

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



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Application 23-02-018 A2302018

Application of Pacific Gas and Electric Company  
for Compliance Review of Utility Owned  
Generation Operations, Portfolio Allocation  
Balancing Account Entries, Energy Resource  
Recovery Account Entries, Contract Administration,  
Economic Dispatch of Electric Resources, Utility  
Owned Generation Fuel Procurement, and Other  
Activities for the Record Period January 1 through  
December 31, 2022

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**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S BRIEF  
IN RESPONSE TO ALJ'S MAY 22 RULING**

**PUBLIC VERSION**

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Dated: June 6, 2024

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## **SUMMARY OF RECOMMENDATIONS**

- The California Public Utilities Commission (Commission) must address Pacific Gas and Electric Company's (PG&E) sales or attempts to sell Resource Adequacy (RA) during the summer of 2022 in this proceeding—this is the only venue to examine those specific issues, for those specific months, for this specific year.
- The Commission should revisit PG&E's Bundled Procurement Plan (BPP) in the Integrated Resource Plan (IRP) proceeding to ensure that PG&E is making its excess RA available to the market in a timely and comprehensive manner, including through scheduled solicitations and market offers outside the scheduled solicitation process.

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

Application of Pacific Gas and Electric Company for Compliance Review of Utility Owned Generation Operations, Portfolio Allocation Balancing Account Entries, Energy Resource Recovery Account Entries, Contract Administration, Economic Dispatch of Electric Resources, Utility Owned Generation Fuel Procurement, and Other Activities for the Record Period January 1 through December 31, 2022

Application 23-02-018

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**CALIFORNIA COMMUNITY CHOICE ASSOCIATION’S BRIEF  
IN RESPONSE TO ALJ’S MAY 22 RULING**

The California Community Choice Association<sup>1</sup> (CalCCA) submits this brief in response to the Administrative Law Judge’s (ALJ) May 22, 2024 e-mail ruling denying CalCCA’s Motion for Commission Review and Requesting Briefs by June 6, 2024 (May 22 Ruling). The May 22 Ruling asks “[w]hether the Commission addresses or should address PG&E’s sales or attempts to sell Resource Adequacy during the Summer of 2022 in a forum other than PG&E’s ERRA Compliance proceeding” and if so, to “provide details on what that forum is, and the processes involved.”<sup>2</sup>

This Energy Resource Recovery Account (ERRA) Compliance proceeding is not only an appropriate forum to review specific Pacific Gas & Electric Company (PG&E) resource adequacy

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<sup>1</sup> 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.

<sup>2</sup> May 22 Ruling.

(RA) sales activities during the record year 2022, it is the only proceeding in which the Commission can do so. ERRA Compliance proceedings involve a backward-looking review of the investor-owned utility's (IOU) activities and accounting entries during a prior year.<sup>3</sup> In particular, these proceedings require the Commission to scrutinize the IOU's activities and the balancing account entries it made during the record year with regard to those activities, and determine whether the IOU met its burden and complied with applicable Commission decisions. The instant proceeding involves an examination of PG&E's 2022 activities and accounting entries. Those activities include PG&E's RA sales, its attempts to sell RA, and its failure to sell excess RA during the summer of 2022. The Commission has not examined, and will not examine, those specific activities or their associated impacts on PG&E's accounting entries in any other proceeding.<sup>4</sup>

CalCCA scrutinized PG&E's efforts to sell excess RA during 2022 because PG&E's efforts bear directly on the Power Charge Indifference Adjustment (PCIA) rates that community choice aggregator (CCA) customers pay. RA sales proceeds are credited to all PCIA ratepayers. If PG&E made inadequate efforts to sell RA in 2022, CCA customers (customers of CalCCA's members) paid higher PCIA rates than they should have paid. Bundled customers – who did not benefit from revenues from excess RA sales – also would have paid higher rates than they should have. Moreover, PG&E's RA sales activities impact all load-serving entities (LSEs) (including CCAs) who must procure RA to meet their own RA program obligations. That is why examining

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<sup>3</sup> See PG&E Application at 4.

<sup>4</sup> The Commission may open a separate investigation for the sole purpose of examining PG&E's sales or attempts to sell RA during the summer of 2022 pursuant to its authority under Section 2 Article XII of the California Constitution, Section 1701 of the California Public Utilities Code and Rule 5.1 of the Commission's Rules of Practice and Procedure. While CalCCA would support the Commission initiating such an investigation, and would participate in that proceeding, a separate investigation is unnecessary because the Commission can (and should) address PG&E's 2022 RA activities in this proceeding.

PG&E’s efforts to sell RA is a key part of the ERRA review of PG&E’s portfolio management.

