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

Order Instituting Rulemaking to Oversee the
Resource Adequacy Program, Consider
Program Refinements, and Establish Annual
Local and Flexible Procurement Obligations
for the 2019 and 2020 Compliance Years.

R.17-09-020

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S
TRACK 3 PROPOSAL**



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Pursuant to Rule 11.6 and the January 29, 2019 *Amended Scoping Memo and Ruling of Assigned Commissioner* (Scoping Memo) extending the deadline to file , the California Community Choice Association (CalCCA) submits this proposal on Track 3 Resource Adequacy (RA) issues.

I. INTRODUCTION AND SUMMARY

CalCCA offers two recommendations in this Track 3 proposal to further advance the Commission's efforts to ensure efficient and cost-effective supply reliability for the service territories within its jurisdiction. First, CalCCA recommends better alignment of a load-serving entity's (LSE's) RA compliance obligation with the LSE's actual monthly load forecast. Better alignment will ensure supply sufficiency while preventing over-procurement and the associated costs. CalCCA proposes shifting the load forecasting process timeline and allowing for earlier notice of and stakeholder feedback on California Energy Commission (CEC) plausibility adjustments, along with penalties for LSEs that grossly under-forecast RA obligations in a manner that increases RA obligations of other LSEs. Second, CalCCA raises an issue that is critical to the success of the Commission's reliability program but that has not yet been directly

addressed: adoption of a short-term framework for sales by the investor-owned utilities (IOUs) of RA they hold in excess of their bundled load requirements. While the Commission will address long-term management of the IOUs' portfolios in Phase 2 of R.17-06-026, near-term guidelines are needed to ensure reliability and enable compliance by non-utility load-serving entities (LSEs). In addition to these two categories of recommendations, CalCCA offers observations and general recommendations to enable a more efficient and effective RA market and to reduce the regulatory uncertainty that is created while we wait for the results of Phase 2 of R.17-06-026.

II. LOAD FORECASTING & LOAD MIGRATION

A. LSE Load Share Obligations Should More Closely Reflect an LSE's Actual Load Forecast

CalCCA proposes to modify the load forecast process and timeline as well as the allocation process to better respond to load migration. These changes focus on the way in which an LSE's pro-rata local RA obligations are determined and the process for updating obligations as loads migrate among service providers.

The process of allocating pro-rata local RA obligations is not consistent with load migration timing. Community Choice Aggregators (CCAs) must buy local RA for all months of the compliance year based on their projected August peak load without taking into account projected load during each month. Thus, for example, if a CCA is phasing in substantial load in May, it will be required to buy substantial excess local RA for January through April even if the local RA requirement far exceeds its load in these early months. The inability to tailor RA purchases to actual forecast load (i) increases costs for customers of all LSEs, particularly CCAs launching new services, (ii) inflates demand unnecessarily for local RA by requiring two LSEs to

procure capacity for the same customer load within the same compliance year (during years where customers migrate from one LSE to another), and (iii) shifts costs among LSEs.

Not only is load migration affecting the allocation of RA obligations, the changing nature of resources is affecting how LSEs comply with their obligations. For example, since the change in Effective Load Carrying Capacity (ELCC) calculations, many local renewable resources have very different values over the course of the year. LSEs are purchasing varying amounts of local RA for each month as a result of this in order to be compliant with CAISO obligations. Thus, the simplicity of keeping the same value throughout the year no longer exists.

For these reasons, *CalCCA proposes to modify the allocation of local RA requirements to reflect each LSE's actual month-to-month load forecasts.*

B. More Effective Coordination of the Forecasting Process Would Benefit All Stakeholders

Coordination among LSEs, the Commission, and the CEC is critical to the success of the Commission's RA program. Today, LSEs submit their initial load forecast to the Commission and CEC in April, and LSEs will receive their initial year-ahead RA requirements and allocations in August.¹ LSEs also submit their final revised load forecast in August, in preparation to receive their final year-ahead RA requirements and allocations by the Commission in late September. Keeping with that timeline, CalCCA offers the following recommendations.

