



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

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Order Instituting Rulemaking to Advance
Demand Flexibility Through Electric Rates.

R.22-07-005

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S REPLY
COMMENTS ON ADMINISTRATIVE LAW JUDGE'S RULING ON
TRACK B WORKING GROUP 1 PROPOSALS AND ISSUE 5**

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SUMMARY OF RECOMMENDATIONS

California Community Choice Association makes the following recommendations in response to party Opening Comments on the *Administrative Law Judge's Ruling on Track B Working Group 1 Proposals and Issue 52*, dated April 24, 2024:

- The California Public Utilities Commission (Commission) should reject proposals to use an advice letter process for Marginal Generation Capacity Cost and Marginal Distribution Capacity Costs updates outside of General Rate Case Phase 2 processes;
- The Commission should adopt Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company's (collectively, Large Utilities) categorization and request for authorization of California Energy Commission (CEC) Load Management Standards (LMS) costs in response to Ruling Question 12 and specify from whom and how the LMS costs will be recovered from the Large Utilities and community choice aggregator (CCA) customers to prevent cost shifts;
- To the extent not funded by non-ratepayers or the CEC, the Commission should order:
 - For LMS requirements benefitting only the Large Utilities or CCA customers, such as uploading time-dependent generation rates to the Market Informed Demand Automation Server (MIDAS), Large Utilities and CCAs should recover costs through generation rates;
 - Cost recovery for LMS requirements benefitting both Large Utilities and CCA customers, including but not limited to Large Utilities uploads of distribution rates to MIDAS, the Single Statewide Tool, Public Information Programs or marketing, education, and outreach, should be recovered through the Large Utilities distribution rates or non-bypassable charges on behalf of Large Utilities and CCA customers; and
 - If cost recovery for LMS requirements benefitting both Large Utilities and CCA customers are not allowed through distribution rates, the Large Utilities should recover costs attributable to bundled customers through generation rates to prevent double-charging unbundled customers and the resultant cost shifts.

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TRACK B WORKING GROUP 1 PROPOSALS AND ISSUE 5**

California Community Choice Association¹ (CalCCA) submits these reply comments in response to *Administrative Law Judge's Ruling on Track B Working Group 1 Proposals and Issue 5*² (Ruling), dated April 24, 2024. The Ruling directs Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) (collectively, Large Utilities), and invites other parties to comment on the questions in Attachment A to the Ruling.

I. INTRODUCTION

CalCCA responds herein to two issues raised by party Opening Comments³ on the Ruling: (1) party recommendations for Large Utilities to use an advice letter process for

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 on Track B Working Group 1 Proposals and Issue 5*, Rulemaking (R.) 22-07-005 (Apr. 24, 2024).

³ All references herein to party Opening Comments are to the opening comments filed in this proceeding, R.22-07-005, on or about May 22, 2024.

requesting annual updates to marginal generation capacity cost (MGCC) and marginal distribution capacity cost (MDCC) values; and (2) costs for implementation of California Energy Commission (CEC) Load Management Standards (LMS)⁴ implementation. First, the Commission should reject proposals to use an advice letter process for MGCC/MDCC annual updates. Parties showed a general preference for using advice letters for requesting marginal cost value updates.⁵ Advice letters are a relatively administratively efficient method for requesting Commission approval; however, they do not allow for sufficient discovery for parties to examine proposed updates and intervene. Given the unknowns about real time pricing (RTP) rate design and implementation, robust record development is important to understand what works and what does not work over the next few years. An expedited rate design window (RDW) process would provide a better balance of efficiency and record development for considering MGCC and MDCC updates.

Second, the Commission should adopt the recommendations of Large Utilities in its response to Ruling Question 12 in their joint Opening Comments, regarding the categories and tracking of CEC LMS implementation costs.⁶ In its Working Group (WG) 1 Decision, the Commission must also decide from whom and how such costs will be recovered, especially on behalf of unbundled customers who receive transmission and distribution service from Large Utilities and generation service from community choice aggregators (CCAs) subject to LMS

⁴ 20 CCR §§ 1621-1625 (LMS Regulations).