The key facts of PG&E’s efforts to sell RA during the summer of 2022 are as follows. Consistent with its Bundled Procurement Plan (BPP), PG&E conducted multiple RA solicitations with delivery in 2022.<sup>5</sup> Importantly, [REDACTED]

[REDACTED]

[REDACTED].<sup>6</sup> [REDACTED]

[REDACTED].<sup>7</sup>

Yet, PG&E identified—and counted towards its incremental system reliability procurement targets by transferring to the Cost Allocation Mechanism (CAM)—nearly a gigawatt (923 MW) of excess RA capacity during the summer of 2022.<sup>8</sup>

PG&E cannot count this excess RA towards its incremental procurement target if it did not offer it for sale in a timely manner. This is the only case in which stakeholders can examine this *key question*: whether PG&E made reasonable attempts to sell that RA capacity to other LSEs. If PG&E did not do so, it cannot transfer that capacity to CAM, its entries to the Portfolio Allocation Balancing Account (PABA) are not “in compliance with Commission decisions,” (Scoping Issue 3) and, therefore, those entries are not reasonable, appropriate, or accurate (also part of Scoping Issue 3).<sup>9</sup> There is no other place where the Commission would consider these specific issues for these specific months within this specific year. CalCCA made findings on these issues and presented them in direct testimony, but an erroneous evidentiary ruling has ruled that testimony is

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<sup>5</sup> PG&E Prepared Testimony at 8-7.

<sup>6</sup> CalCCA-01C at 8:13 (Table 3).

<sup>7</sup> *Id.*

<sup>8</sup> PG&E Prepared Testimony at 12-15.

<sup>9</sup> Assigned Commissioner’s Scoping Memo and Ruling at 2-3 (June 2, 2023).

out of scope.<sup>10</sup>

It is also likely PG&E did not prudently manage its generation resources (Scoping Issue 1), and it potentially made RA sales inconsistent with its BPP (Scoping Issue 5), with regard to whether it offered this RA capacity for sale.<sup>11</sup> Clearly, there was a major disconnect between PG&E's RA sales solicitations and the excess RA PG&E ultimately counted towards its incremental system reliability procurement targets in the summer of 2022. In order to figure out the reasons for that disconnect, CalCCA attempted to examine the following through discovery, testimony, and cross examination:

- The timing and substance of PG&E's RA position calculations for the purposes of its RA sales solicitations with delivery in 2022;
- The volumes of System RA PG&E offered for sale in its solicitations with delivery in 2022, and the results of those solicitations;
- The timing and substance of PG&E's RA position calculations when it identified excess RA for the purposes of its incremental system reliability procurement targets;
- PG&E's transfer of excess system RA from its PCIA-eligible resource portfolio to its CAM portfolio; and
- PG&E's attempts (or lack thereof) to sell excess RA through the commercial processes of its BPP once it identified that excess.

Those activities are squarely within the scope of Scoping Issues 1 and 5, as well as Scoping Issue 3 because the amount of RA that PG&E sells impacts the amount of Sold or Unsold RA, which

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<sup>10</sup> Administrative Law Judge's Ruling Granting Pacific Gas and Electric Company's (PG&E) Motion to Strike Portions of the Prepared Testimony of Brian Shuey (Jan. 23, 2024).

<sup>11</sup> Assigned Commissioner's Scoping Memo and Ruling at 2-3 (June 2, 2023).



affects the PABA and PCIA rates.<sup>12</sup> However, a series of evidentiary rulings have prevented CalCCA from fully investigating these issues.<sup>13</sup>

This proceeding is the Commission's only opportunity to address PG&E's RA sales activities within the record year 2022; however, the Commission should address PG&E's excess RA sales practices more generally in the Integrated Resource Plan (IRP) proceeding. Specifically, the Commission should revisit PG&E's BPP in the IRP proceeding to ensure that PG&E makes its excess RA available to the market in a timely and comprehensive manner on a going forward basis. The IRP docket, as the successor to the Long-Term Procurement Plan dockets that gave rise to the most recent complete BPP, is the appropriate vehicle for the Commission to evaluate BPP revisions. That evaluation, however, should complement, and not substitute, the Commission's thorough scrutiny of PG&E's 2022 RA sales activities in this proceeding.