- ✓ All jurisdictional LSEs that submit forecasts to the IOU for the Energy Resource Recovery Account (ERRA) process (in year n-1 for year n) should come to an agreement on forecast service territory load with their respective IOUs before the CEC load forecast is due in April.
- ✓ The CEC should alert any LSE if they believe that LSE's load has not been properly forecasted. They should meet to work out any differences, providing the entity an opportunity to defend its forecast before any plausibility adjustment is added to the LSE's obligation.

¹ This is consistent with the timeline in which these events occurred in 2018 and consistent with the 2019 Final RA Guide published on the CPUC's website <http://www.cpuc.ca.gov/General.aspx?id=6311>

- ✓ All issues among the LSEs and the CEC should be resolved before June to inform the Commission's July allocation. There should be no further update to an LSE's allocation after this point.

In addition to improving the load forecast coordination, a process should be provided to true up forecasts, with penalties for grossly under-forecasting load. Although the CEC does have a process for updating load migration forecast sheets on a monthly basis for an estimate and then eventually actuals, the CEC does not hold the LSE accountable for their previous submissions. To the extent an LSE's gross under-forecasting results in a plausibility adjustment by the CEC that increases the obligations of other LSEs, the LSE causing the issue should be required to compensate affected LSEs. The CEC and the Commission would coordinate to determine the amount of compensation, and the Commission would establish a process to enforce the penalties.

III. SHORT-TERM RA SALES FRAMEWORK

The Commission is working toward a long-term approach to IOU portfolio redistribution and management in Phase 2 of R.17-06-026. No doubt recognizing the time this effort likely will take, Pacific Gas and Electric Company (PG&E) recently filed Advice Letter 5473-E on January 25 to include a new "Sales Framework" in its Bundled Procurement Plan (BPP). While the Advice Letter has been suspended, CalCCA supports PG&E's efforts to bring greater focus and transparency to the process for managing excess supply in its portfolio, including RA products, through short-term sales while the Commission continues to consider long-term solutions within R.17-06-026. It is CalCCA's understanding that the IOUs' BPPs have not been modified in a significant way with respect to RA sales since those last BPPs were adopted as part

of the 2014 Long-Term Procurement Plan in late 2015.² Since that time, the volume of RA sales conducted by the IOUs has increased significantly due to the rise of CCA programs.³

The IOUs undeniably have market power in the resource adequacy market, holding a significant percentage of the RA capacity needed to ensure grid reliability in their service territories. And with the Commission’s recent decision in Track 2 directing, among other things, to disaggregate the local RA requirements in PG&E’s “Other” category from one larger grouping to six smaller local areas, it appears that the IOUs’ market power in the RA market will only further increase without regulatory intervention. How the IOUs manage their position of dominant resource owners and sellers within the market affects not only the net cost incurred by ratepayers (through the Power Charge Indifference Adjustment, or PCIA), but also the ability of LSEs – collectively and individually – to meet RA compliance obligations. A CCA with RA compliance obligations must rely on the IOU to make its excess supply available – at the right time and under reasonable terms and conditions – to facilitate its compliance.

CalCCA proposes that the Commission consider an RA sales framework for short-term transactions (under 5 years) within this track, based only on publicly available information, so that the IOUs’ market power is kept in check and thereby allow for a more efficient and effective RA market in the near-term.

² PG&E Advice Letter 5473-E, at page 2, includes “a new appendix titled ‘Sales Framework’ for sales of energy, and RA.” PG&E’s September 12, 2018 Commission Approved Version Does Not Include a Sales Framework. https://www.pge.com/pge_global/common/pdfs/about-pge/company-information/regulation/BundledProcurementPlan.pdf Further, D.15-10-031, approving the IOUs’ 2014 Bundled Procurement Plans, provides only a limited reference to sales of RA, authorizing SCE to “add resource adequacy as a non-standard product.” D.15-10-031, Ordering Paragraph 1.m at 64-65.