⁵ The Public Advocates Office at the California Public Utilities Commission (Cal Advocates), California Large Energy Consumers Association (CLECA), Energy Producers and Users Coalition (EPUC), Small Business Utilities Advocates (SBUA), Large Utilities, and Solar Energy Industry Association (SEIA) provided support for use of an advice letter process for annual updates to the MGCC and/or MDCC values in Opening Comments.

⁶ Large Utilities Opening Comments, at 13-17.

requirements.⁷ In general, competitive neutrality among Large Utilities and CCAs must be preserved and double charging CCA customers and the resultant cost shifts in violation of Pub. Util. Code section 366.2 must be prevented. To the extent CEC LMS costs are not funded through non-ratepayer or CEC funds, the Commission should require: (1) LMS costs benefitting only Large Utilities or CCA customers, such as uploading time-dependent generation rates to the Market Informed Demand Automation Server (MIDAS), to be recovered in generation rates; (2) LMS costs benefitting both Large Utilities and CCA customers, such as Large Utilities uploads to MIDAS of distribution rates, costs for the Single Statewide Tool (SST), and Public Information Program (PIP) or marketing, education, and outreach (ME&O) costs, to be recovered by the Large Utilities in distribution rates or non-bypassable charges on behalf of both Large Utilities and CCA customers. In all events to prevent cost shifts the Commission must ensure that CCA unbundled customers are not double-charged for the same LMS programs or services through Large Utilities distribution rates plus CCA generation rates.

As set forth in detail below, CalCCA makes the following recommendations in response to party Opening Comments:

- The Commission should reject proposals to use an advice letter process for MGCC and MDCC updates outside of General Rate Case (GRC) Phase 2 processes;
- The Commission should adopt the Large Utilities categorization and request for authorization of CEC LMS costs in response to Ruling Question 12 and specify from whom and how the LMS costs will be recovered from Large Utilities and CCA customers to prevent cost shifts;

⁷ The LMS Regulations apply to “Large [CCAs] operating within the service areas and receiving distribution services from [the IOUs]” and include “any [CCA] that provides in excess of 700 GWh of electricity to customers in any calendar year.” 20 CCR §§ 1623(b), (c)(10). In the discussion below regarding LMS costs, CalCCA’s reference to CCAs means the “Large CCAs” subject to the LMS regulations.

- To the extent not funded by non-ratepayers or the CEC, the Commission should order:
 - Cost recovery for LMS requirements benefitting only Large Utilities or CCA customers, such as uploading time-dependent generation rates to MIDAS, should be recovered through generation rates;
 - Cost recovery for LMS requirements benefitting both Large Utilities and CCA customers, including but not limited to Large Utilities uploads of distribution rates to MIDAS, the SST, PIPs or ME&O, should be recovered through Large Utilities distribution rates or non-bypassable charges on behalf of Large Utilities and CCA customers; and
 - If cost recovery for LMS requirements benefitting both Large Utilities and CCA customers are not allowed through distribution rates, the Large Utilities should be required to recover costs attributable to bundled customers through generation rates to prevent double-charging unbundled customers and the resultant cost shifts.

II. THE COMMISSION SHOULD REJECT PROPOSALS TO USE AN ADVICE LETTER PROCESS FOR MGCC OR MDCC UPDATES OUTSIDE OF PHASE 2 GENERAL RATE CASES

The Commission should reject party proposals to use an advice letter process for annual updates to the MGCC and/or MDCC because such a process will not provide sufficient opportunity for parties to intervene. In response to questions from the Ruling, six parties advocated for using some version of an advice letter process for Large Utilities to use to make updates to MGCC and/or MDCC values.⁸ CalCCA appreciates party arguments on administrative efficiency; using advice letters to approve Large Utilities marginal cost values for RTP rates are faster than using an application process.⁹ The advantage of speed in this case does not outweigh the need for proper intervention by parties to ensure that updates to MGCC/MDCC

⁸ The six parties recommending an advice letter process in Opening Comments are Cal Advocates, SBUA, EPUC, Large Utilities, CLECA, and SEIA.

