

# **FEBRUARY FILINGS**

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

Order Instituting Rulemaking to Establish a  
Framework and Processes for Assessing the  
Affordability of Utility Service.

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R.18-07-006

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S REPLY COMMENTS  
ON ASSIGNED COMMISSIONER'S RULING SEEKING ANNUAL FEEDBACK  
ON THE IMPLEMENTATION OF THE AFFORDABILITY FRAMEWORK**

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February 16, 2024

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## **SUMMARY OF RECOMMENDATIONS**

The California Community Choice Association recommends that the California Public Utilities Commission (Commission) take the following actions:

- Adopt the proposal of the Public Advocates Office at the California Public Utilities Commission to provide details on how the Commission uses the Affordability Framework and Metrics in the Annual Affordability Report (AAR) because it would provide transparency to ratepayers with only a marginal change to the current drafting of the AAR;
  - Adopt The Utility Reform Network’s proposal to require the investor-owned utilities (IOUs) to provide cumulative Affordability Metrics so all stakeholders can understand cumulative impacts to affordability from IOU applications; and
  - Reject the recommendation of San Diego Gas & Electric Company and Southern California Gas Company to increase the threshold for presenting the Affordability Metrics in rate applications from 1 percent to 3-4 percent because it would reduce transparency of proposed impacts to affordability.
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**CALIFORNIA COMMUNITY CHOICE ASSOCIATION’S REPLY COMMENTS  
ON ASSIGNED COMMISSIONER’S RULING SEEKING ANNUAL FEEDBACK  
ON THE IMPLEMENTATION OF THE AFFORDABILITY FRAMEWORK**

California Community Choice Association<sup>1</sup> (CalCCA) submits these reply comments pursuant to the *Assigned Commissioner’s Ruling Seeking Annual Feedback on the Implementation of the Affordability Framework*, dated December 13, 2023 (Ruling),<sup>2</sup> and *Administrative Law Judge’s Ruling Noticing Related Proceedings of Comments Sought*, dated December 14, 2023<sup>3</sup> (December 14 Ruling). The Ruling seeks feedback on the use and implementation of the California Public Utilities Commission’s (Commission) adopted affordability framework within Commission proceedings and in the Annual Affordability Report.<sup>4</sup> In addition to seeking feedback from parties

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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> *Assigned Commissioner’s Ruling Seeking Annual Feedback on The Implementation of The Affordability Framework*, Rulemaking (R.) 18-07-006 (Dec. 13, 2023): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M521/K479/521479648.PDF>.

<sup>3</sup> *Administrative Law Judge’s Ruling Noticing Related Proceedings of Comments Sought*, R.18-07-006 (Dec. 14, 2023): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M521/K449/521449073.PDF>.

<sup>4</sup> See Decision (D.) 22-08-023, *Decision Implementing the Affordability Metrics*, R.18-07-006 (Aug. 4, 2022), at 71, and Ordering Paragraph 13, at 87-88 (allowing parties to comment generally on the use and interpretation of the affordability framework within Commission proceedings and in the annual Affordability Report): <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M496/K428/496428621.PDF>.

to this rulemaking, the December 14 Ruling seeks feedback from parties to other proceedings in which the Affordability Metrics have been introduced and analyzed.

## **I. INTRODUCTION**

These reply comments support specific party opening comments that contribute to transparency and accessibility of the Affordability Framework and Metrics for stakeholders and ratepayers. Conversely, these reply comments recommend the rejection of party proposals that will have a negative impact on Affordability Framework transparency and accessibility. As such, CalCCA respectfully recommends the Commission take the following actions:

- Adopt the proposal of the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) to provide details on how the Commission uses the Affordability Framework and Metrics in the Annual Affordability Report (AAR) because it will provide transparency to ratepayers with only a marginal change to the current drafting of the AAR;
- Adopt The Utility Reform Network's (TURN) proposal to require the investor-owned utilities (IOU) to provide cumulative Affordability Metrics so all stakeholders can understand cumulative impacts to affordability resulting from IOU applications; and
- Reject the recommendation of San Diego Gas & Electric Company and Southern California Gas Company (together, the Joint Utilities) to increase the threshold for presenting the Affordability Metrics in rate applications from 1 percent to 3-4 percent because it will reduce transparency of proposed impacts to affordability.

## **II. CAL ADVOCATES' PROPOSAL THAT THE COMMISSION BE REQUIRED TO PROVIDE DETAILS ON THE USE OF THE AFFORDABILITY FRAMEWORK IN THE AAR SHOULD BE ADOPTED BECAUSE IT WILL PROVIDE TRANSPARENCY TO RATEPAYERS WITHOUT HIGH ADMINISTRATIVE BURDEN**

Adopting Cal Advocates' proposal that the Commission provide details in the AAR on how the Commission uses the Affordability Framework is a reasonable way to provide more transparency without high administrative burden. Cal Advocates recommends in opening comments that the Commission "include a description of how the Commission uses the affordability framework to

inform its decisions.”<sup>5</sup> This additional information will provide transparency for ratepayers and the public to understand the Commission’s efforts in protecting affordability. Since the AAR is published once per year, this added section to the report will not represent a high administrative burden relative to other alternatives.

For example, one alternative is that the Commission incorporate a discussion of its use of the Affordability Framework in every decision for proceedings in which the IOUs apply the Affordability Metrics. However, this will likely require the Commission to repeat itself, creating redundancy and unnecessary burden, as the Commission makes multiple decisions on similar applications. Instead, the Commission’s publishing its usage of the Affordability Framework and Metrics once per year via the AAR provides the necessary visibility regarding the Commission’s strategies to address affordability concerns without adding unnecessary administrative burden.

### **III. TURN’S PROPOSED REQUIREMENT THAT THE IOUS INCLUDE CUMULATIVE AFFORDABILITY METRICS SHOULD BE ADOPTED AS IT WILL INCREASE TRANSPARENCY**

Requiring the IOUs to include *cumulative* Affordability Metrics any time IOUs already present the metrics will arm the Commission with critical data to make more informed decisions, as well as improve transparency for stakeholders. TURN recommends that the IOUs “include both the revenue request and also the approved request(s) that are pending for inclusion in rates” any time the IOUs present the Affordability Metrics.<sup>6</sup> The incremental and siloed nature of the current presentation by the IOUs of the Affordability Metrics makes a holistic consideration of all revenue requests challenging for the Commission and stakeholders. The IOUs already submit a list of itemized revenue requests on a quarterly basis to the Commission, which can be augmented by

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<sup>5</sup> See Cal Advocates Opening Comments, at 18.

<sup>6</sup> See TURN Opening Comments, at 4.

requiring incorporation of the Affordability Metrics.<sup>7</sup> While all revenue requests have their own rationale, keeping track of the bigger picture of how the requests add up will allow the Commission to adequately consider the overall impact of each request. Therefore, the Commission should require the IOUs to include both incremental and cumulative Affordability Metrics with applications.

#### **IV. THE JOINT UTILITIES' PROPOSAL TO INCREASE THE REVENUE REQUIREMENT THRESHOLD TRIGGERING THE AFFORDABILITY METRICS ANALYSIS SHOULD BE REJECTED AS IT WILL REDUCE VISIBILITY IN TO THE AFFORDABILITY IMPACTS**

The Commission should reject the Joint Utilities' proposal to increase the threshold triggering Affordability Metrics analysis in IOU applications because it will reduce the frequency of metric presentation and reduce transparency. The Joint Utilities propose to increase the threshold from 1 percent to 3-4 percent due to the Commission's Affordability Ratio Calculator using a 3-4 percent escalation factor for income and housing.<sup>8</sup> However, their proposal would result in less transparency for customers.

The Joint Utilities found that using the affordability metrics to assess revenue requirement increases less than 3-4 percent lead to "counterintuitive affordability metrics results"<sup>9</sup> The Joint Utilities provide an example that demonstrates the income and housing escalation factors included in the Affordability Ratio Calculator can lead to instances where small revenue requirement increases appear to improve affordability. Therefore, the Joint Utilities argue that the 3-4 percent trigger is necessary to prevent the confusion that can result from the application of the 1 percent threshold. However, a potentially confusing result is not a reasonable argument for reducing transparency.

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<sup>7</sup> Commission webpage of Itemized List of Revenue Requests: <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/affordability/quarterly-revenue-request-reports>.

<sup>8</sup> See Joint Utilities Opening Comments, at 7 (explaining why the Affordability Metrics threshold should be increased).

<sup>9</sup> See *id.*, at 4.

While ensuring accurate interpretation of the Affordability Ratio Calculator is important, the issue the Joint Utilities cite can be addressed by enhancing context within the calculator and presenting metrics in a clear manner to aid users in understanding its functionality and interpreting results effectively. Submitting cumulative metrics as proposed in section 3 above would also serve to counteract potentially misleading results. While one application at just above the 1 percent threshold may cause unexpected results, presenting the impact on metrics from the rest of the pending requests with it would develop a clearer picture. This would avoid the outcome with which the Joint Utilities are concerned and provide more transparency. On the other hand, tripling or quadrupling the threshold percentage for Affordability Metric presentation will provide less transparency than is currently the case. Fewer instances of presenting the Affordability Metrics will generate less data over time, therefore decreasing the time granularity of data and the usefulness of the data. Affordability of utility rates is a critical issue for Californians, and the Commission's actions must not decrease transparency and use of the Affordability Metrics. As a result, the Joint Utilities' proposal to increase the threshold to trigger the affordability metrics analyses should be rejected.

## **V. CONCLUSION**

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

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Evelyn Kahl".

Evelyn Kahl,  
General Counsel and Director of Policy  
CALIFORNIA COMMUNITY CHOICE  
ASSOCIATION

February 16, 2024

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

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  
THE PROPOSED DECISION ADOPTING 2023 PREFERRED SYSTEM PLAN AND  
RELATED MATTERS, AND ADDRESSING TWO PETITIONS FOR MODIFICATION**

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February 5, 2024

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## **SUMMARY OF RECOMMENDATIONS**

- The Commission should retain Finding of Fact 19, which flags a potential reliability shortfall in 2025;
- The Commission should maintain the requirement to provide bridge capacity for long lead time extensions;
- The Commission should reject the Environmental Defense Fund’s recommendation to order load-serving entities to procure shed demand response; and
- The Commission should not adopt Form Energy’s recommendation to allow the investor-owned utilities to submit Tier 3 Advice Letters for approval of utility-owned storage.



**CALIFORNIA COMMUNITY CHOICE ASSOCIATION’S REPLY COMMENTS ON  
THE PROPOSED DECISION ADOPTING 2023 PREFERRED SYSTEM PLAN AND  
RELATED MATTERS, AND ADDRESSING TWO PETITIONS FOR MODIFICATION**

The California Community Choice Association (CalCCA)<sup>1</sup> submits these reply comments pursuant to Rule 14.3 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure<sup>2</sup> on the proposed *Decision Adopting 2023 Preferred System Plan and Related Matters, and Addressing Two Petitions For Modification*<sup>3</sup> (Proposed Decision), mailed January 10, 2024.

**I. THE COMMISSION SHOULD RETAIN FOF 19, WHICH FLAGS A  
POTENTIAL RELIABILITY SHORTFALL IN 2025**

Finding of Fact (FOF) 19 states, “Commission staff analysis shows that there is a potential reliability shortfall to the reliability standard for the electric system in 2025, even if the procurement already ordered in Decision (D.) 21-06-035 comes online in time.” The Center for Energy Efficiency and Renewable Technologies (CEERT) suggests this FOF is overstated and should be revised.<sup>4</sup> CalCCA disagrees.

CEERT first demonstrates that while the Commission’s analysis shows a potential shortfall in 2025, there is a surplus if the analysis were to include the Diablo Canyon Nuclear Power Plant (Diablo Canyon).<sup>5</sup> Including Diablo Canyon in Integrated Resource Planning (IRP) reliability modeling is inconsistent with the statute adopted in Senate Bill 846, which states:

The commission shall not include the energy, capacity, or any attribute from Diablo Canyon Unit 1 beyond November 1, 2024, or Unit 2 beyond August 26, 2025, in the adopted integrated resource plan portfolios, resource stacks, or preferred system plans.