³ See A.18-06-001, Exhibit Joint CCAs-1, *Testimony of Richard J. McCann, PH.D on Behalf of the Joint Community Choice Aggregators*, August 21, 2018, at 4:3-10.

A. Schedules for IOU RA Sales Should Better Enable Compliance by Other LSEs and Maximize Portfolio Value

RA value is directly correlated with LSEs' need to demonstrate adequate RA by a set deadline (October 31st). There are both financial and reputational consequences for failing to achieve this RA position by October 31st. As this deadline approaches, an LSE still short RA may be willing to go to extensive lengths to be compliant. If the market is constrained, prices may rise as the deadline nears. By extension, capacity that is not offered for sale before the deadline, but then offered for sale afterward, creates inefficiencies in the market and reduces an LSE's ability to be year-ahead compliant.

Both 2017 and 2018 saw scarcity in the RA market. The scarcity was driven in part by the physical realities of plant retirements – which are often known years in advance. Market actors also contributed to the scarcity: several IOUs did not offer RA for sale until after the October 31 deadline, creating artificial scarcity. Indeed, the IOUs acknowledge that they retain more than what is needed for its compliance purposes, referred to as a “buffer.”⁴ Depending upon its magnitude, a buffer carries the potential to increase costs for both IOU and departed customers. IOU customers pay for capacity resources that are not needed to serve them, and departed customers are subject to fines and pay higher prices for whatever RA is ultimately made available.

Four actions will maximize the opportunity for timely matching of supply and demand within the RA market. First, as the Track 2 Decision directs, Energy Division Staff will issue a report with “Resources on the Net Qualifying Capacity list that are not shown in RA filings as under contract to an LSE(s).”⁵ This should illuminate any LSEs that are holding onto RA not

⁴ See A.18-05-003, *Southern California Edison Company Updated Testimony Energy Resource Recovery Account (ERRA) Forecast of Operations*, Nov. 7, 2018, at 84-85.

⁵ D.19-02-022, Ordering Paragraph 16 at 48.

needed for their own compliance nor making it available to others. Second, the Commission should provide guidance on how the IOUs should manage their excess RA capacity, including a requirement that the IOU offer to the market 100 percent of all RA in excess of the IOU's forecast bundled load plus a reasonable "buffer." Third, the Commission should prescribe the IOUs' solicitation schedules to maximize the opportunity for other LSEs to meet compliance obligations. Fourth, the Commission should obligate the IOUs to post their excess RA capacity on an Electronic Bulletin Board (EBB) to facilitate bilateral transactions in the beginning of each year.

B. The Commission Should Establish Language for Critical RA Contract Provisions to Mitigate the IOUs' Market Power

In Advice Letter 5473-E, PG&E requests approval of revisions to its Bundled Procurement Plan including limiting sales of certain RA products to two year terms and imposition of standard contracting terms on all RA sales.⁶ PG&E states that it will "only sell RA using the Edison Energy Institute (EEI) enabling agreement and a PG&E RA confirmation agreement" and it "will not post collateral or performance assurance for any RA product sales."⁷

The IOUs, and PG&E in particular, have market power in the RA market due to the substantial excess resources in their portfolios. The market power allows an IOU to impose non-negotiable, non-industry standard contract terms on buyers, such as PG&E's refusal to post security even though it is currently in bankruptcy. IOUs also control the source of RA products and create uncertainty by selling "non-resource specific" products and providing buyers notice of the resource only 15 business days before the compliance deadline.⁸ These provisions may

⁶ PG&E Advice Letter 5473-E at 3.

⁷ *Id.*, Appendix S at 11.