⁹ CalCCA Opening Comments recommended the Commission adopt updating MGCC/MDCC values in an existing application process such as the Energy Resource Recovery Account Forecast proceedings, a modified GRC Phase 2, or RDW applications. *See* CalCCA Opening Comments at 2 (Recommending methods for reviewing MGCC/MDCC updates that have an equivalent level of party intervention as the current GRC Phase 2 process).

values are reasonable and correct before the Commission adopts them and the Large Utilities implement them for RTP rates. To address this, SBUA did provide a recommendation for the Large Utilities to coordinate MGCC/MDCC updates with parties before a Large Utility submits its advice letter to the Commission.¹⁰ This process has the potential to provide sufficient opportunity for CCAs and other parties to provide review and feedback on updates; however it does not generate a proceeding record as an application does.

Additionally, SEIA expressed the need to improve visibility of marginal cost setting and recommended the Commission address MGCC updates in the Integrated Resource Planning (IRP) proceeding and MDCC updates via Tier 3 advice letters.¹¹ SEIA's argument that the IRP proceeding is a suitable venue is based on the Commission's view that marginal cost values should be consistent with IRP assumptions.¹² SEIA's call for better visibility into marginal cost setting is reasonable, but developing a new process within the IRP proceeding, a proceeding with an expansive scope, would create unneeded administrative burden. The Commission should preserve through the record the new and unique challenges of implementing RTP rates, making lessons learned, settled disputes, and Commission decisions embedded in an accessible place for parties and for the public.

Based on party support for more administrative efficiency, an expedited RDW application represents a reasonable venue for review of MGCC/MDCC updates annually. Typically, RDWs are used between GRC cycles to address specific ratesetting issues. For example, in 2018, the Large Utilities used RDW applications to propose time-of-use (TOU) rate

¹⁰ See SBUA Opening Comments at 2 (Recommending the Commission use PG&E's proposed advice letter methodology from Advice Letter 7243-E).

¹¹ See SEIA Opening Comments at 6 (describing the settlements which resolved Phase 2 GRCs for SCE and SDG&E that did not reference specific marginal cost values).

¹² See SEIA Opening Comments at 4 (Recommending the Commission set marginal cost values in the IRP proceeding).

updates in a consolidated application proceeding, previously set in motion by Decision 15-07-001.¹³ RDW proceedings allow Large Utilities to submit testimony to support proposed changes to rate design outside of GRC cycles and the Commission can set specific scope to minimize issues addressed, allowing for shorter timelines. The TOU example of RDW applications included testimony from PG&E on marginal costs related to TOU.¹⁴ Similarities exist between the Commission's movement to TOU rates and the current interest in RTP rates. RTP rates are a more granular version of TOU rates, spurred by the goal of achieving rates closer to marginal costs and benefitting the grid. The TOU RDW applications submitted by the Large Utilities represent an example that demonstrates that RDW applications are a reasonable methodology for Large Utilities to update MGCC and MDCC values for RTP rates.