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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> State of California, California Public Utilities Commission, *Rules of Practice and Procedure* (May 1, 2021).

<sup>3</sup> Proposed *Decision Adopting 2023 Preferred System Plan and Related Matters, and Addressing Two Petitions for Modification*, Rulemaking (R.) 20-05-003 (Jan. 1, 2024).

<sup>4</sup> CEERT at 7.

<sup>5</sup> *Id.* at 8.

The Commission should, therefore, not modify its FOF on the basis of including Diablo Canyon in reliability modeling for 2025.

CEERT then suggests supply chain challenges are no longer a cause for concern because California Independent System Operator (CAISO) data shows more battery storage projects were able to interconnect in 2023 than was required by the mid-term reliability (MTR) procurement order.<sup>6</sup> The Commission should not modify FOF 19 on this basis. It is not clear that developers are able to procure the necessary equipment to complete projects ahead of schedule as CEERT suggests. Data collected from CalCCA members in May 2023 found that supply chain was the primary source of delay experienced by projects under contract, followed by interconnection delays and permitting issues. Per this data, 51 projects totaling 1,763 megawatts (MW) of net qualifying capacity have been impacted by supply chain issues for community choice aggregators alone. Given the persisting challenges developers face with the supply chain, interconnection queue, and permitting process, it would be misguided to assume that projects will be able to come online ahead of schedule as suggested by CEERT. For these reasons, the Commission should retain FOF 19 as written in the Proposed Decision.

## **II. THE COMMISSION SHOULD MAINTAIN THE REQUIREMENT TO PROVIDE BRIDGE CAPACITY FOR LLT EXTENSIONS**

Several parties recommend that the Commission re-evaluate the need for bridge capacity, either in the Reliable and Clean Power Procurement Program (RCPPP) or through updated analysis, before making bridge capacity procurement a requirement for receiving a long lead time (LLT) resource extension.<sup>7</sup> The Commission should reject these recommendations.

The Commission's October 5, 2023, Ruling<sup>8</sup> (Ruling) evaluated the reliability impacts of allowing an additional extension and found a very small capacity surplus if it were to grant the extension without bridge capacity. Requiring bridge capacity will provide assurances that the LLT extensions do not threaten reliability in the event of procurement risks such as project delays, extreme weather, thermal derates, localized forced outages, or other factors as cited in the Ruling. Given the Ruling demonstrates the market for new capacity will continue to be tight through 2028, it is prudent

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<sup>6</sup> *Id.* at 9.

<sup>7</sup> The California Energy Storage Alliance at 4, Hydrostor Inc. at 4-5, Shell Energy North America (US), L.P. d/b/a Shell Energy Solutions at 5-6, and the Western Power Trading Forum at 5-6.

<sup>8</sup> *Administrative Law Judge's Ruling Seeking Comment on Proposed 2023 Preferred System Plan and Transmission Planning Process Portfolios*, R.20-05-003 (Oct. 5, 2023).

for the Commission to require bridge capacity to cover any extensions in the LLT resource requirement.

Allowing extensions without bridge capacity also creates an incentive for load serving entities (LSE) to ask for extensions unnecessarily given the possibility of not needing to do any other procurement to cover the amount subject to the extension. This would delay procurement further than necessary and disadvantage LSEs that made successful efforts to comply with the June 1, 2028, deadline and, therefore, do not require extensions. For these reasons, the Commission should retain the LLT extension process as outlined in the Proposed Decision that requires LSEs to cover their extension amounts with bridge capacity.

### **III. THE COMMISSION SHOULD REJECT EDF'S RECOMMENDATION TO ORDER LSES TO PROCURE SHED DEMAND RESPONSE**

The Environmental Defense Fund (EDF) supports the Proposed Decision's adoption of the 25 million metric ton Core Portfolio but recommends the Commission additionally order 300-600 MW of shed demand response (DR) procurement in 2026.<sup>9</sup> EDF suggests that its recommendation will act as a stepping-stone toward achieving the California Energy Commission's (CEC) load shift goal of 7,000 MW by 2030.<sup>10</sup>

The Commission should not adopt EDF's recommendation for two reasons. *First*, procurement orders should be done on an attribute basis rather than a technology-specific basis. It is resource attributes, not the specific technology, that contribute to reliability and greenhouse-gas reduction. Mandating procurement on a technology-basis rather than an attribute-basis unnecessarily restricts LSE from making economically efficient procurement decisions and remaining flexible to changing conditions. If the Commission orders additional procurement in the future, it should do so on an attribute-based, technology-neutral basis to allow LSEs to procure the most cost-effective portfolio of resources that meets their share of reliability needs.

*Second*, the Commission should not unilaterally order procurement of shed demand response in the name of advancing the CEC's load shift goals. The Commission should, instead, work with the CEC to evaluate methods for achieving the CEC's load shift goal in a holistic manner that targets the identified need in the CEC's Load Shift Goal Report (the Report). The policy recommendations in the Report are wide-ranging and include load-modifying DR and supply-side DR, dynamic

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<sup>9</sup> EDF at 6.

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

pricing, load-shifting, and pilots. As the CEC states in the Report, “[m]any pathways exist to achieve the load shift goal.”<sup>11</sup>

#### **IV. THE COMMISSION SHOULD NOT ADOPT FORM ENERGY’S RECOMMENDATION TO ALLOW IOUS TO SUBMIT TIER 3 ADVICE LETTERS FOR APPROVAL OF UTILITY-OWNED STORAGE**

Form Energy, Inc. (Form Energy) recommends the Commission allow the investor-owned utilities (IOUs) to file Tier 3 Advice Letters, rather than applications, for the approval of utility-owned long-duration energy storage (LDES) under certain conditions.<sup>12</sup> Form Energy states that expediting Commission review through the use of the Advice Letter process will (1) improve the odds LDES projects will score higher in Department of Energy federal funding programs, and/or (2) make it possible for LDES projects to meet the Commission’s initial June 1, 2028, deadline.<sup>13</sup>

The Commission should reject Form Energy’s recommendation. The Commission already allows for an application to request expedited treatment. If the IOU sees a need, including the reasoning Form Energy has provided for using a Tier 3 Advice Letter, the IOU may request an expedited application. By retaining the application process, intervenors are still allowed important opportunities including testimony, discovery, and hearings that a Tier 3 Advice Letter does not guarantee. Investment in a new plant with implications to the Power Charge Indifference Adjustment should be afforded the opportunity that an application provides and not left to a Tier 3 Advice Letter.

In addition, with regard to bringing on LDES by June 1, 2028, the Proposed Decision provides an opportunity to provide replacement capacity for LLT resources that cannot meet the deadline. CalCCA supports this option. Allowing the IOUs to skip the important steps applications require, therefore, does not solve a reliability risk created by LLT resources coming online past the June 1, 2028, deadline. For these reasons, the Commission should not adopt Form Energy’s recommendation.

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<sup>11</sup> Neumann, Ingrid and Erik Lyon. May 2023. *Senate Bill 846 Load-Shift Goal Report*. California Energy Commission Publication Number: CEC-200-2023-008.

<sup>12</sup> Form Energy at 12.

<sup>13</sup> *Id.*

**V. CONCLUSION**

For all the foregoing reasons, CalCCA respectfully requests consideration of the Reply Comments herein.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Evelyn Kahl".

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CALIFORNIA COMMUNITY CHOICE  
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February 5, 2024

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**Marin Clean Energy  
ELC (Corp ID 6)  
Status of Advice Letter 70E  
As of February 7, 2024**

Subject: Marin Clean Energy's True-Up Advice Letter

Division Assigned: Energy

Date Filed: 10-16-2023

Date to Calendar: 11-08-2023

Authorizing Documents: D2105031

Authorizing Documents: D2306055

<b>Disposition:</b>	<b>Accepted</b>
<b>Effective Date:</b>	<b>11-15-2023</b>

Resolution Required: No

Resolution Number: None

Commission Meeting Date: None

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**PUBLIC UTILITIES COMMISSION**  
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To: Energy Company Filing Advice Letter

From: Energy Division PAL Coordinator

Subject: Your Advice Letter Filing

The Energy Division of the California Public Utilities Commission has processed your recent Advice Letter (AL) filing and is returning an AL status certificate for your records.

The AL status certificate indicates:

- Advice Letter Number
- Name of Filer
- CPUC Corporate ID number of Filer
- Subject of Filing
- Date Filed
- Disposition of Filing (Accepted, Rejected, Withdrawn, etc.)
- Effective Date of Filing
- Other Miscellaneous Information (e.g., Resolution, if applicable, etc.)

The Energy Division has made no changes to your copy of the Advice Letter Filing; please review your Advice Letter Filing with the information contained in the AL status certificate, and update your Advice Letter and tariff records accordingly.

All inquiries to the California Public Utilities Commission on the status of your Advice Letter Filing will be answered by Energy Division staff based on the information contained in the Energy Division's PAL database from which the AL status certificate is generated. If you have any questions on this matter please contact the:

Energy Division's Tariff Unit by e-mail to  
**[edtariffunit@cpuc.ca.gov](mailto:edtariffunit@cpuc.ca.gov)**

# California Community Choice Association

SUBMITTED 02/20/2024, 02:31 PM

## Contact

Shawn-Dai Linderman (shawndai@cal-cca.org)

### 1. Please provide your feedback on the Sprint Approach employed in the Price Formation Working Group.

The California Community Choice Association (CalCCA) appreciates the opportunity to submit comments on the Price Formation Enhancements Scarcity Pricing Sprints. CalCCA has no comments on the Sprint Approach at this time.

### 2. Is there any issue/challenge related to Scarcity Pricing that has not been discussed and warrants further Working Group conversation?

Before moving forward with any proposed solution, the California Independent System Operator Corporation (CAISO) must determine (1) whether existing market mechanisms are insufficient to send the right price signals during periods of scarcity to incent resource availability, and (2) whether the options to consider presented at the workshop would achieve the CAISO's desired outcomes such as reliability, incentive alignment, and market efficiency.

The CAISO defines scarcity pricing conditions as those in which there is "no 'marginal cost of production.'" [1] If it is the case that there is no marginal cost of production, it is difficult to see how modifications to scarcity pricing mechanisms would result in increased reliability through additional supply availability rather than simply increasing generator profits. It is also difficult to see how modifications would incentivize bidding at marginal cost or produce efficient market outcomes.

[1] Sprint 1 Slide 9: <https://www.caiso.com/InitiativeDocuments/Presentation-Price-Formation-Enhancements-Jan10-2024.pdf>.

### 3. Please provide your organizations feedback on the following Problem Statements presented in the Sprint. This feedback can include comments on the issue/challenge identified, framing of the issue, potential solutions or necessary considerations in order to develop solutions.

a. CAISO's market design limits the opportunity for the Scarcity Reserve Demand Curve (SRDC) to activate during tight system conditions. b. CAISO's market design limits the opportunity for energy prices to gradually rise ahead of impending demand shortfall c. The impact on market prices from reliability use-limited resources and non-market actions during emergency events is not holistically captured by price formation d. Energy storage resource bids/DEBs are limited to a bid cap of \$1000/MWh which may not reflect opportunity costs in tight system conditions when the bid cap is raised to \$2000/MWh. e. The ISO market does not have a circuit breaker mechanism in the event scarcity pricing occurs over an extended period of time.

The problem statements presented in the sprints focused on ensuring prices can rise during tight system conditions to reflect scarcity at the right times. CalCCA understands the CAISO's desire to ensure the market sends the right price signals during periods of scarcity to attract supply and encourage generator performance. It is still not clear, however, that the existing market does not already accomplish these objectives by allowing supply to bid its marginal costs. The typical marginal resource, demand response, will bid at or near the bid cap to reflect its value of voluntary load curtailment. Market participants will be able to observe prices rising, signaling the importance of making sure supply is available and responsive to dispatch instructions. Before



proposing modifications to the existing Scarcity Pricing mechanisms, the CAISO should explain why this framework is insufficient for ensuring supply is available during tight system conditions.