## **I. BACKGROUND**

CCA customers receive generation services from their local CCA and receive transmission, distribution, billing, and other services from PG&E. That means CCA customers in PG&E's service territory pay the same electric distribution, transmission and non-bypassable rates as PG&E's bundled customers. However, CCA customers pay CCA-specific generation rates, which vary and are partially influenced by local mandates to increase electric vehicle use, procure and maintain clean electricity portfolios that in many cases exceed state requirements for renewable

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<sup>12</sup> *Id.*

<sup>13</sup> Administrative Law Judge's Ruling Granting Pacific Gas and Electric Company's (PG&E) Motion to Strike Portions of the Prepared Testimony of Brian Shuey (Jan. 23, 2024); Administrative Law Judge's Ruling Denying California Community Choice Association's January 18, 2024 Motion, Ordering a Report from Pacific Gas and Electric Company and California Coommunity [sic] Choice Association and Scheduling a Status Conference (Feb. 6, 2024); and Administrative Law Judge's Ruling Taking Status Conference and Evidentiary Hearing Off Calendar (Feb. 15, 2024) (collectively, Evidentiary Rulings).

generation, and achieve other local goals.<sup>14</sup>

CCA and other unbundled customers are also subject to several non-bypassable charges (NBC), including the PCIA and the CAM. The Commission adopted the PCIA to ensure that when IOU customers depart from bundled service and receive their electricity from a non-IOU provider, such as a CCA, “those customers remain responsible for costs previously incurred on their behalf by the IOUs—but only those costs.”<sup>15</sup>

The structure of the PCIA has evolved over the years. Prior to 2018, the PCIA rate was set only based on forecasts and not true-up for unbundled customers—only bundled customers’ generation rates were subject to a true-up (via the ERRA). Decision 18-10-019 transformed that ratemaking framework.<sup>16</sup> That decision requires that PG&E true-up its forecasted costs (net of forecasted market revenues or imputed revenues) approved in its ERRA Forecast case with the actual recorded costs (net of actual market revenues or imputed revenues) for PCIA-eligible resources during the same year.<sup>17</sup> It also requires PG&E to true up the revenues it forecasted it would receive from both bundled and departing load customers over the course of the record year with the actual revenues it received.<sup>18</sup> This true-up occurs by comparing the forecasted costs and revenues to the recorded costs and revenues within the PABA on a rolling basis (whereas the true-up of costs to meet bundled customers’ energy and ancillary service requirements occurs in the ERRA).<sup>19</sup> The ultimate result of the “rolling true-up”—in both ERRA and PABA—is PG&E

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<sup>14</sup> CalCCA Protest at 4.

<sup>15</sup> Decision (D.)18-10-019 at 3.

<sup>16</sup> PGE-01 at 12-1:15-18.

<sup>17</sup> D.18-10-019, Ordering Paragraphs 7 and 8.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at Ordering Paragraphs 6, 7 and 8.

recording either an under- or over-collection based on many factors tied to actual market costs, actual market revenues, and actual customer revenues from retail sales.<sup>20</sup> That resulting under- or over-collection is then included in the revenue requirement for the following year's ERRA and PCIA rates (for example, customers in 2023 paid the under- and over-collections that PG&E recorded over the course of 2022).

Following D.18-10-019, therefore, PG&E's PCIA rates set in the ERRA Forecast proceeding are based not only on the Indifference Amount (the difference in the forecast year between the cost of the IOU's supply portfolio and the market value of the IOU's supply portfolio),<sup>21</sup> but also the year-end balance in the PABA (the rolling true-up component of PCIA rates).<sup>22</sup> The Indifference Amount and the year-end PABA over- or under-collection are added together to form the PABA revenue requirement underlying PCIA rates. The Commission initially determined the level of the 2022 PCIA for PG&E customers in D.22-02-002 based on a forecast of the above-market costs stemming from PG&E's generation portfolio over the course of 2022 and the 2021 year-end balance in the PABA. Similarly, the Commission initially determined the level of the 2023 PCIA in D.22-12-044 based on a forecast of the above-market costs over the course of 2023 and the 2022 year-end balance in the PABA. PG&E's entries to the PABA during 2022—which are a focus of this proceeding—therefore directly impact the PCIA rates CCA customers (and bundled customers) pay.<sup>23</sup>

Among the several important factors that impact PG&E's rolling true-up in the PABA is

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<sup>20</sup> See, e.g. PGE-01 at 12-25, Table 12-7 (comparing 2022 actual recorded PABA portfolio costs compared to approved forecast)

<sup>21</sup> D.19-10-001 at 10.

<sup>22</sup> *Id.* at Conclusion of Law 21.

<sup>23</sup> CalCCA-01 at 1:11-12.

PG&E's sales of excess RA capacity. PG&E, like other IOUs, sells its excess RA to other LSEs that must also meet RA compliance obligations. The amount of RA capacity PG&E sold to other LSEs during the record period, compared to the amount of RA PG&E forecasted it would sell, drives either an over- or under-collection in the PABA. That is because revenues from PG&E's sales of excess RA are an important offset to the costs recorded to the PABA during the record year, which are recovered from bundled and unbundled customers. Excess RA that is not sold to third parties is classified as Unsold RA and valued at \$0 in the PABA,<sup>24</sup> thereby providing no financial benefit to customers.