⁸ See PG&E's [Appendix A - Standard RA Confirmation](https://www.pge.com/en_US/for-our-business-partners/floating-pages/2018-multi-year-resource-adequacy-rfb/2018-multi-year-resource-adequacy-rfb.page?ctx=business), accessible as a download at: https://www.pge.com/en_US/for-our-business-partners/floating-pages/2018-multi-year-resource-adequacy-rfb/2018-multi-year-resource-adequacy-rfb.page?ctx=business

provide the IOU with greater flexibility in managing its resources, but these provisions clearly and unreasonably shift the risk for potential non-compliance solely to the buyers.

Although the IOUs “use” the EEI enabling agreement, this agreement and the confirmations are commonly, extensively modified with non-standard terms, including strict confidentiality requirements. In addition, buyers are often required to sign highly restrictive and non-negotiable non-disclosure agreements. CalCCA supports standardized contracting terms to make contracting more efficient and fair, and as a means of mitigating market power. Additionally, CalCCA supports updating the standard terms and conditions template often enough to keep up with changes in the Commission’s RA requirements and changes to the California Independent System Operator’s (CAISO’s) RA tariff requirements. CalCCA recommends a good starting point for a confirm template with standardized terms and conditions for RA transactions is the RA confirm template developed by a WSPP⁹ subcommittee.

IV. REGULATORY CERTAINTY WILL REDUCE MARKET DISORDER AND INCREASE GRID RELIABILITY

The Commission holds a key to enabling a reliable grid: regulatory certainty. Constant regulatory change and uncertainty in the state’s RA program creates disorder in the market and increases reliability risks. Recent regulatory changes as well as flaws in the RA compliance timeline have made it challenging for cost-conscious LSEs to procure forward-looking RA in an efficient and cost-effective manner. Changes are needed.

First, LSE’s must have more certainty around year-to-year RA requirements. If an LSE’s load does not change year-to-year, then it is a reasonable assumption that its RA requirements should also not change. However, this has not been the case. If total obligations and the

⁹ WSPP Inc. was formerly the Western Systems Power Pool.

monthly shape of RA requirements vary year-to-year, then long-term procurement is difficult to manage for any cost-conscious LSE.

Second, LSEs must have more certainty that purchases will not be devalued in the future based on regulatory changes versus the value already delivered to the grid. By directing multi-year procurement but holding open the possibility that a full procurement central buyer framework could be adopted in late 2019, the Commission places LSEs in a difficult situation. They must procure resources that could be devalued within the year if they are unable to count the resources toward their compliance obligations.

Third, ELCC values should be clear and stable. When an LSE enters into a power purchase agreement (PPA) that includes capacity attributes, the current ELCC factors are utilized to value the bundled contract; when the Commission reduces the ELCC factors, the LSE is already out of the money with its newly minted PPA. This uncertainty makes it challenging for any LSE to make a financial commitment into the future knowing that the value of capacity (in MWs) is changing every two years.

Fourth, clarity and full transparency from the CAISO, CEC, and the Commission are necessary to ensure reliability, including assuring the most critical resources have been identified for LSEs to procure.

V. DETERMINING RA VALUE FOR PAIRED RESOURCES WILL SUPPORT MARKET EXPANSION

CCAs have already begun (and intend to be statewide leaders in) the procurement of new projects combining energy storage technologies with intermittent technologies. As such, CalCCA believes it is important to establish clear and reliable rules to assess the capacity value of these projects. The Commission has recognized the importance of this task and is currently adjusting the ELCC valuations (or RA counting rules) for storage when added to wind, solar or other

renewable resources. Additionally, the Scoping Memo identifies this issue as within the scope of Track 3.¹⁰ CalCCA supports timely resolution of this important issue and looks forward to providing comments on recommendations by those parties with the technical understanding to inform the Commission's decision.

VI. CONCLUSION

For all of the foregoing reasons, CalCCA requests the Commission's consideration of the recommendations offered herein.

Dated: March 4, 2019

Respectfully submitted,

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Evelyn Kahl

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¹⁰ Scoping Memo at 3.