The Working Group reviewed several actions the CAISO can take in the event of a shortage, including (1) the dispatch of reliability use-limited resources like the strategic reliability reserves or reliability demand response resources, (2) the use of Emergency Load Reduction Program or other load modifying programs that do not participate in the CAISO market economically, and (3) operator actions like calling Flex Alerts, arming load, or conducting load shedding. The CAISO then posed a price floor and value of lost load as preliminary options to consider given these actions are not fully captured by price formation.

The CAISO should not adopt administratively set prices based upon the value of lost load. Rather, the CAISO should incentivize resource bidding at marginal costs. As the CAISO dispatches resources up the bid stack, prices could rise to a level to reflect the value of lost load. During times of scarcity, the marginal resource will likely be a demand response resource that will *voluntarily* curtail load when prices are high enough. Demand response resources can be expected to bid at their value of lost load, which is typically at or near the bid cap. Therefore, demand response resources are likely to be the last available supply to be dispatched. Once demand response has been fully utilized, whether or not consumers are willing to pay more to avoid involuntary demand curtailment, there is no additional supply to pay for and simply increasing prices would not result in more available supply.

Setting scarcity prices based upon demand's willingness to pay to avoid *involuntary* load curtailments is problematic for the following reasons. *First*, it can compensate supply above the marginal resource's costs at a cost to consumers. Setting scarcity prices this way would degrade the incentives for resources to bid at their costs and create perverse incentives for generators to artificially trigger scarcity pricing. *Second*, it will be extremely difficult to determine a value that adequately reflects consumers' willingness to pay to avoid involuntary load curtailments while protecting consumers from excessively high prices when demand is inelastic and scarce conditions are present. *Third*, once there is no longer a marginal resource, continuing to increase prices will not make additional supply available. *Fourth*, it is not clear that simply increasing the price administratively will result in more supply output than what would have occurred at a lower administrative price or even at the market clearing price. Unless a supplier is taking a loss at a certain price, which the CAISO has measures to protect against, then the CAISO should not assume higher administrative prices will result in increased reliability. It will certainly cost consumers more for an unknown benefit.

Despite their potential impacts on prices, out-of-market actions are necessary at times to support system reliability. Moreover, the CAISO undertakes out-of-market actions when the market fails to solve for the system needs. The CAISO has cost recovery mechanisms in place for out-of-market actions so that resources that are dispatched in this manner will not operate at a loss. Given these considerations, there does not appear to be a need to refine the current structure as it relates to out-of-market actions and their impact on the CAISO market.

CalCCA agrees with the problem statement that limiting energy storage resource bids/Default Energy Bids to a bid cap of \$1000/ megawatt-hour (MWh) may not reflect opportunity costs in tight system conditions when the bid cap is raised to \$2000/MWh. CAISO should update its systems to allow storage to bid up to the cap that is in place at that point in time. Storage should be placed on a level playing field with all other resources that can bid up to \$2000/MWh.

#### **4. Of the problem statements that were discussed in the Scarcity Pricing Sprint, please provide your organizations view on this problem statement (High priority, Medium Priority, Low Priority, Not a priority, I need more information/discussion to decide).**

a. CAISO's market design limits the opportunity for the Scarcity Reserve Demand Curve (SRDC) to activate during tight system conditions. b. CAISO's market design limits the opportunity for energy prices to gradually rise ahead of impending demand shortfall c. The impact on market prices from reliability use-limited resources and non-market actions during emergency events is not holistically captured by price formation d. Energy storage resource bids/DEBs are limited to a bid cap of \$1000/MWh which may not reflect opportunity costs in tight system conditions when the bid cap is raised to \$2000/MWh. e. The ISO market does not have a circuit breaker mechanism in the event scarcity pricing occurs over an extended period of time.

While not an explicit problem statement identified above, CalCCA's highest priority within this initiative is to maintain the incentive for supply to bid its marginal cost and refrain from creating incentives for supply to bid

above marginal costs or bid in a manner that triggers scarcity pricing.

**5. In Sprint session 3, we provided some examples of out of market actions to explore. What are the out of market actions you believe should be explored further in Working Group conversation?**

See response to question 3.

**6. Please provide any additional comments of feedback on the Price Formation Enhancements Working Group.**

CalCCA has no additional comments at this time.

<b>DOCKETED</b>	
<b>Docket Number:</b>	21-OIR-01
<b>Project Title:</b>	Rulemaking to Amend Regulations Governing the Power Source Disclosure Program
<b>TN #:</b>	254723
<b>Document Title:</b>	CalCCA Comments on Pre-Rulemaking PSD Revised Updates
<b>Description:</b>	CalCCA Comments on Pre-Rulemaking PSD Revised Updates
<b>Filer:</b>	Shawn-Dai Linderman
<b>Organization:</b>	CALIFORNIA COMMUNITY CHOICE ASSOCIATION
<b>Submitter Role:</b>	Public
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<b>Docketed Date:</b>	2/21/2024

**STATE OF CALIFORNIA  
CALIFORNIA ENERGY COMMISSION**

*IN THE MATTER OF:*

Rulemaking to Amend Regulations Governing  
the Power Source Disclosure Program

DOCKET NO. 21-OIR-01

RE: Power Source Disclosure

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S COMMENTS  
ON THE PRE-RULEMAKING UPDATES TO THE POWER SOURCE  
DISCLOSURE REGULATIONS**

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February 21, 2024

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**STATE OF CALIFORNIA  
CALIFORNIA ENERGY COMMISSION**

*IN THE MATTER OF:*

Rulemaking to Amend Regulations Governing  
the Power Source Disclosure Program

DOCKET NO. 21-OIR-01

RE: Power Source Disclosure

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION’S COMMENTS  
ON THE PRE-RULEMAKING UPDATES TO THE POWER SOURCE  
DISCLOSURE REGULATIONS**

California Community Choice Association<sup>1</sup> (CalCCA) submits these comments to the California Energy Commission (Commission) on the second version of the “Pre-Rulemaking Draft” of Proposed Amendments to the Power Source Disclosure (PSD) program regulations, and the “Summary of Changes and FAQs,” both dated January 31, 2024 (collectively, the Proposed PSD Updates).

**I. INTRODUCTION**

CalCCA appreciates the opportunity to comment on the Proposed PSD Updates, and to be a participant in both this pre-rulemaking and the upcoming Rulemaking to formalize the PSD program modifications. As generation providers to approximately 37 percent of customers in the investor-owned utilities’ (IOU) territories, community choice aggregators (CCA) as load-serving

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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 of Southern California, 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.

entities (LSE) serve approximately 14 million electricity customers in California. CCAs have a strong interest in ensuring the accurate portrayal of their electricity portfolios through the PSD program and the power content labels (PCL), especially given their focus on procurement of renewable and green-house gas-free (GHG-free) electricity to meet California's decarbonization goals.

The Proposed PSD Updates follow draft regulations, a draft hourly reporting template, a staff proposal paper, and a pre-rulemaking workshop all in September 2023, and party comments on the draft regulations submitted in October 2023. This first draft included changes to the regulatory language to refine the annual accounting rules, implement the hourly reporting requirements from Senate Bill 1158 (Stats. 2022, ch. 367) (SB 1158), and adopt annual deadlines for posting and distributing of retail suppliers' PCLs as required by Assembly Bill 242 (Stats. 2021, ch. 228). The Proposed PSD Updates include the second round of revisions to the proposed regulations, including:

- (1) attributing emissions from oversupplied resources not to a retail supplier's specified purchases, but rather to the hourly unspecified power emissions factor;
- (2) omitting green-house gas (GHG) emissions associated with geothermal resources from the PCL and aligning the label with the GHG emissions subject to a compliance obligation under Cap-and-Trade;
- (3) agreeing with commenters that the PSD program should utilize more complete data to calculate the emissions factor for system power purchases of undersupplied utilities;
- (4) retaining the line loss adjustment factors from the first set of pre-rulemaking regulations (i.e., a four percent loss adjustment factor for specified in-state resources, an additional two percent loss adjustment factor for specified imports, and a variable loss adjustment factor for hourly unspecified power), but allowing reported losses from retail suppliers that have verifiable loss data;
- (5) estimating (i.e., providing proxies of) hourly production profiles of resources when they are unobtainable by using the Clean System Power (CSP) calculator of the California Public Utilities Commission (CPUC);

- (6) for reporting on Voluntary Allocation and Market Offer (VAMO) transactions and other allocations, requiring the IOUs to submit an allocation report on or before May 1 of each year, which includes hourly resources allocated to other retail suppliers, and providing access to applicable entities to use in hourly and annual reporting;
- (7) for resources sold or allocated to parties without specific hourly distributions to each party, a retail supplier will claim its hourly share of the resource based on its proportional share of the annual procurement of the resource, and when hourly generation data is unobtainable, the retail supplier will report hourly data using the hourly distribution tool for the relevant fuel type;
- (8) allowing retail suppliers with an annual electric demand of less than 1,000 gigawatt hours (GWh) to report proxy data obtained from the CSP for all their resources to minimize the reporting burden for these relatively small retail providers, as long as the retail supplier provides its hourly load;
- (9) consolidating the annual and hourly reporting;
- (10) requiring retail suppliers to report annual loss-adjusted load; and
- (11) revising the PCL template to ensure accuracy and less confusion for customers, including reclassifying unspecified power as “unspecified power (primarily fossil fuels),” and incorporating a footnote stating that “unspecified power is primarily fossil fuel generation but may include other resources.”

CalCCA supports the proposed updates and appreciates the Commission’s efforts to improve the accuracy of the PSD and PCL. CalCCA provides the following additional recommendations and requests for clarification to continue the refinement of the regulations:

- the Commission should clarify when the new annual accounting rules will take effect;
- the PCL should be made more accessible through language translations and screen reader compatibility;
- the Commission should allow exemptions of procurement for retail supplier limited eligibility procurement products which are not generally applicable to all customers; and
- Example use cases, templates, and program testing opportunities should be provided for each new accounting rule to ensure accurate and consistent implementation among retail suppliers.



## **II. THE PROPOSED PSD UPDATES SHOULD BE ADOPTED, WITH CLARIFICATIONS**

The Proposed PSD Updates should be adopted. With this second set of revisions, the Commission has addressed many of the concerns raised by CalCCA and other commenters in comments on the first set of revisions in September 2023. CalCCA appreciates the Commission's diligence in balancing the interests of stakeholders, while refining the PSD accounting rules and PCL to better reflect retail suppliers' procurement. In particular, CalCCA appreciates the updated regulation's clarification of treatment of VAMO and all other allocations from the IOUs to CCAs. CalCCA also appreciates the system put into place for the IOUs to provide an annual detailed report of allocations to allow CCAs to accurately reflect such allocations in their reporting. The Commission's adoption of an exemption from the hourly reporting requirement for retail suppliers (with an annual electrical demand of less than 1,000 GWh) will also minimize the reporting burden for these small entities. Finally, acknowledging that unspecified power does not only consist of fossil fuels, but may include other resources, more accurately depicts the makeup of unspecified power.

To further refine and improve the accuracy of the PSD and PCL, CalCCA also recommends below that: (1) the Commission clarify when the new annual accounting rules will take effect; (2) the PCL be made more accessible to non-English and visually impaired customers; (3) additional exemptions to hourly reporting should be made for small procurement programs of limited applicability; and (4) example use cases, templates, and program testing opportunities should be provided for the new rules to ensure consistent and accurate implementation by retail suppliers.

**A. The Commission Should Clarify When the New Annual Accounting Rules Will Take Effect**

While SB 1158 clearly requires the reporting of hourly data beginning in 2028, the Commission has not clarified when the new annual reporting rules will take effect. Therefore, the Commission should clarify the implementation date of the new annual reporting rules to occur in 2026, considering the need for retail suppliers to themselves implement and adapt to the new rules.