PG&E's treatment of its excess RA capacity, therefore, directly impacts the PCIA rates CCA customers (and bundled customers) pay. To put a finer point on that dynamic: if PG&E makes inadequate efforts to sell its excess RA, that failure can result in CCA customers paying higher PCIA rates than they should be paying. Failing to sell resources not needed for bundled customers would also result in those customers being charged more than they would have if the revenues from RA sales were credited toward bundled rates. That is why examining PG&E's efforts to sell RA is a key part of the ERRR review of PG&E's portfolio management. The Commission should, therefore, examine PG&E's efforts to sell its excess RA during 2022 in this proceeding.

## **II. ARGUMENT**

### **A. PG&E Counted Nearly a Gigawatt of Excess RA Capacity Towards its Incremental Procurement Targets During the Summer of 2022.**

During the summer of 2022, PG&E counted nearly a gigawatt of excess RA capacity—capacity in excess of its bundled customers' needs—towards its own incremental procurement

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<sup>24</sup> D.19-10-001 at Ordering Paragraph 3.e.

requirement.<sup>25</sup> Decisions 21-03-056 and 21-12-015, the Commission’s Summer Reliability decisions, allow PG&E to count its existing RA resources towards its system reliability incremental procurement targets only after PG&E makes reasonable attempts to sell its excess RA capacity to other LSEs.<sup>26</sup> According to the Summer Reliability decisions, if PG&E has not met its procurement target for June and October, it may “use excess resources in its existing portfolio to meet the minimum contingency targets . . . *provided it has made reasonable attempts to sell this excess capacity to other LSEs.*”<sup>27</sup> Additionally, for the months of July, August, and September, PG&E may use its excess resources “to meet or supplement these procurement targets up to the upper end of its contingency procurement target . . . *provided it has made reasonable attempts to sell this excess capacity to other LSEs.*”<sup>28</sup>

Because PG&E recovers the costs of system reliability incremental procurement through the CAM, PG&E must transfer the value of excess RA capacity provided by existing RA resources from the applicable balancing account to the CAM balancing account (for PG&E, the New System Generation Balancing Account or NSGBA).<sup>29</sup> PG&E counted 923 MW of excess RA capacity

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<sup>25</sup> PGE-01 at 12-15.

<sup>26</sup> Rulemaking (R.) 20-11-003, Order Instituting Rulemaking to Establish Policies, Processes and Rules to Ensure Reliable Electric Service in California in the Event of an Extreme Weather Event in 2021, Phase 2 Decision Directing Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company to take Actions to Prepare for Potential Extreme Weather in the Summers of 2022 and 2023, D.21-12-015 at 183-184 (permitting PG&E to count excess resources in its existing portfolios toward its incremental system reliability procurement targets “provided it has made reasonable attempts to sell this excess capacity to other LSEs”).

<sup>27</sup> D.21-12-015, Phase 2 Decision Directing Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company To Take Actions To Prepare For Potential Extreme Weather In The Summers of 2022 and 2023, Ordering Paragraph 72 (Dec. 6, 2021) (emphasis added); *see also* D.21-03-056, Decision Directing Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company To Take Actions to Prepare for Potential Extreme Weather In the Summers of 2021 and 2022, at Ordering Paragraph 79 (Mar. 26, 2021).

<sup>28</sup> D.21-12-015 at Ordering Paragraph 73 (emphasis added); *see also* D.21-03-056 at Ordering Paragraph 80.

<sup>29</sup> CalCCA-01 at 3:23-4:1.

from PCIA-eligible resources towards its incremental procurement targets during the months of June through October of 2022, and accordingly credited PABA and charged NSGBA for the value of that RA.<sup>30</sup> PG&E valued that transfer at the Forecasted 2022 System RA Adder for June through September, and subsequently trued-up those entries through October and made an adjustment to account for the publishing of the Final System RA Adder.<sup>31</sup> All told, PG&E transferred [REDACTED] [REDACTED] from PABA to NSGBA over the five months. The table below details that transfer by month:

**Table 1: System RA Transfer from PABA to NSGBA<sup>32</sup>**

	June	July	August	September	October	Total
RA Transferred to NSGBA (MW)	103.70	183.14	148.97	156.70	330.00	922.51
System RA Transferred to NSGBA \$/kW	[REDACTED]					