III. THE COMMISSION SHOULD ADOPT THE LARGE UTILITIES CATEGORIZATION OF CEC LMS COSTS AND SPECIFY FROM WHOM AND HOW THE LMS COSTS WILL BE RECOVERED FROM LARGE UTILITIES AND CCA CUSTOMERS TO PREVENT COST SHIFTS

The Commission should adopt the Large Utilities proposals in response to Question 12 regarding Commission categorization and authorization of implementation costs to comply with CEC LMS requirements. Key elements missing from the Large Utilities proposals are from whom and how the Large Utilities will recover the LMS costs when a customer is unbundled, receiving transmission and distribution service from an Large Utility and generation service from CCAs. The LMS regulations state that “[t]here shall be no reimbursement to local government entities for the costs of carrying out the [LMS] programs, because the [CEC] has found these

¹³ See Application of Pacific Gas and Electric Company for Approval of its Residential Rate Design Window Proposals, including to Implement a Residential Default Time-Of-Use Rate along with a Menu for Residential Rate Options, followed by addition of a Fixed Charge Component to Residential Rates (U39E), and Related Matters, Application (A.)17-12-011, A.17-12-012, A.17-12-013.

¹⁴ See PG&E Rate Design Window 2018 Supplemental Testimony Volume 1, at 2B-1 (Chapter 2B proposing marginal cost methodologies related to customer access costs).

standards to be cost-effective.”¹⁵ The LMS regulations are ambiguous as to whether this cost recovery prohibition applies to CCAs, but in any event the Commission still has a statutory obligation pursuant to Pub. Util. Code section 366.3 to prevent cost shifts and ensure that unbundled customers are not double charged. This would occur through a charge by Large Utilities for a service not provided by the Large Utility in the case of a cost shift and a charge for the same tool or service by their CCA in the case of a double charge.¹⁶ The Commission should therefore delineate in its WG 1 Decision not only the categories and authorization of LMS costs, but from whom and how each of the categories of LMS costs will be recovered from Large Utilities and CCA customers.

As set forth below, cost recovery specific to a Large Utility or CCA (such as the initial upload of Large Utilities or CCA time-dependent generation rates) should be through each entity’s generation rates to prevent cost shifts. Unlike time dependent generation rates, the Large Utilities upload of time-dependent distribution rates should be allocated to (and recovered from) both Large Utilities and CCA customers through distribution rates as those rates are applicable to both bundled and unbundled customers. LMS cost recovery for tools or programs which equally benefit both bundled and unbundled customers (such as but not limited to the SST and PIPs) should either be from non-ratepayer or CEC funds, or the Large Utilities should recover such costs on behalf of Large Utilities and CCA customers through Large Utilities distribution rates or non-bypassable charges. If the Large Utilities do not recover such costs through Large Utilities distribution rates or non-bypassable charges, each one of the Large Utilities and CCA must only

¹⁵ 20 CCR § 1623(e).

¹⁶ Public Utilities Code (Pub. Util. Code) § 366.3 states: “Bundled retail customers of an electrical corporation shall not experience any cost increase as a result of the implementation of a [CCA] program. *The Commission shall also ensure that departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of departing load.*” (Emphasis added).

recover such costs through their generation rates to prevent double charging of CCA customers and cost shifts.

A. Costs for LMS Requirements Specific to a Large Utility or CCA Should Only Be Recovered Through Generation Rates to Prevent Cost Shifts

Cost recovery for compliance with LMS requirements directly attributable to either Large Utilities or CCA customers should be through generation rates only to prevent cost shifts, to the extent they are not recovered through non-ratepayer funding or CEC funds. For example, Large Utilities Category 1 regarding initial MIDAS rate uploads and Rate Identification Numbers (RIN) placement on customer bills, to the extent such uploads and RIN placement involve Large Utilities generation rates, should be recovered by the Large Utilities through their generation rates. LMS regulations require CCAs to perform the same time-dependent generation rate upload and will incorporate costs for the upload into their generation rates. Therefore, Large Utilities should not be able to recover their generation upload costs from CCA customers, as the Large Utilities generation rates are not applicable to CCA customers. To the extent Large Utilities upload distribution rates, cost recovery from both Large Utilities and CCA customers through distribution rates is accurate. Additional MIDAS RIN Upload (Category 2) costs should follow these same cost allocation principles applicable to already uploaded rates.