**B. User Accessibility of the Power Content Label for Non-English Speakers and the Visually Impaired Should be Addressed**

The Commission should increase the accessibility of the PCL to allow non-English speakers and the visually impaired to access the information. The PCL should be translated into languages spoken by many customers in California, including Spanish, Mandarin, Vietnamese, and others. In addition, the Commission should make the PCL screen reader compatible so that visually impaired customers can access the PCL to understand its content. The greater accessibility the Commission allows, the more customers the PCL can reach.

**C. Procurement for Small Procurement Programs With Narrow Eligibility Requirements and Limited Applicability Should Be Exempted from Reporting**

The Commission should allow exemptions for hourly reporting of procurement for programs with narrow eligibility requirements and limited applicability among customers. For example, the Disadvantaged Communities-Green Tariff program enables income-qualified residential customers in Disadvantaged Communities who may be unable to install solar on their roof to benefit from utility scale clean energy and receive a 20 percent bill discount. The procurement for such programs is relatively small, the eligibility for the program is limited and therefore the program is not of general applicability to all customers, and the hourly reporting burden will be quite large. Therefore, stakeholders and the Commission should compile a list of small procurement programs that can be exempted from the hourly reporting.

**D. The Commission Should Provide Example ‘Use Cases,’ Templates, and Program Testing Opportunities to Ensure Accurate and Consistent Implementation of the New Hourly and Annual Reporting Rules**

Given the complexity of the new hourly and annual reporting rules for retail sellers, the Commission should provide example “use cases” for each new accounting rule to clearly establish how the rules will be applied. In addition, to the extent new templates and programs are established to implement the new rules, the Commission should allow retail suppliers adequate time to test the new templates and programs well before they are required to be implemented. As such, these new templates and “use cases” would provide the most value if they are developed and made available by the end of 2024.

**III. CONCLUSION**

CalCCA looks forward to further collaboration on this topic in the pre-rulemaking and rulemaking phases.

Respectfully submitted,

/s/ Leanne Bober

Leanne Bober,  
Senior Counsel  
CALIFORNIA COMMUNITY CHOICE  
ASSOCIATION

February 21, 2024

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

Order Instituting Rulemaking Regarding  
Policies, Procedures and Rules for the Self-  
Generation Incentive Program and Related  
Issues.

Rulemaking 20-05-012

**OPENING COMMENTS OF THE JOINT COMMUNITY CHOICE AGGREGATORS  
ON PROPOSED DECISION IMPLEMENTING ASSEMBLY BILL 209 AND  
IMPROVING SELF-GENERATION INCENTIVE PROGRAM EQUITY OUTCOMES**

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*On behalf of Joint Community Choice  
Aggregators*

February 22, 2024

## **SUBJECT MATTER INDEX**

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## **SUMMARY OF RECOMMENDATIONS**

- The Commission should revise the Proposed Decision (PD) and require Self-Generation Incentive Program (SGIP) recipients to participate in a “qualified Demand Response (DR)” program as defined in Decision (D.) 23-12-005.
- The Commission should clarify that SGIP recipients are permitted to switch between qualified DR programs within the first ten years of receiving SGIP incentives.
- The Commission should continue to evaluate eligible project costs in the workshop process the PD orders.

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

Order Instituting Rulemaking Regarding  
Policies, Procedures and Rules for the Self-  
Generation Incentive Program and Related  
Issues.

Rulemaking 20-05-012

**OPENING COMMENTS OF THE JOINT COMMUNITY CHOICE AGGREGATORS  
ON PROPOSED DECISION IMPLEMENTING ASSEMBLY BILL 209 AND  
IMPROVING SELF-GENERATION INCENTIVE PROGRAM EQUITY OUTCOMES**

The Joint Community Choice Aggregators<sup>1</sup> (Joint CCAs) submit these comments on the *Proposed Decision Implementing Assembly Bill 209 and Improving Self-Generation Incentive Program Equity Outcomes* (PD) pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission. These comments focus on the PD’s directive that all new Self-Generation Incentive Program (SGIP) participants must enroll in one of the qualified Demand Response (DR) programs listed in Appendix E to the PD. The DR programs listed in Appendix E are a sub-set of the programs that meet the definition of “qualified DR programs” established just two months ago in the DR Application proceeding decision, Decision (D.) 23-12-005 (DR Decision).<sup>2</sup>

The PD errs by subjecting SGIP participants to a different, more narrow definition of “qualified DR programs” than the inclusive definition established in the DR Decision. Rather than narrowing customers’ choices, the Commission should maximize DR enrollment options for SGIP incentive recipients to not only encourage SGIP participation but also foster the continued

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<sup>1</sup> The Joint CCAs consist of Ava Community Energy Authority (Ava), Marin Clean Energy (MCE), Peninsula Clean Energy Authority (PCE), Sonoma Clean Power Authority (SCP) and the City of San José.

<sup>2</sup> Application of Pacific Gas and Electric Company (U39E) for Approval of its Demand Response Programs, Pilots and Budgets for Program Years 2023-2027 and Related Matters, A.22-05-002 et al. (DR Application proceeding), Decision (D.) 23-12-005 at 24-25 (Dec. 20, 2023) (DR Decision).



diversification of the DR program market. Moreover, the Commission should not establish a pattern of creating distinct definitions of “qualified DR program” for each incentive or rebate program. Doing so would not only promote confusion among program administrators, developers and customers, it would also waste Commission and stakeholder resources without offering any clear benefit. Indeed, the PD provides no justification for creating an SGIP-specific definition of “qualified DR program” beyond the bare assertion that Appendix E “best serves SGIP program implementation.”<sup>3</sup> The Commission should therefore revise the PD and require SGIP recipients to participate in a “qualified DR program” as defined in D.23-12-005.

The PD also requires SGIP recipients maintain enrollment and participation in a qualified DR program for a project 10-year permanency period.<sup>4</sup> The Joint CCAs request the Commission clarify that SGIP recipients may switch the DR program in which they are enrolled during the 10-year period, provided the programs each meet the definition of “qualified DR program.”

**I. THE COMMISSION SHOULD REVISE THE PD AND REQUIRE SGIP RECIPIENTS TO PARTICIPATE IN A QUALIFIED DR PROGRAM AS DEFINED IN D.23-12-005**

The October 26, 2022 Assigned Commissioner Ruling asked parties to comment on whether the Commission should require all new SGIP storage incentives and AB 209 recipients to enroll in either a supply-side market integrated DR program, or load modifying DR program such as critical peak pricing (CPP).<sup>5</sup> The Joint CCAs recommended that SGIP program administrators (PAs) encourage SGIP participants to enroll in DR programs, but did not agree participants should be required to participate in (or be auto-enrolled in) any given DR program, both because automatic

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<sup>3</sup> PD at 74.

<sup>4</sup> *Id.*

<sup>5</sup> Assigned Commissioner’s Ruling Seeking Comments on Improving Self-Generation Incentive Program Equity Outcomes and Assembly Bill 209 Implementation at 20-21 (Oct. 26, 2022).

or mandatory enrollment in DR programs does not necessarily lead to effective or beneficial participation, and because DR program goals may at times be at odds with the goal of SGIP.<sup>6</sup>

The PD does not adopt the Joint CCAs' view. It requires new SGIP participants to enroll in one of the qualified DR programs listed in Appendix E to the PD.<sup>7</sup> The programs listed in Appendix E are a sub-set of the programs meeting the definition of "qualified DR program" recently established in the DR Decision, D.23-12-005. While the Joint CCAs will no longer oppose a mandatory DR program enrollment requirement for SGIP participants, the Commission should not limit "qualified DR programs" for SGIP purposes to the list of programs in Appendix E.

Narrowing the list of DR programs in which SGIP participants may enroll to meet the DR program enrollment requirement is not sound policy for at least three reasons. First, the PD narrows customer choice to the potential detriment of both the SGIP program's goals and the state's reliability objectives. That is because, all else equal, a narrow list of qualified programs risks dampening both SGIP and DR program participation. The Commission should instead support a broad range of DR program enrollment options—including community choice aggregator (CCA)-administered programs—in order to ensure all SGIP participants are able to enroll in a DR program that suits their needs while encouraging the DR market to continue improving program offerings.

Second, by creating a different definition of "qualified DR program" than the definition established in the DR Decision (and incorporated by reference in the SGIP Heat Pump Water Heater decision, D.23-12-004<sup>8</sup>) the PD risks increasing confusion among customers, developers and PAs by requiring them to track multiple distinct eligibility criteria. Requiring these additional costs of customers, developers and PAs offers no clear benefit, because in each case, the objective

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<sup>6</sup> Amended Comments of the Joint Community Choice Aggregators on Assigned Commissioner's Ruling at 14-15 (Dec. 2, 2022).

<sup>7</sup> PD at 70, Ordering Paragraph 17.

<sup>8</sup> D.23-12-004 at Ordering Paragraph 1.

of the DR program enrollment requirement is the same: to realize more grid value from the asset receiving an incentive.

Third, even if it were reasonable to limit SGIP participants to a narrower set of “qualified DR programs” than the definition established in the DR decision (which, as explained above, it is not), that limitation is premature at this stage. The DR Decision directed investor-owned utilities (IOUs) and CCAs to submit a Tier 2 advice letter to identify DR programs meeting the requirements listed in that decision.<sup>9</sup> Those Tier 2 advice letters have not yet been submitted. Until IOUs and CCAs create and submit that comprehensive list, the Commission cannot reasonably determine the subset of programs that best match SGIP’s needs, to the extent it finds it necessary to make that determination.

Rather than attempting to re-invent the wheel for each incentive or rebate program, the Commission should align the definition of “qualified DR program” for SGIP purposes with the DR Decision. The Commission arrived at that definition after considering input from several parties, including the IOUs and multiple CCAs, and the definition is therefore broad and robust. The very purpose of establishing a definition of “qualified DR program” in the DR proceeding was to create something that could be easily referenced and would facilitate DR program enrollment requirements in other non-DR proceedings.<sup>10</sup> The Commission should therefore replace Appendix E with the definition of “qualified DR program” established in D.23-12-005, which is as follows:

1. Economic supply-side market integrated DR programs counted for RA irrespective of whether the administrator is an IOU, CCA or third-party DRP.
2. Load modifying DR programs that satisfy the following two requirements:
  - a. The program is indirectly integrated with the CAISO energy market such that the program’s dispatch signal is linked to the energy prices in the Day-Ahead or real-time market – operational domain.

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<sup>9</sup> D.23-12-005 at 25, Ordering Paragraph 10.

<sup>10</sup> *Id.* at 22.

- b. The program’s load impact is counted towards RA obligations directly or indirectly through a Commission-approved process (such as, via a process for reducing RA obligations by integrating the program’s load impact with CEC’s peak forecasts) – planning domain.
3. Any DR pilot authorized and designated by the Commission in a DR proceeding including R.22-07-005 as a “qualified” DR program eligible to meet the DR enrollment requirement.
4. Critical Peak Pricing or Peak Day Pricing. These options, which at this time do not meet requirement 2a above, shall be discontinued as a “qualified” DR program if they still do not meet requirements listed here when the dynamic rate(s) under consideration in R.22-07-005 (to comply with CEC adopted Load Management Standards (California Code of Regulations – Title 20, Article 5, §1623)) are made available to customers.

Finally, the PD also requires SGIP recipients maintain enrollment and participation in a qualified DR program for a project 10-year permanency period.<sup>11</sup> While the Joint CCAs do not object to that requirement, the list of qualified DR programs is likely to change over a 10 year period as the DR market continues to evolve, and customers should have the flexibility to enroll in new DR programs that best suit their needs. The Joint CCAs therefore request the Commission clarify that SGIP recipients may switch the DR program in which they are enrolled during the 10-year period, provided the programs each meet the definition of “qualified DR program.”

## **II. THE COMMISSION SHOULD CONTINUE TO EVALUATE ELIGIBLE COSTS IN THE WORKSHOP PROCESS THE PD ORDERS**

The PD declines to expand or increase the project costs eligible for coverage via the equity budget category.<sup>12</sup> While the Joint CCAs advocated for broader eligible cost coverage to promote greater low-income customer participation in SGIP,<sup>13</sup> the Joint CCAs do not object to the PD’s conclusion. However, the Joint CCAs recommend the Commission expressly state that it will continue to evaluate the merits of expanding or increasing eligible project costs as a part of the

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<sup>11</sup> PD at 74.