CalCCA does not dispute the Commission’s Summer Reliability decisions authorize PG&E to use its excess RA capacity towards its incremental procurement obligations. Nor does CalCCA dispute the accuracy of PG&E’s accounting entries to PABA or NSGBA for the RA resources it counted, *assuming* the transfer to the NSGBA was proper. However, CalCCA attempted to examine—through discovery, testimony and cross examination—whether PG&E made reasonable attempts to sell its excess capacity to other LSEs prior to counting that capacity towards its procurement targets, consistent with the requirements of the Summer Reliability Decisions. That is because PG&E’s compliance with the Summer Reliability Decisions goes to whether PG&E prudently managed its generation resources (Scoping Issue 1), made entries to the PABA in compliance with Commission decisions (Scoping Issue 3), and made RA sales consistent

<sup>30</sup> *Id.* at 4:2-4.

<sup>31</sup> *Id.* at 4:5-8.

<sup>32</sup> *Id.* at 4:10-11.

with its BPP (Scoping Issue 5)—each of which fall within the scope of the Commission’s ERRA review of PG&E’s portfolio management during the record period.

**B. PG&E** [REDACTED]

In response to CalCCA’s discovery request asking PG&E to explain all attempts it made to sell any portion of the 923 MW of excess capacity it identified between June and October of 2022, PG&E offered only a conclusory statement: that it “attempts to sell all excess capacity, or its long RA position, as determined by Appendix S [of the BPP], pursuant to the commercial processes in Appendix S.”<sup>33</sup> Those commercial processes include [REDACTED]

[REDACTED]<sup>34</sup>

PG&E issued six solicitations offering to sell System RA for delivery during 2022.<sup>35</sup> PG&E held two year-ahead solicitations in August 2021 and October 2021, in which PG&E projected out the available RA for the full twelve months of 2022.<sup>36</sup> PG&E also held four quarterly solicitations in November 2021, January 2022, April 2022, and July 2022, projecting the available RA for the remaining months of 2022 updated on a quarterly basis.<sup>37</sup>

PG&E’s BPP Appendix S explains that [REDACTED]

<sup>33</sup> See *id.* at Attachment B, PG&E’s response to CalCCA data request 2.54.

<sup>34</sup> CalCCA-03C at 12-15 (Section d. of Appendix S to PG&E’s BPP, describing [REDACTED])

<sup>35</sup> CalCCA-01 at 7:15-16.

<sup>36</sup> *Id.* at 7:16-18.

<sup>37</sup> *Id.* at 7:18-20.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

PG&E creates a projected RA position (a calculation of its available system RA capacity) at the time it holds each solicitation in order to determine the quantity of RA available for sale at that point in time.<sup>41</sup> Table 2 below summarizes PG&E’s System RA position for the months of June through October 2022 as calculated at the time of each applicable solicitation.

**Table 2: Summer System RA Position (MW)<sup>42</sup>**

RA Position Date		Jun-22	Jul-22	Aug-22	Sep-22	Oct-22
8/23/2021	System RA Position	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
10/6/2021	System RA Position	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
11/22/2021	System RA Position	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1/14/2022	System RA Position	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
4/11/2022	System RA Position	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
7/18/2022	System RA Position	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

<sup>38</sup> See CalCCA-03C at 5 (Section B.1.b.(1).(a) of Appendix S to PG&E’s BPP, describing [REDACTED]).

<sup>39</sup> CalCCA-01C at 5:9-11.

<sup>40</sup> *Id.* at 5:11-13.

<sup>41</sup> *Id.* at 5:14-15 (citing PG&E’s response to Joint CCA Master Data Request 1.08).

<sup>42</sup> *Id.* at 6:1-2.

<sup>43</sup> *Id.* at 6:3-5.



[REDACTED]

Consistent with PG&E’s BPP Appendix S, [REDACTED]

[REDACTED]<sup>45</sup> Table 3, below, summarizes the System RA PG&E offered for sale in each solicitation with delivery periods from June through October 2022 based on PG&E’s projected System RA positions prepared at the time of each solicitation.<sup>46</sup>

**Table 3: Summer System RA Volumes Offered for Sale by Solicitation (MW)<sup>47</sup>**

RA Position Date	System RA Volume Offered for Sale	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22
8/23/2021	Phase 1 2022 YA Solicitation	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
10/6/2021	Phase 2 2022 YA Solicitation	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
11/22/2021	Q1 Balance-of-Year Solicitation	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1/14/2022	Q2 Balance-of-Year Solicitation	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
4/11/2022	Q3 Balance-of-Year Solicitation	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
7/18/2022	Q4 Balance-of-Year Solicitation	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

PG&E’s offers to sell excess RA between July and October of 2022 stand in stark contrast with the near-gigawatt of excess RA it counted towards its incremental procurement targets during the same time period. When asked to provide documentation demonstrating whether it received any offers from other LSEs to purchase any portion of the 923 MW of excess RA, PG&E responded that it “did not receive any bids from other LSEs to purchase any portion of the excess capacity *after it was known to be available.*”<sup>48</sup> Reviewing data from PG&E’s RA solicitations tells a more complete story, however. Table 4 below details for each RA solicitation the bids submitted by third parties seeking to purchase System RA, but which were rejected by PG&E [REDACTED]

<sup>44</sup> *Id.* at 6:5-6.

