruling expressly seeks to develop “options for initial use of the centralized procurement mechanism created in Assembly Bill (AB) 1373 (Stats. 2023, Ch. 367), *where the [Commission] may request that the [DWR] procure electricity from certain types of resources...*”²⁵ Although the Ruling 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 1373,²⁶

this broad statement diverges from section 454.51(d). 454.51(d) only allows the Commission to assign central procurement to an IOU after it has allowed CCAs to self-procure for their portion of the identified need.²⁷ The Commission should not expand the scope of this Ruling to consider IOU-based central procurement, as the record has not fully developed how such procurement would take place within the bounds of the statute.

Form recommends the Commission order an expedited requirement for the IOUs to procure at least one GW of emerging long-duration storage technologies.²⁸ The Commission must also reject Form’s recommendation. The record has not sufficiently demonstrated a need for central procurement authorized under AB 1373, let alone IOU-based central procurement. AB 1373 requires the Commission to carefully consider the need for central procurement before directing DWR to procure. The Commission should not attempt to circumvent AB 1373 by directing the IOUs to procure without a demonstrated need.

²⁴ SCE Opening Comments at 4.

²⁵ Ruling at 1, emphasis added.

²⁶ *Id.* at 2.

²⁷ CalCCA Opening Comments at 6.

²⁸ Form Opening Comments at 4.

V. THE COMMISSION SHOULD NOT CONSIDER NON-OSW TECHNOLOGIES FOR CENTRAL PROCUREMENT

The Ruling identifies four candidate technologies for central procurement: OSW, OOS wind, geothermal, and LDES. Before determining the resources eligible for central procurement, it must first identify a need. The Commission has not demonstrated a need for central procurement of other types of resources, a prerequisite for the ordering of central procurement. If the Commission identifies a need, it should only consider OSW for central procurement, for the reasons described in CalCCA's Opening Comments.²⁹ CalCCA agrees with the Solar Energy Industries Association (SEIA) that the other candidate resource types are "established technologies that are cost-effective in the current [PSP]" and "the Commission's most recent update on procurement progress, released last month, shows that some LSEs – specifically, the [CCAs] – have made significant progress in procuring their shares of these cost-effective LLT resources."³⁰ OSW is the only candidate technology that may qualify for and be compatible with central procurement authorized in AB 1373. It is an emerging technology that likely takes five or more years to develop and construct that LSEs have not yet begun contracting for and that requires unique transmission infrastructure and investment in port infrastructure to prompt resource development.

The Commission should not adopt parties' recommendations to consider central procurement of OOS wind, geothermal, or LDES.³¹ Parties provide no evidence that these resource types take longer than five years to develop and construct. In fact, CalCCA has provided evidence of these types of projects taking less than five years to develop and

²⁹ CalCCA Opening Comments at 8-16.

³⁰ SEIA Opening Comments at 6.

³¹ ACP-California Opening Comments at 18, GPI Opening Comments at 11, Pattern Energy Group, LP Opening Comments at 2, and SDG&E Opening Comments at 11.

construct.³² Even if these technologies did meet this statutory requirement, LSEs have already demonstrated the ability to contract for these types of resources, indicating that the willingness or ability to contract is not a barrier to the procurement of these technologies.

The Commission should also decline to consider other types of LLT resources for central procurement. As Calpine states, AB 1373 does not allow the Commission to order the DWR to centrally procure carbon capture and storage “because it excludes resources that utilize fossil fuels and/or combustion, with limited exceptions.”³³ As with the non-OSW candidate technologies, the record has not demonstrated that other technologies meet AB 1373’s requirement that they take longer than five years to develop and construct.

VI. CONCLUSION

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

Respectfully submitted,



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June 5, 2024

³² CalCCA Opening Comments at 13.

³³ Calpine Opening Comments at 3.