<sup>12</sup> *Id.* at 56-57.

<sup>13</sup> Amended Comments of the Joint Community Choice Aggregators on Assigned Commissioner’s Ruling at 13-14 (Dec. 2, 2022).

workshop process it directs.<sup>14</sup> That workshop will consider proposals aimed at maximizing the Inflation Reduction Act (IRA) cost share for SGIP projects, including all cost categories potentially eligible for tax credits under the IRA such as solar, storage and panel upgrades.<sup>15</sup> It will also consider “residual costs to low-income customers.”<sup>16</sup> That consideration can and should include a continued evaluation of whether the current eligibility limits on project cost eligibility are reasonable given the availability and applicability of IRA tax credits, or whether those limits should be revised to promote greater low income customer uptake and better meet low-income customers’ needs.

### III. CONCLUSION

The Joint CCAs respectfully request the Commission adopt the revisions discussed in these comments and in Appendix A.

Respectfully submitted,



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*On behalf of Joint Community Choice  
Aggregators*

Dated: February 22, 2024

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<sup>14</sup> PD at 60, Ordering Paragraph 26.T.

<sup>15</sup> Id. at 60.

<sup>16</sup> Id.

## APPENDIX A

Pursuant to Rule 14.3(b) of the Commission's Rules of Practice and Procedure, the Joint CCAs provide this Appendix setting forth proposed changes to the ordering paragraphs in the *Proposed Decision Implementing Assembly Bill 209 and Improving Self-Generation Incentive Program Equity Outcomes*. The Joint CCAs' proposed revisions appear in underline and strike-through.

### Ordering Paragraphs

17. Program Administrators for the Self-Generation Incentive Program must ensure that incentive applicants are required to enroll in a qualified Demand Response program as defined in D.23-12-005 and as described in Appendix E ~~and Section 13.3 of this Decision~~.

26. Program Administrators (PAs) for the Self-Generation Incentive Program (SGIP) shall hold a workshop to develop proposals to maximize the federal cost share of SGIP project costs covered by the federal Inflation Reduction Act tax credits and to evaluate whether changes to current project cost eligibility is warranted. Within six months after the adoption of this Decision, the PAs shall file and serve the proposal through a Tier 2 Advice Letter.

# California Community Choice Association

SUBMITTED 02/27/2024, 03:02 PM

## Contact

Lauren Carr (lauren@cal-cca.org)

## 1. Provide a summary of your organization's comments on the 2/13 RAMPD Working Group discussion:

The California Community Choice Association (CalCCA) appreciates the opportunity to submit comments on the February 13, 2024, Resource Adequacy (RA) Modeling and Program Design Working Group meeting (Working Group). The California Independent System Operator Corporation's (CAISO) role in the RA program is critical to ensuring sufficient capacity is available to the market to support reliable electric service. To enhance the CAISO's program design, tools, and modeling, the CAISO should adopt the following recommendations described in detail herein:

- The CAISO should closely monitor the results of the next Deliverability Assessment(s) to gauge the effectiveness of the Generator Deliverability Assessment Review initiative's modifications, report back to stakeholders, and, as warranted, revisit key elements of this effort for future modifications.
- The CAISO should leverage many of the principles and proposal elements from its prior 2021 unforced capacity (UCAP) proposal.
- The CAISO should couple UCAP with clarifications to the definitions of outage types and bid insertion rules.
- As part of this initiative and the California Public Utilities Commission's (Commission) RA proceeding (R.23-10-011), the CAISO and CPUC should seek to resolve differences between each entity's proposal and adopt a uniform UCAP counting framework that produces resource-specific UCAP values.
- The CAISO should encourage and provide opportunities for all Local Regulatory Authorities (LRAs) to adopt the same resource counting and availability incentive methodology. As an alternative, if some LRAs adopt a UCAP methodology while others do not, the best way to ensure comparable treatment across LRAs is to balance resource counting and Planning Reserve Margin (PRM) setting in a manner that ensures the same reliability target across LRAs.
- The CAISO should add stack analyses to accompany its proposed probabilistic modeling framework.
- To develop 100 percent projected RA showings for the year-ahead needed for the short-term assessment, the CAISO should estimate the 100 percent RA showings using the information it has that market participants do not.
- To obtain projected estimates of contracted capacity needed for the medium-term assessment, the CAISO should coordinate with the CPUC, which already collects the data necessary to estimate incremental new additions as part of its Joint Reliability Planning Assessment<sup>[1]</sup> (Joint Assessment).

[1] See, for example, the expected contracted resources from the *Joint Reliability Planning Assessment - SB 846 Fourth Quarterly Report*, Tables 3 and 4: <https://efiling.energy.ca.gov/GetDocument.aspx?tn=25342>. CalCCA used this data to perform its stack analysis of RA sufficiency for years 2024-2026, Exhibit A: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M524/K571/524571013.PDF>.

## 2. Provide your organization's comments on the review of feedback received on problem statements 2 and 3:

CalCCA has no comments on the stakeholder feedback received on problem statements 2 and 3 at this time.

## 3. Provide your organization's comments on the CAISO presentation, Continued Exploration of Problem Statements: Deliverability:

In the workshop, the CAISO reviewed the changes proposed in the Generation Deliverability Methodology Review Final Proposal aimed at ensuring deliverability requirements balance reliability and cost containment and are not unduly burdensome. As communicated within the Generation Deliverability Methodology Review

initiative,[1] CalCCA supports the proposed modifications, but recommends that over the next 12 months, the CAISO closely monitors the results of the next Deliverability Assessment(s) to gauge the effectiveness of the modifications, report back to stakeholders, and, as warranted, revisit key elements of this effort for future modifications.

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[1] <https://stakeholdercenter.caiso.com/Comments/AllComments/00e00fb1-d7c8-49db-a7e6-090daecf421a#org-cb335852-8962-4646-8d56-0de010bb02ca>.

#### **4. Provide your organization's comments on the CAISO presentation, Prior 2021 UCAP Proposal Refresher:**

The CAISO's 2021 UCAP proposal contains many principles and proposal elements that the CAISO and CPUC should leverage as they develop their UCAP methodology. Such elements include:

- Allowing UCAP to dynamically capture forced outage rates rather than relying on the PRM; Under UCAP, the PRM would only need to cover operating reserves and forecast error;
- Calculating resource-specific UCAP values to maintain the incentives individual generators have to maintain their plants and limit forced outages;
- Differentiating UCAP values by season to capture any potential patterns in forced outages due to temperature or other seasonal factors;
- Assessing forced outages during the tightest supply cushion hours or when generation is in demand;
- Applying counting rules in a manner that puts all technology types on a level playing field and accurately reflects their capabilities in both the year-ahead and month-ahead timeframe – this should include a review of the counting methodologies for all resources (including those that would use UCAP, like thermal and storage, and those that would not, like hydro); and
- Setting the must-offer obligation at the deliverable qualifying capacity amount rather than the UCAP amount so that enough supply is offered into the market to account for expected forced outages without substitution.

The CAISO should couple UCAP with clarifications to the definitions of outage types (forced, planned, urgent, and opportunity) so that generators are clear about what outage type they need to define their outages as, and which outage types UCAP applies to. The CAISO should also revisit its bid insertion rules to ensure that resources are incentivized to properly submit outages when they are unavailable so that UCAP values accurately reflect availability.

#### **5. Provide your organization's comments on the CPUC presentation, RA Proceeding UCAP Scoring:**

During the workshop, the CPUC presented its UCAP proposal Energy Division submitted in the RA proceeding, R.23-10-011.[1] The CPUC's proposal would produce technology-specific UCAP values rather than unit-specific UCAP values. Unit-specific UCAP values are necessary because they provide incentives for units to be available and take actions to minimize forced outages. Technology-specific values diminish these incentives by not directly rewarding resources that are reliable with higher UCAP values and directly penalizing resources that are not reliable with lower UCAP values. The CAISO and the CPUC should leverage Outage Management System (OMS) to develop publicly available UCAP values and give generators an opportunity to validate the value as they do with NQC today. OMS appears to be a superior data source given it tracks outages for all CAISO resources, while Generating Availability Data System (GADS) only tracks outages for a subset of resources.

The CPUC's proposed methodology and the CAISO's previous UCAP proposal differ in a number of ways (technology-specific versus unit-specific UCAP values, monthly versus seasonal UCAP values, Effective Forced Outage Rate of Demand (EFORD) versus tightest supply cushion, etc.). As part of this initiative and the CPUC's RA proceeding, the CAISO and CPUC should seek to resolve these differences and adopt a uniform UCAP counting framework.



[1] *Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Reforms and Refinements, and Establish Forward Resource Adequacy Procurement Obligations*, Rulemaking (R.) 23-10-011 (10/12/23): [https://apps.cpuc.ca.gov/apex/f?p=401:56:::RP,57,RIR:P5\\_PROCEEDING\\_SELECT:R2310011](https://apps.cpuc.ca.gov/apex/f?p=401:56:::RP,57,RIR:P5_PROCEEDING_SELECT:R2310011).

## 6. Provide your organization's comments on the panel discussion, Stakeholder Perspectives on Balancing Resource Counting with Availability and Performance Incentives:

CalCCA appreciates the opportunity to hear the perspectives of other panelists regarding resource counting and its interactions with availability and performance incentives. The panel discussion was helpful in informing the following recommendations.

The CAISO should encourage and provide opportunities for all LRAs to adopt the same resource counting and availability incentive methodology. Regardless of the LRA and load-serving entity (LSE), all resources participate in the same market and should have the same incentives to be available. The CAISO should adopt a UCAP methodology collaboratively with all LRAs to align on availability incentives and resource counting to the greatest extent possible.

As an alternative, if some LRAs adopt a UCAP methodology while others do not, the best way to ensure comparable treatment across LRAs is to balance resource counting and PRM setting in a manner that ensures the same reliability target across LRAs. LRAs using UCAP should adjust their PRMs so that the portion of the PRM that accounts for forced outage rates is removed because it is instead accounted for in the counting rules for resources. The CAISO or the California Energy Commission could evaluate PRMs and recommend higher PRMs for those LRAs that choose to use a less reliable accounting of expected resource output. This would place requirements on a similar basis; one that accounts for expected outages within the resource counting and the other that counts for it in the PRM.

A UCAP counting framework should have the following key attributes. *First*, UCAP values should be unit-specific. The CAISO should collect data as needed to calculate accurate, unit-specific UCAP values. Non-unit-specific UCAP values, like technology-specific values, do not create the same incentive to conduct planned maintenance to keep the plants reliable. It may be necessary to use an average technology-based UCAP value for new resources that do not yet have data to create their own UCAP. The CAISO could consider using a class average of the newest resources in the class for which data is available before transitioning resources to unit-specific values. *Second*, the CAISO should calculate UCAP values for all deliverable generators at all times regardless of whether they are being shown for RA at a given time or not. This will ensure all resources capable of providing RA have the same incentives to maintain their plant and have a high UCAP value for when they sell RA in the future. *Third*, the CAISO should not allow an option to get out of UCAP accounting by providing replacement/substitution. UCAP eliminates the need to manage risk associated with providing substitution while evaluating all resources on a level playing field. *Fourth*, a UCAP counting framework should allow for the full elimination of Resource Adequacy Availability Incentive Mechanism (RAAIM). UCAP provides better availability incentives than RAAIM because it ties resource-specific performance to RA prices, which are currently much higher than the RAAIM penalty price. This problem cannot be solved by modifying the RAAIM price because, by design, the RAAIM price is too static to drive performance when RA prices change. *Fifth*, information about UCAP values should be publicly available so that the market can reasonably forecast RA credit for the next year. *Finally*, UCAP should be set on an annual basis the June prior to the annual showings so that LSEs know the value of resources they are contracting for and do not have uncertainty during the RA year.