<sup>45</sup> *Id.* at 8:9-11.

<sup>46</sup> *Id.* at 8:7-9 (citing PG&E’s response to Joint CCA Master Data Request 1.08 Attachment 2 and CalCCA data request 2.57).

<sup>47</sup> *Id.* at 8:12-13.

<sup>48</sup> See PG&E’s response to CalCCA data request 2.55 (emphasis added).

[REDACTED]

[REDACTED] Table 4 summarizes the number of bids rejected [REDACTED]

[REDACTED]

[REDACTED]. As Table 4 demonstrates, [REDACTED]

[REDACTED].<sup>49</sup>

**Table 4: Bids Rejected** [REDACTED]

Solicitation	Solicitation Terms / Number of Bids / MWs Rejected									
	June 2022		July 2022		August 2022		September 2022		October 2022	
	# of Bids	MWs	# of Bids	MWs	# of Bids	MWs	# of Bids	MWs	# of Bids	MWs
Phase 1 2022 YA	[REDACTED]									
Phase 2 2022 YA	[REDACTED]									
Q1 2022 BOY Solicitation	[REDACTED]									
Q2 2022 BOY Solicitation	[REDACTED]									
Q3 2022 BOY Solicitation	[REDACTED]									
Q4 2022 BOY Solicitation	[REDACTED]									

The critical question for the Commission, therefore, is whether PG&E made *timely* attempts to sell its excess RA to other LSEs; in other words, whether PG&E offered its excess RA to other LSEs, through the commercial processes described in Appendix S to its BPP, *after that excess RA was known to be available*. Those commercial processes include [REDACTED]

[REDACTED]<sup>50</sup> Again, if PG&E *did not* make appropriate attempts to sell its excess RA to other LSEs, the Commission may find that PG&E must adjust the PABA, did not prudently administer its generation resources; and did not comply with its BPP.

<sup>49</sup> See PG&E’s response to CalCCA data requests 2.21, 2.23, and 2.54 Supplemental.

<sup>50</sup> CalCCA-03C at 12-13 (Section 1.d. of Appendix S to PG&E’s BPP, describing [REDACTED])

**C. This ERRA Compliance Proceeding is the Commission’s Only Opportunity to Scrutinize PG&E’s Efforts to Sell Excess RA During the Summer of 2022 and Determine Whether Those Efforts Meet Relevant Legal Standards.**

The purpose of PG&E’s annual ERRA Compliance proceedings is to allow the Commission *and parties* an opportunity to evaluate PG&E’s generation procurement and cost recovery activities occurring during the preceding year, and to give PG&E an opportunity to prove those activities meet relevant legal standards.<sup>51</sup> Among those activities, the Commission evaluates whether PG&E prudently managed its generation portfolio (Scoping Issue 1 in this proceeding); whether PG&E’s ERRA and PABA entries are reasonable, appropriate, accurate and in compliance with Commission decisions (Scoping Issue 3); and whether PG&E administered RA procurement and sales consistent with its BPP (Scoping Issue 5) during the record period. The Commission does not undertake any of these evaluations in any other proceeding.<sup>52</sup>

In this proceeding, therefore, parties can contest, and the Commission must scrutinize, PG&E’s excess RA sales because those sales are directly relevant to whether PG&E prudently managed its generation portfolio (Scoping Issue 1). Further, parties to the ERRA Compliance proceeding can contest, and the Commission must review, the appropriateness of PG&E’s RA sales, as those sales directly impact entries to the PABA (Scoping Issue 3).<sup>53</sup> If the Commission found that PG&E’s sales of excess RA were not appropriate, or were out of line with Commission directives, this ERRA Compliance proceeding would be the venue in which the Commission could order adjustments to the PABA. Finally, in this ERRA Compliance proceeding, parties can contest,

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<sup>51</sup> PG&E Application at 4.

<sup>52</sup> As mentioned above, the Commission may open a separate investigation for the sole purpose of examining PG&E’s sales or attempts to sell RA during the summer of 2022 pursuant to its authority under Section 2 Article XII of the California Constitution, Section 1701 of the California Public Utilities Code and Rule 5.1 of the Commission’s Rules of Practice; however, a separate investigation is unnecessary because the Commission can (and should) address PG&E’s 2022 RA activities in this proceeding.