For the RIN placement on customer bills (also Category 1), the Large Utilities are the billing agents for CCAs pursuant to Pub. Util. Code section 366.2(c)(9) and therefore already recover costs for billing services under service agreements with CCAs.¹⁷ Therefore, the Large

¹⁷ See Pub. Util. Code § 366.2(c)(9) (“Electrical corporations shall continue to provide all . . . billing, collection . . . to retail customers that participate in [CCA] programs . . . The commission shall determine the terms and conditions under which the electrical corporation provides services to [CCAs] and retail customers”).

Utilities should not be able to double recover such costs from CCA customers through distribution rates.

Examination of Costs for Category 4 (Future Dynamic Rates) will be required in the Large Utilities rate applications to determine appropriate cost recovery according to the same cost shift prevention principles discussed above.

B. Costs for LMS Programs Benefitting All Customers Equally Should be Recovered by the Large Utilities Through Distribution Rates or Non-Bypassable Charges to the Extent Not Recovered Through Non-Ratepayer Funds or the CEC and to Prevent Cost Shifts

Costs for LMS requirements benefitting all customers, including the SST, PIPs and ME&O, should be funded through non-ratepayer funds, or by the CEC. For example, the CEC built and funds the MIDAS program to house the Large Utilities, CCA, and Publicly Owned Utility (POU) time-dependent rates. To the extent funding for such programs cannot occur through non-ratepayer funds or by the CEC, they should be funded by the Large Utilities on behalf of Large Utilities and CCA customers through distribution rates or non-bypassable charges. In the alternative, such costs must recovery through Large Utilities or CCA generation rates is necessary to prevent cost shifts.

For example, the Large Utilities, CCAs, and POUs are required to develop SST (Category 3).¹⁸ The SST will allow customers to access their dynamic rates under the LMS, either directly or through third party automated service providers. The SST terms and conditions, which have not yet been developed, are required to be submitted to the CEC by October 1, 2024.¹⁹ Given both bundled and unbundled customers will utilize the same SST, the Commission should require recovery of Large Utilities and CCA costs on a load share basis through Large

¹⁸ 20 CCR § 1623(c).

¹⁹ 20 CCR § 1623(c)(2).

Utilities distribution rates (the POUs will separately recover their own load share of the costs). In the alternative, the Commission must require allocation of the SST costs through Large Utilities generation rates to prevent double charging CCA customers through Large Utilities distribution and CCA generation rates. The Commission should also evaluate uses of the SST by third party beneficiaries and charge the cost to those that use and derive benefits from the SST. Revenues from such third-party use can then be allocated back to whoever funded the SST. In addition, given CCAs will also likely incur administrative and/or technology costs associated with the SST, cost recovery through CCAs providing budgets via annual budget Advice Letters (and once approved, such costs can be included in the Large Utilities budget forecasts) would ensure proper cost recovery without cost shifts.

Recovery of Dynamic rate ME&O costs (Category 4) and PIP costs (Category 5) in connection with dynamic rate implementation should also be through distribution rates or non-bypassable charges on behalf of Large Utilities and CCA customers. Significant overlap will occur given CCA customers are also Large Utilities (distribution) customers. Therefore, collective funding of the ME&O and Public Information Program costs would ensure efficiencies and common messaging. Again, separating such costs between Large Utilities and CCAs, can then only be accomplished through generation rates to prevent cost shifts.

Finally, to the extent LMS implementation requires additional costs, the Commission must ensure competitive neutrality and the prevention of cost shifts between Large Utilities and CCAs. For example, while the MIDAS program funding has been through the CEC, most parties subject to LMS requirements have expressed the need for upgrades to MIDAS to facilitate efficient and accurate updates to the database. However, CEC staff has informed the parties that the CEC does not currently have funding to complete the upgrades. The Commission must

examine the cost recovery proposal for required upgrade funding by LMS parties to ensure indifference and the prevent of cost shifts.

IV. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests adoption of the recommendations set forth herein.

Respectfully submitted,



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June 12, 2024