CalCCA appreciates the Six Cities' presentation on current challenges in resource procurement and strongly agrees with the Six Cities' conclusion that "LSEs are unable to build, buy, or import RA-eligible capacity at a reasonable price at this time." CalCCA has reached a similar conclusion through its stack analysis of the RA supply and demand balance from 2023 through 2026 and its analysis of the Federal Energy Regulatory Commission's Electronic Quarterly Reports.[1]

CalCCA does not take a position on the Six Cities conceptual proposals at this time but asks clarifying questions on conceptual proposals three and four. First, it would be helpful to understand how conceptual proposal three differs from the CAISO's existing Capacity Procurement Mechanism. Second, is the purpose or effect of conceptual proposal four to modify the must-offer obligation of RA shown for different days? Answers to these questions will aid in developing a position on these proposals.

[1] *Public Version California Community Choice Association's Comments on Assigned Commissioner's Scoping Memo and Ruling, R.23-10-011 (Jan. 19, 2024), Exhibit A:* <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M524/K571/524571013.PDF>.

## 7. Provide your organization's comments on the CAISO presentation, Potential Modeling Frameworks:

The CAISO proposes to perform modeling to ensure capacity sufficiency in the short-term, medium-term, and long-term. In the short-term modeling (year-ahead), the CAISO will assess whether the year-ahead RA showings are adequate to meet a reliability target. In the medium-term modeling (2-4 years ahead), the CAISO will assess whether the current level of authorized procurement and contracted capacity is sufficient to meet a reliability target. In the long-term modeling (5-10 years ahead), the CAISO will assess whether long-term planning will produce resource-adequate portfolios that meet reliability targets. The CAISO's proposed study scope appears to offer valuable information about the sufficiency of the RA fleet to meet demand, but the CAISO should add stack analyses to accompany the probabilistic modeling for the reasons described in its December 20, 2023 comments.<sup>[1]</sup>

The CAISO indicates that to conduct its modeling, it may need to solicit information from LSEs that it would use to make assumptions about what types of resources LSEs will have under contract in each time period. This information the CAISO would request LSEs provide for the short-term and medium-term includes:

- Short-term – monthly non-binding 100 percent projected RA “soft showings” for the year-ahead; and
- Medium-term – projected estimates of contract capacity including incremental new additions (including CAISO resource IDs and queue numbers for new resource additions) and retirement assumptions.

This type of information is necessary for the CAISO to fully capture the projected availability of RA capacity and avoid results that show false capacity insufficiencies. The CAISO should, however, adopt the following recommendations for information gathering:

- To develop 100 percent projected RA showings for the year-ahead needed for the short-term assessment, the CAISO should estimate the 100 percent RA showings using the information it has that market participants do not. The CAISO has access to all LSE year-ahead (YA) showings and supply plans. The CAISO also has the current NQC list as well as knowledge of historical RA imports in the YA and month ahead (MA) time frame and the trend of those imports over time. Equipped with that knowledge, the CAISO is in the best position to use its available data to understand what is likely to be available to CA LSEs to meet the remaining MA RA requirement. Given the information that the CAISO has, the CAISO can identify resources on the NQC list that have not been shown in the YA RA showings and use that information to make better assumptions about what resources will be shown between the YA and MA.
- To obtain projected estimates of contracted capacity needed for the medium-term assessment, the CAISO should coordinate with the CPUC, which already collects the data necessary to estimate incremental new additions as part of its Joint Assessment.<sup>[2]</sup> Such coordination would ensure the CAISO and CPUC are using consistent data sources to identify expected new resources and would minimize the administrative burden on LSEs who already report such data in various places. The CAISO could then combine this data with the NQC list and retirement assumptions to result in a full list of new and existing capacity expected to be available in the medium term.

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[1] <https://stakeholdercenter.caiso.com/Comments/AllComments/1aafa171-55d2-4e71-869e-f2b78a0718c9>.

[2] See, for example, the expected contracted resources from the Joint Reliability Planning Assessment - SB 846 Fourth Quarterly Report, Tables 3 and 4: <https://efiling.energy.ca.gov/GetDocument.aspx?tn=25342>. CalCCA used this data to perform its stack analysis of RA sufficiency for years 2024-2026 at the following link in Exhibit A: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M524/K571/524571013.PDF>.

## 8. Additional comments:

CalCCA has no additional comments at this time.

**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

U 39 E

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S  
MOTION FOR COMMISSION REVIEW OF  
ADMINISTRATIVE LAW JUDGE'S EVIDENTIARY RULINGS**

**PUBLIC VERSION**

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February 23, 2024

**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

U 39 E

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION’S  
MOTION FOR COMMISSION REVIEW OF  
ADMINISTRATIVE LAW JUDGE’S EVIDENTIARY RULINGS**

California Community Choice Association (CalCCA)<sup>1</sup> submits this motion seeking the California Public Utilities Commission’s review of the Administrative Law Judge’s (ALJ) following three rulings (collectively, “Rulings”) in the above-captioned proceeding pursuant to Rules 11.1(a), 13.6 (a) and 13.6(c) of the Commission’s Rules of Practice:

1. Ruling granting Pacific Gas and Electric Company’s (PG&E) Motion to Strike Portions of the Prepared Testimony of Brian Shuey;<sup>2</sup>

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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> 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).

2. Ruling denying CalCCA's motion requesting official notice of certain documents filed in San Diego Gas & Electric Company's (SDG&E) 2022 ERRR Compliance proceeding;<sup>3</sup> and
3. Ruling determining the disputed factual issues CalCCA identified for cross examination during the evidentiary hearing are irrelevant to this proceeding and taking the evidentiary hearing scheduled for February 21, 2024 off the calendar.<sup>4</sup>

Through this motion, CalCCA also makes an offer of proof for the record pursuant to Rule 13.6 (e) because, in light of the ALJ's ruling taking the evidentiary hearing off the calendar, CalCCA will not have an opportunity to make an offer of proof during the hearing.

CalCCA's testimony, motion for official notice, and intended cross examination all focus on PG&E's sales of, and attempts (or lack thereof) to sell, excess System Resource Adequacy (RA) during the summer of 2022. PG&E's efforts bear directly on the Power Charge Indifference Adjustment (PCIA) rates that community choice aggregator (CCA) customers pay. Sales proceeds from RA are credited to all PCIA ratepayers. As such, if PG&E makes inadequate efforts to sell RA, that can result in CCA customers (customers of CalCCA's members) paying higher PCIA rates than they should be paying. 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 ALJ's refusal to entertain testimony and cross examination on PG&E's RA sales practices as a part of that ERRR review is therefore extraordinary.

To put a finer point on why PG&E's RA sales matter, investor-owned utility (IOU) management of the RA element of the PCIA portfolio implicates Decision (D.) 21-12-015, which allows PG&E to count its existing RA resources towards its incremental system reliability

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<sup>3</sup> 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 Community [sic] Choice Association and Scheduling a Status Conference (Feb. 6, 2024).

<sup>4</sup> Administrative Law Judge's Ruling Taking Status Conference and Evidentiary Hearing Off Calendar (Feb. 15, 2024).



procurement targets after PG&E makes reasonable attempts to sell its excess RA capacity to other load serving entities (LSE).<sup>5</sup> Those activities also implicate Appendix S to PG&E’s Bundled Procurement Plan. Appendix S, which describes the standards and criteria for PG&E’s management and sales of RA products, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 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> 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

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<sup>5</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”) (emphasis added).

<sup>6</sup> CalCCA-03C at 12-14.

<sup>7</sup> *Id.* at 5-7.

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

reliability procurement targets in the summer of 2022.

Moreover, PG&E's RA sales activities impact all LSEs (including CalCCA's members), who faced a constrained RA market during the summer of 2022. To properly fulfill its obligations to review PG&E's ERRA Compliance activities, the Commission must examine the following:

- 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 [REDACTED]  
[REDACTED] once it identified that excess.

Those activities are squarely within the scope of Scoping Issues 1, 3, and 5.<sup>9</sup> Those Scoping Issues are as follows:<sup>10</sup>

- **Scoping Issue 1:** Whether PG&E, during the record period, prudently administered and managed, in compliance with all applicable rules, regulations and Commission decisions, including but not limited to Standard of Conduct No. 4 (SOC 4), the following:
  - a. Utility-Owned Generation Facilities, except for the Elkhorn Battery Energy Storage System and Pit 1 Powerhouse outages which will be reviewed in the 2023 ERRA Compliance proceeding;
  - b. Qualifying Facilities (QF) Contracts; and

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

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



### c. Non-QF Contracts

If not, what adjustments, if any, should be made to account for imprudently managed or administered resources?

- **Scoping Issue 3:** Whether the entries recorded in the ERRRA and the Portfolio Allocation Balancing Account are reasonable, appropriate, accurate, and in compliance with Commission decisions.
- **Scoping Issue 5:** Whether PG&E administered resource adequacy procurement and sales consistent with its Bundled Procurement Plan.

The facts of PG&E’s 2022 RA sales activities are relevant to Scoping Issue 1 because they tend to prove PG&E did not prudently manage its RA resources during the record period. They are also relevant to Scoping Issue 3 because those facts tend to prove PG&E’s RA-related entries recorded to the PABA are not reasonable, appropriate or in compliance with Commission decisions. Finally, the facts of PG&E’s RA sales activities are relevant to Scoping Issue 5 because they tend to prove PG&E did not administer RA sales consistent with Appendix S of its Bundled Procurement Plan.

The Rulings erroneously—and without discussion or reasoning—find the vast majority of CalCCA’s testimony and the specific disputed issues CalCCA identified for hearing irrelevant to this proceeding, and take the evidentiary hearing off the calendar. Thus, the Rulings collectively slam the door shut on the Commission’s and CalCCA’s examination of PG&E’s excess RA sales during the summer of 2022, leaving no other opportunity to examine these issues in this proceeding. By depriving CalCCA of its “day in court” on these issues, the Rulings are fundamentally at odds with Rule 13.6(a), which requires that in the conduct of Commission proceedings “the rights of parties to meaningfully participate in the proceeding and to public policy protections shall be preserved.”<sup>11</sup>

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<sup>11</sup> Rule 13.6(a); *see also The Utility Reform Network v. Pub. Util. Comm’n*, 223 Cal. App. 4<sup>th</sup> 945, 959-960 (1<sup>st</sup> Dist. 2014).

Extraordinary legal error warrants extraordinary procedural remedies. The Rules of Practice and Procedure permit the assigned Commissioner or ALJ to refer evidentiary rulings to the Commission for determination where prompt Commission review is necessary to promote substantial justice.<sup>12</sup> Further, the Commission has entertained review of ALJ rulings where the ruling may have ramifications on other proceedings.<sup>13</sup> Here, prompt interlocutory review of the Rulings is necessary not only because the Rulings are incorrect, but because by the time this matter is submitted to the Commission, the train will have left the station. The parties will be forced to reconstruct the work already done and to further develop a record on PG&E's sales activities during 2022 at some much later date. Now is the time for the Commission to act on clear legal error.<sup>14</sup>

Moreover, the Rulings have possible ramifications on San Diego Gas & Electric Company's pending 2022 ERRR Compliance proceeding,<sup>15</sup> in which certain community choice

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<sup>12</sup> Rule 13.6(c); see Application (A.) 09-09-019, *Application of Pacific Gas and Electric Company for Authority to Increase Electric Rates and Charges to Recover Smart Grid Costs Related to Compressed Air Energy Storage Demonstration Project under American Recovery and Reinvestment Act of 2009 (U 39 E)*, D.10-01-025, 2010 Cal. PUC LEXIS 12 at \*34 (Jan. 22, 2010).

<sup>13</sup> See *In re Application of Pacific Gas and Electric Company (U 39 E) for Commission Approval Under Public Utilities Code 851 of an Irrevocable License for use of Utility Support Structures and Equipment Sites to ExteNet Systems (California) LLC*, 2016 Cal. PUC LEXIS 588 at \*27-29 (where an ALJ's evidentiary ruling may present possible ramifications in other proceedings the proper procedure is to bring the issue before the full Commission for resolution, including during the pendency of the proceeding, citing *In Re Alternative Regulatory Frameworks for Local Exchange Carriers*, 55 Cal. P.U.C. 2d 672, 680 (1994)).