<sup>53</sup> Assigned Commissioner’s Scoping Memo and Ruling at 2-3.

and the Commission must review, whether PG&E’s actions during the record year were consistent with its BPP (Scoping Issue 5). This review extends to actions both prescribed and permitted by the BPP.

Beyond the issues described above, the Commission should scrutinize PG&E’s assumptions about resource availability; it should also scrutinize the adjustments PG&E made to its RA position to ensure any reductions to the capacity PG&E made available to the market through its RA solicitations (with delivery in 2022) are adequately justified.<sup>54</sup> As described earlier, PG&E determines its System RA position ahead of each solicitation by [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

<sup>55</sup> Table 5 below details each of those line items as calculated by PG&E in its RA position reports for the summer 2022 delivery period. Table 5 also shows the change from the previous RA position for each component of the reports.

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<sup>54</sup> CalCCA-01C at 18:7-10.

<sup>55</sup> See CalCCA-03-C, PG&E’s Bundled Procurement Plan Appendix S Section B.3.b.1.a.

**Table 5: RA Position Reports Detail<sup>56</sup>**

System RA Position Reports						Change in System RA Position				
System RA	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
RA Position 8/23/2021										
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
RA Position 11/22/2021										
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
RA Position 1/14/2022										
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
RA Position 4/11/2022										
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
RA Position 7/18/2022										

As Table 5 demonstrates, several line items that constitute PG&E's RA Position can significantly swing each time PG&E calculates that position. One potential explanation for PG&E identifying significant excess RA (after projecting [REDACTED] ahead of its solicitations) is that certain line items in PG&E's RA position are impacted by resource availability and other adjustments to available capacity. To the extent PG&E has discretion with regard to its assumptions of resource availability, outage schedules, or operational constraints, it is likely to make conservative assumptions to ensure resources are used to meet PG&E's own compliance obligations rather than making those resources available to the market.<sup>57</sup>

There is no other docket or process before this Commission in which PG&E is required to make the data in Table 5, and the other data utilized by Witness Shuey, available to parties or the Commission in this level of detail. There is no other docket where parties examine these data, or the other data utilized by Witness Shuey, for the record year 2022 to determine whether PG&E prudently managed its generation facilities; whether PG&E's entries recorded to the PABA are reasonable, appropriate, accurate and in compliance with Commission decisions; or whether PG&E's RA sales complied with its BPP. Thus, the answer to the question posed in the ALJ ruling is clear: No, the Commission does not address PG&E's sales or attempts to sell Resource Adequacy during the Summer of 2022 in a forum other than PG&E's ERRA Compliance proceeding; and, therefore, it must do so here.

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<sup>56</sup> CalCCA-01C at 16.

<sup>57</sup> *Id.* at 17:15-19.

**III. EVEN IF THE COMMISSION DOES NOT PERMIT FURTHER RECORD DEVELOPMENT ON PG&E’S SALES OR EFFORTS TO SELL RA DURING THE SUMMER OF 2022, PG&E HAS NOT MET ITS BURDEN.**

CalCCA’s Motion to Offer Exhibits into Evidence and Admit into the Record<sup>58</sup> as well as its Motion for Commission Review of the Administrative Law Judge’s Evidentiary Rulings<sup>59</sup> explain in detail why PG&E’s sales of excess RA (and PG&E’s failure to sell excess RA) are relevant to Scoping Issues 1, 3 and 5 of this proceeding. However, CalCCA’s attempts to develop a robust record regarding PG&E’s 2022 RA sales for the Commission’s consideration are limited by a series of legally deficient evidentiary rulings.<sup>60</sup> Unless the Commission reverses those rulings, CalCCA will not have the opportunity to further develop the record on PG&E’s efforts to sell RA to other LSEs beyond the solicitations required by Appendix S.

Even if the Commission does not allow further record development, PG&E—not CalCCA—has the burden of proof in this proceeding.<sup>61</sup> That burden of proof includes a burden of production, which in ERRA Compliance proceedings is a “preponderance of the evidence.”<sup>62</sup> That means the Commission should not grant the relief PG&E requests unless a preponderance of the record evidence demonstrates PG&E has satisfied its burden of proof with respect to that request.

Provided the Commission gives CalCCA the procedural opportunity to do so, CalCCA will demonstrate how, based on the shortcomings discussed above, PG&E has not met its burden in this case. PG&E has not explained the significant changes in its RA position or demonstrated that

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<sup>58</sup> California Community Choice Association’s Motion to Offer Exhibits Into Evidence and Admit Into the Record (Jan. 18, 2024).