<sup>14</sup> Even if the Commission reopens the record following a Proposed Decision, it would be more efficient for the Commission to review the Rulings at this stage, before the record has closed and before parties file legal briefs.

<sup>15</sup> A.23-06-002, *Application of San Diego Gas & Electric Company (U902E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022.*

aggregators (CCA) have raised substantially similar issues concerning the utility's RA sales activities in 2022. If the Rulings are allowed to stand, they may color or even inform the parties' arguments in SDG&E's proceeding.

This motion for interlocutory review therefore properly brings the Rulings before the full Commission. The Commission should reverse the Rulings.

## **I. BACKGROUND AND PROCEDURAL HISTORY**

During the summer of 2022, PG&E transferred nearly a gigawatt of excess RA capacity—capacity in excess of its bundled customers' needs—from its Power Charge Indifference Adjustment (PCIA) resource portfolio to the System Reliability Incremental Procurement subaccount (Reliability OIR) of its New System Generation Balancing Account (NSGBA, recovered through the CAM).<sup>16</sup> Decision 21-12-015, the Commission's Phase 2 Summer Reliability decision, allows PG&E to count its existing RA resources towards its incremental system reliability procurement targets (and transfer the corresponding capacity from the PCIA to CAM) only after PG&E makes reasonable attempts to sell its excess RA capacity to other LSEs.<sup>17</sup>

CalCCA addresses PG&E's transfer of excess RA capacity in the prepared direct testimony of witness Brian Shuey. Mr. Shuey's testimony identifies a substantial gulf between the RA position reports that formed the basis for PG&E's RA sales solicitations in 2022 and the excess capacity PG&E ultimately transferred to CAM mere months later. As witness Shuey notes,

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<sup>16</sup> PG&E Prepared Testimony at 12-15.

<sup>17</sup> 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").

PG&E's attempts to sell excess RA impact all LSEs, who faced a constrained RA market during the summer of 2022 and paid fines where they failed to meet RA compliance requirements.<sup>18</sup> Mr. Shuey recommends the Commission require PG&E to provide a detailed reconciliation between the RA position reports used as the basis for its solicitations and the RA position reports resulting in excess capacity during the summer of 2022; scrutinize PG&E's assumptions informing its RA positions; update PG&E's Bundled Procurement Plan (BPP) to ensure excess capacity is made available to the market; and consider a disallowance, penalty or other remedy based on PG&E's non-compliance with D.21-12-015.<sup>19</sup>

On October 6, 2023, PG&E filed a motion to strike the majority of witness Shuey's prepared testimony, arguing CalCCA's testimony is irrelevant, out of scope of this proceeding, and unfairly prejudicial.<sup>20</sup> On October 23, 2023, CalCCA filed a response rebutting each argument in PG&E's motion and noting the motion was premature because CalCCA had not yet moved to admit any evidence into the record.<sup>21</sup> The ALJ deferred a ruling on PG&E motion to strike until ruling on the admission of CalCCA's testimony.

On January 18, 2024, CalCCA filed a motion to admit certain exhibits, including the prepared direct testimony of Brian Shuey. That motion explains the relevance of Mr. Shuey's testimony to Scoping Issues 1, 3 and 5 in detail.<sup>22</sup> CalCCA also filed a Motion for Official Notice

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<sup>18</sup> *Id.* at 11-14.

<sup>19</sup> Prepared Direct Testimony of Brian Shuey on behalf of California Community Choice Association at 18 (Sept. 22, 2023) (Exhibit A to this Motion).

<sup>20</sup> Motion to Strike Portions of the Prepared Direct Testimony of Brian Shuey on behalf of the California Community Choice Association by Pacific Gas and Electric Company (U 39-E) (Oct. 6, 2023).

<sup>21</sup> California Community Choice Association's Response to Pacific Gas and Electric Company's Motion to Strike (Oct. 23, 2023).

<sup>22</sup> California Community Choice Association's Motion to Offer Exhibits into Evidence and Admit Into the Record (Jan. 18, 2024).

on the same day.<sup>23</sup> That motion requests notice of certain documents filed in SDG&E’s 2022 ERRRA Compliance proceeding (namely: the Scoping Ruling, San Diego Community Power and Clean Energy Alliance’s (Joint CCA) Motion to Compel, SDG&E’s Response, and the ALJ Ruling granting the Joint CCAs’ Motion to Compel) because those documents demonstrate a different ALJ’s resolution of a similar evidentiary question that ultimately concluded the opposite of what the Rulings in this proceeding conclude. The ALJ in the SDG&E case ruled discovery surrounding that utility’s sales of RA was relevant to the (nearly identical) scoping issues in that case.

Ultimately, the resolution of the discovery question in the SDG&E case contradicted the Rulings in the instant proceeding because, on January 23, 2024, the ALJ granted PG&E’s motion to strike in its entirety. That ruling strikes testimony that, in the ALJ’s view, is “not relevant to the issue of whether PG&E administered resource adequacy procurement and sales consistent with its Bundled Procurement Plan” (in other words, Scoping Issue 5). The ruling does not explain why the testimony it strikes is not relevant to Scoping Issue 5, nor does it discuss or resolve the relevance of CalCCA’s testimony to Scoping Issues 1 or 3.

On February 6, 2024, the ALJ denied CalCCA’s Motion for Official Notice in its entirety. Again, the ruling offers no discussion or reasoning in support of its conclusion.

On February 14, 2024, CalCCA and PG&E filed a Joint Report in which CalCCA explained an evidentiary hearing is necessary to address the following disputed factual issues:<sup>24</sup>

1. Whether PG&E made attempts to sell excess Resource Adequacy capacity to other LSEs in 2022 once it determined excess Resource Adequacy capacity was available, and if so, the nature and timing of those attempts.
2. Whether PG&E made attempts to sell excess Resource Adequacy capacity to other LSEs in 2022 beyond year-ahead and quarterly solicitations once it determined excess

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<sup>23</sup> California Community Choice Association’s Motion for Official Notice (Jan. 18, 2024).

<sup>24</sup> Joint Report by Pacific Gas and Electric Company (U 39 E) and the California Community Choice Association (Feb. 14, 2024).

Resource Adequacy capacity was available, and if so, the nature and timing of those attempts.

PG&E contended the above issues are irrelevant to this proceeding and that hearings are therefore unnecessary.<sup>25</sup> PG&E also filed a motion *in limine* to preclude questioning on the sale of, or attempts to sell, resource adequacy outside the solicitations required by Appendix S of PG&E's Bundled Procurement Plan.<sup>26</sup> That motion asks for an expedited ruling at a status conference that was scheduled for February 16, 2024, and suggests "to the extent CalCCA wishes to be heard, it can present its position at the status conference[.]"

That opportunity did not materialize, because the next day, the ALJ issued a ruling determining the factual issues that CalCCA identified for hearing are "irrelevant for evaluating PG&E Resource Adequacy procurement and sales in accordance with its Bundled Procurement Plan and outside the scope of the Scoping Memo."<sup>27</sup> Further, the ruling took both the scheduled status conference as well as the evidentiary hearing off the calendar. Here, again, the ruling provides no discussion or reasoning in support of its conclusion.

In sum, the Rulings strike the vast majority of CalCCA's testimony addressing PG&E's 2022 RA sales activities; deny official notice of documents demonstrating the Commission's resolution of a substantially similar evidentiary question in SDG&E's pending ERRR Compliance case; and deny CalCCA the opportunity to cross examine PG&E's witness on the utility's attempts

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<sup>25</sup> *Id.* at 3.

<sup>26</sup> Pacific Gas and Electric Company's (U 39-E) Motion *In Limine* to Preclude Questioning on the Sale of, or Attempts to Sell, Resource Adequacy Outside the Solicitations Required by Appendix S of PG&E's Bundled Procurement Plan, and Request for Expedited Ruling at the February 16, 2024 Status Conference (Feb. 14, 2024).

<sup>27</sup> Administrative Law Judge's Ruling Taking Status Conference and Evidentiary Hearing off Calendar (Feb. 15, 2024).

to sell excess RA it identified in 2022. Thus, the Rulings leave CalCCA without a meaningful opportunity to develop the record on PG&E's RA sales activities in the record period.

## II. RELEVANT LAW

### A. Rule 13.6 (c) Permits the Assigned Commissioner or Administrative Law Judge to Refer Evidentiary Rulings to the Commission for Determination.

Rule 13.6(c) permits the assigned Commissioner or Administrative Law Judge to refer evidentiary rulings to the Commission for determination “[i]n extraordinary circumstances, where prompt decision by the Commission is necessary to promote substantial justice[.]” The Commission has previously stated that “[a]lthough the Commission’s Rules of Practice and Procedure do not provide for interlocutory appeals, on rare occasion the Commission may chose [sic] to reconsider some interim rulings[.]”<sup>28</sup> Those rare occasions include circumstances where the challenged ruling could have ramifications in other proceedings.<sup>29</sup>

The Rulings fit the rare circumstances in which the Commission reviews evidentiary rulings. Absent the Commission’s prompt interlocutory review and reversal of the Rulings, CalCCA will be denied a timely opportunity to develop a robust record concerning PG&E’s RA sales activities in the record year. The Rulings strike the vast majority of CalCCA’s prepared testimony and have taken the evidentiary hearing off the calendar, seemingly foreclosing further record development via cross examination.

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<sup>28</sup> D.03-12-057 at 2, fn. 1 (Dec. 18, 2003).

<sup>29</sup> See *In re Application of Pacific Gas and Electric Company (U 39 E) for Commission Approval Under Public Utilities Code 851 of an Irrevocable License for use of Utility Support Structures and Equipment Sites to ExteNet Systems (California) LLC*, 2016 Cal. PUC LEXIS 588 at \*27-29 (where an ALJ’s evidentiary ruling may present possible ramifications in other proceedings the proper procedure is to bring the issue before the full Commission for resolution, including during the pendency of the proceeding, citing *In Re Alternative Regulatory Frameworks for Local Exchange Carriers*, 55 Cal. P.U.C. 2d 672, 680 (1994)).

Moreover, the Rulings challenged by this interlocutory appeal have possible ramifications on SDG&E's pending 2022 ERRRA Compliance proceeding.<sup>30</sup> In the SDG&E proceeding, certain community choice aggregator (CCA) parties have raised issues that mirror the issues CalCCA has raised in the instant proceeding—concerning the utility's sale of, and attempts to sell, excess RA during the summer of 2022.<sup>31</sup> Absent the Commission's prompt interlocutory review and reversal, the Rulings may color or directly inform parties' arguments in SDG&E's 2022 ERRRA Compliance proceeding. This interlocutory appeal therefore properly brings the Rulings before the full Commission.<sup>32</sup>

## **B. California Law Supports a Broad Interpretation of Relevancy.**

The California Evidence Code defines “relevant evidence” as evidence “having *any* tendency in reason to prove or disprove *any* disputed fact that is *of consequence* to the determination of the action.”<sup>33</sup> That definition does not create a precise formula for relevancy.<sup>34</sup> Rather, California courts have held that evidence is relevant if it “logically, naturally and by

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<sup>30</sup> A.23-06-002, *Application of San Diego Gas & Electric Company (U902E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022.*

<sup>31</sup> See A.23-06-002, Public Prepared Direct Testimony of Carlo Bencomo-Jasso on behalf of San Diego Community Power and Clean Energy Alliance in San Diego Gas and Electric Company's 2022 ERRRA Compliance Proceeding at 1-16 (Dec. 22, 2023) (Exhibit B to this Motion).