<sup>59</sup> California Community Choice Association’s Motion for Commission Review of Administrative Law Judge’s Evidentiary Rulings (Feb. 23, 2024).

<sup>60</sup> Evidentiary Rulings.

<sup>61</sup> D.16-04-006 at 11.

<sup>62</sup> D.12-11-051 at 9; D.09-03-025 at 8.

it made reasonable attempts to sell the excess RA it identified to other LSEs in 2022 before counting that RA towards its incremental procurement targets. Thus, the Commission should not find that PG&E prudently managed its generation facilities (PG&E requested finding 1); that PG&E’s entries recorded to the PABA are reasonable, appropriate, accurate and in compliance with Commission decisions (PG&E requested finding 3); or that PG&E’s RA sales complied with its BPP (PG&E requested finding 6).

#### **IV. THE COMMISSION SHOULD REVISIT PG&E’S BPP IN THE IRP DOCKET.**

While the Commission’s review of PG&E’s 2022 RA activities must occur in this proceeding, the Commission should revisit PG&E’s BPP in the IRP proceeding to ensure that PG&E is making its excess RA available to the market in a timely and comprehensive manner, including through solicitations and market offers outside the scheduled solicitation process. The Commission can, in this proceeding, order that PG&E’s BPP be revisited in the IRP docket.<sup>63</sup> The IRP docket, as the successor to the Long-Term Procurement Plan dockets that gave rise to the most recent, full BPPs, is the appropriate place to evaluate BPP revisions. Specifically, the initial Order Instituting Rulemaking (OIR) issued in the current IRP docket stated explicitly that the IRP docket was the correct venue for BPP revisions.<sup>64</sup> This notion was reaffirmed by the Preliminary Scoping Memo included in the OIR.<sup>65</sup> Further, the Amended Scoping Memo, which currently controls the IRP docket, states that the IRP docket is anchored by, among other things, “[c]onsideration of the need for procurement by LSEs of electricity resources,” and that the current scope includes issues related to “[e]stablishing a process and cadence for performing reliability analysis and setting reliability planning and procurement requirements for LSEs . . . involv[ing] coordination with

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<sup>63</sup> California PUC Docket No. R.20-05-003.

<sup>64</sup> R.20-05-003, Order Instituting Rulemaking at 2 (May 14, 2020).

<sup>65</sup> *Id.* at 10.



resource adequacy requirements[.]”<sup>66</sup> This Commission has reinforced this conclusion in other proceedings, suggesting that BPP procurement rules have not *yet* been addressed in the IRP docket.<sup>67</sup>

Finally, the IRP docket provides a forum in which parties may workshop best practices for BPP provisions governing excess RA solicitations and market offers. While the Commission’s model non-disclosure agreement prevents discussion of the specifics of the confidential components of other IOUs’ BPPs in individual ERRA Compliance proceedings, the IRP docket is a consolidated proceeding in which parties may execute non-disclosure agreements that allow for the evaluation of each IOUs’ BPP in the same place. Accordingly, parties and the Commission can determine if other IOUs’ existing practices might complement PG&E’s practices and help ensure PG&E makes excess RA available to other LSEs in an appropriate manner.

## V. CONCLUSION

For the reasons described in this brief, there is no other docket in which the critical, specific issue of whether PG&E made reasonable attempts to offer excess RA for sale *prior* to transferring it to CAM can be answered. There also is no other in which the other questions relevant to Scoping Issues 1, 3 and 5 discussed above can be addressed. CalCCA respectfully urges the Commission to address PG&E’s 2022 RA activities in this proceeding, to revisit PG&E’s BPP in the IRP proceeding, and to grant any other relief the Commission deems just and reasonable.

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<sup>66</sup> R.20-05-003, Assigned Commissioner’s Amended Scoping Memo and Ruling Extending Statutory Deadline at 2, 9 (Apr. 18, 2024).

<sup>67</sup> D.23-12-008 at 23 (stating “BPPs were reviewed and adopted every two years via a Commission decision in the Long-Term Procurement Plan (LTPP) proceeding. Although the IOUs’ current BPPs were last approved, with modifications, by D.15-10-031 on October 22, 2015, in R.13-12-010, the IOUs have not filed a full update of their BPPs since then. Instead, the IOUs have updated various sections of their BPPs via advice letters as needed over the years. **The IRP proceeding is the successor proceeding to the LTPP proceeding, however, a complete review of the IOU BPPs and changes to BPP procurement rules has yet to be addressed.**” (emphasis added)).

Respectfully submitted,



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