<sup>32</sup> See *In re Application of Pacific Gas and Electric Company (U 39 E) for Commission Approval Under Public Utilities Code 851 of an Irrevocable License for use of Utility Support Structures and Equipment Sites to ExteNet Systems (California) LLC*, 2016 Cal. PUC LEXIS 588 at \*27-29 (where an ALJ's evidentiary ruling may present possible ramifications in other proceedings the proper procedure is to bring the issue before the full Commission for resolution, including during the pendency of the proceeding, citing *In Re Alternative Regulatory Frameworks for Local Exchange Carriers*, 55 Cal. P.U.C. 2d 672, 680 (1994)).

<sup>33</sup> Cal. Evid. Code sec. 210 (emphasis added).

<sup>34</sup> *People v. Simms*, 10 Cal. App. 3d 299, 311 (1<sup>st</sup> Dist. Aug. 6, 1970).



reasonable inference tends to establish some fact.”<sup>35</sup> Further, the definition of “relevant evidence” is “manifestly broad,” and evidence is relevant “no matter how weak it tends to prove a disputed issue.”<sup>36</sup>

Commission rules also support a broad interpretation of relevance. Under Commission Rule 13.6(a), California’s “technical rules of evidence . . . need not be applied in hearings” before the Commission, and the Commission need not exclude evidence “merely by application of rules governing admissibility, competency, weight or foundation.”<sup>37</sup> The Rule further requires that in the conduct of Commission proceedings, “the rights of parties to meaningfully participate in the proceeding and to public policy protections shall be preserved.”<sup>38</sup> By foreclosing CalCCA from addressing PG&E’s RA sales efforts through either testimony or cross examination, the Rulings prohibit CalCCA from meaningfully participating in this proceeding. CalCCA’s testimony and intended cross examination fall within the Commission’s broad relevancy standard and therefore the Rulings should be reversed such that CalCCA can participate meaningfully in this proceeding

### **III. THE COMMISSION SHOULD REVERSE THE RULING GRANTING PG&E’S MOTION TO STRIKE**

ERRA Compliance proceedings typically involve a review of the investor-owned utility’s (IOU) RA activities during the record year. The facts of those activities, therefore, are facts of consequence to the Commission’s determination of an ERRA Compliance proceeding. In this proceeding, one of the specific issues of consequence to the Commission’s determination is the reasonableness of PG&E’s attempts to sell its excess RA capacity to other LSEs during the summer

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<sup>35</sup> *Id.*

<sup>36</sup> *See, e.g. People v. Tauber*, 56 Cal. Rptr. 2d 656, 660 (4<sup>th</sup> Dist. Sept. 18, 1996).

<sup>37</sup> Rule 13.6(a).

<sup>38</sup> *Id.*

of 2022 prior to transferring that capacity to CAM. As CalCCA explained in its Motion to Admit, that issue is of consequence to three separate scoping issues in this proceeding: Scoping Issue 1, which generally asks whether PG&E prudently managed and administered its resources; Scoping Issue 3, which generally asks whether PG&E's accounting entries to the PABA were appropriate; and Scoping Issue 5, which generally asks whether PG&E complied with its BPP.

CalCCA's testimony scrutinizes PG&E's RA activities during the record year. CalCCA witness Shuey discusses the nearly one gigawatt of excess RA PG&E transferred from the PABA to the NSGBA over the course of five summer months;<sup>39</sup> the dramatic differences in PG&E's RA position between the time it made those transfers and the RA sales solicitations PG&E conducted just a few months prior;<sup>40</sup> PG&E's attempts (or lack thereof) to sell its excess RA to other LSEs;<sup>41</sup> the RA market constraints all LSEs face; and the implications of PG&E's failure to make reasonable attempts to sell its excess RA to other LSEs.<sup>42</sup> Those facts collectively tend to disprove the reasonableness of PG&E's attempts to sell its excess RA capacity in 2022 prior to transferring that capacity to CAM and therefore CalCCA's testimony falls within the broad definition of relevance applied in Commission proceedings.

The ALJ Ruling granting PG&E's Motion to Strike strikes "portions of the prepared testimony of [CalCCA witness] Brian Shuey that are not relevant to the issue of whether PG&E administered resource adequacy procurement and sales consistent with its Bundled Procurement

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<sup>39</sup> CalCCA Direct Testimony at 3-4.

<sup>40</sup> *Id.* at 4-6.

<sup>41</sup> *Id.* at 6-11.

<sup>42</sup> *Id.* at 11-14.

Plan”,<sup>43</sup> and offers no discussion or reasoning in support of its conclusion. The ruling is unsound, and the Commission should reverse it and admit CalCCA’s direct testimony in its entirety.

- 1) CalCCA’s testimony is relevant to whether PG&E prudently managed its RA portfolio (Scoping Issue 1).

Scoping Issue 1 of the *Assigned Commissioner’s Scoping Memo and Ruling* asks “[w]hether PG&E, during the record period, prudently administered and managed the following, in compliance with all applicable rules, regulations, and Commission decisions, including but not limited to Standard of Conduct (SOC) 4: a) Utility-Owned Generation Facilities, except for the Elkhorn Battery Energy Storage System and Pit 1 Powerhouse outages which will be reviewed in the 2023 ERRRA Compliance proceeding; b) Qualifying Facilities (QF) Contracts; and c) Non-QF Contracts. If not, what adjustments, if any, should be made to account for imprudently managed or administered resources?”<sup>44</sup>

At a high level, Scoping Issue 1 requires the Commission to evaluate whether PG&E prudently administered and managed its generation portfolio (UOG and contracted resources) in 2022. As a part of that broad evaluation, the Commission must assess whether PG&E administered and managed its RA resources prudently. That prudence assessment, in turn, includes assessing whether PG&E made reasonable efforts to ensure it received value for all its RA resources, a key consideration in determining whether PG&E has prudently managed its generation portfolio.

The Commission applies several standards to assess the prudence of PG&E’s management and administration of its generation portfolio, including SOC 4, the Commission’s Good Utility

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<sup>43</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 at 1 (Jan. 23, 2024).

<sup>44</sup> Scoping Memo at 2.

Practice standard and the “reasonable manager” standard.<sup>45</sup> SOC 4 requires utilities to prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner.<sup>46</sup> The Commission has stated that prudent contract administration consistent with SOC 4 requires the utility “dispose of economic long power”—in other words, sell excess resources—among other activities.<sup>47</sup> In a similar vein, the “Good Utility Practice” standard requires utilities act consistent with:

“[A]ny of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition.”<sup>48</sup>

Lastly, the broad “reasonable manager” standard requires utilities act in a manner that “comport[s] with what a reasonable manager of sufficient education, training, experience and skills using the tools and knowledge at his disposal would do when faced with a need to make a decision and act.”<sup>49</sup> Each of these standards permit the Commission to review whether the utility maximized the value of its RA resources for the benefit of its customers during the record period.

In addition, as referenced in Scoping Issue 1, the Commission must determine whether PG&E managed its resource portfolio in compliance with all applicable Commission decisions, including D.21-12-015. Decision 21-12-015 requires PG&E make reasonable attempts to sell its excess RA capacity to other LSEs before counting that capacity towards its incremental system

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<sup>45</sup> See, e.g. A.19-05-007, D.20-12-036 at 9 (in SDG&E’s 2018 ERRRA Compliance proceeding, finding SDG&E complied with the Good Utility Practice and reasonable manager standards).

<sup>46</sup> D.02-10-062, Conclusion of Law 11 (Oct. 24, 2002).

<sup>47</sup> D.02-12-074 at 54 (Dec. 19, 2002); *see also* D.05-04-036 at 24.

<sup>48</sup> D.02-12-069, Attachment A at 5 (Dec. 19, 2002).

<sup>49</sup> D.90-09-088 at 499.

reliability procurement targets.<sup>50</sup> PG&E’s efforts to sell its excess RA during the summer of 2022 and realize the value of those resources for the benefit of its customers, therefore, is relevant to the assessment the Commission must make under Scoping Issue 1.

In its Motion to Strike, PG&E argues D.21-12-015 “does not create a separate or additional requirement beyond Appendix S” and asserts Appendix S “is the upfront reasonableness standard by which PG&E’s compliance is measured for the management and sale of RA in this proceeding.”<sup>51</sup> In support, PG&E points to Commission Resolution 4998-E approving Appendix S and the Commission’s subsequent disposition of PG&E’s Advice Letters 6306-E and 6306-E-A (collectively, “Appendix S Justification ALs”), claiming that disposition “affirms that Appendix S contains the CPUC-approved upfront reasonableness standard for conducting RA sales, including in connection with the Emergency Reliability OIR procurement orders.”<sup>52</sup> In essence, PG&E suggests the Commission cannot scrutinize its RA sales activities during the record period in an ERRA Compliance proceeding beyond confirming PG&E carried out the solicitations required by Appendix S.

PG&E overstates the effect of Resolution 4998-E and the Commission’s disposition of the Appendix S Justification ALs. Nothing in Resolution 4998-E or the Commission’s disposition of the Appendix S Justification ALs narrows the scope of ERRA Compliance proceedings or precludes parties (and the Commission) from investigating whether PG&E prudently managed its RA sales during the record period. Finally, even if the Commission’s scrutiny of PG&E’s 2022 RA activities in this proceeding were limited to confirming PG&E complied with Appendix S (and

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<sup>50</sup> D.21-12-015 at 183-184.

<sup>51</sup> Motion to Strike at 4.

<sup>52</sup> *Id.* at 6.

CalCCA does not agree it is), CalCCA’s testimony is nevertheless relevant to the Commission’s scrutiny of that issue, as discussed in Section V below.

Ultimately, PG&E’s management of its generation portfolio—and specifically the efficiency of PG&E’s sales of excess RA—directly contributes to the rates customers pay. That is because PG&E’s sales of RA from its PCIA portfolio drive the quantity of Sold and Unsold RA it records, which in turn impacts PG&E’s PABA balance—a key component of the PCIA rates PG&E’s customers (bundled and unbundled) pay.<sup>53</sup>

In addition, the reasonableness of PG&E’s attempts to sell excess RA has larger implications for other LSEs in its service territory, as CalCCA witness Shuey explains in his testimony. During the summer of 2022, LSEs faced a severely constrained RA market, which led to difficulty procuring sufficient RA to meet compliance obligations.<sup>54</sup> Under these market conditions, PG&E’s efforts to maximize its sales of excess RA are especially relevant to whether PG&E prudently managed its resource portfolio—not only to lower costs to customers but also to ensure excess capacity is available to meet regional RA needs.

Finally, this is not only the appropriate proceeding for the Commission to review the prudence of PG&E’s management of its RA portfolio during the summer of 2022—it is the *only* proceeding in which the Commission can do so. Section 454.5(d)(2) expressly permits the Commission to “establish a regulatory process to verify and ensure that each contract was administered in accordance with the terms of the contract[.]”<sup>55</sup> That process is the ERRA Compliance process. In an ERRA Compliance proceeding, parties can contest whether PG&E

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<sup>53</sup> See also *infra* I.B.2., discussing the relevance of CalCCA’s testimony to Scoping Issue 3.

<sup>54</sup> CalCCA Direct Testimony at 11-14.

<sup>55</sup> Cal. Pub. Util. Code § 454.5(d)(2).

followed SOC 4 and prudently managed its resources in making RA sales during the record year. Because the question involves actions PG&E should have taken, but did not pursue (*i.e.*, a retrospective review of PG&E's actions during the record year), the ERRA Compliance application and review process is the only available forum for parties to probe that question.

- 2) CalCCA's testimony is relevant to whether PG&E's entries recorded in the PABA are reasonable, appropriate, accurate, and in compliance with Commission decisions (Scoping Issue 3)

Scoping Issue 3 asks "[w]hether the entries recorded in the ERRA and the [PABA] are reasonable, appropriate, accurate, and in compliance with Commission decisions."<sup>56</sup> The Commission has broad latitude to consider PG&E's activities impacting those entries.

Among the myriad activities informing Scoping Issue 3 is PG&E's transfer of 923 MW of excess RA capacity from the PCIA to CAM in 2022, and associated accounting entries, which PG&E describes in its Prepared Direct Testimony.<sup>57</sup> The reasonableness of PG&E's attempts to sell excess RA during the summer of 2022 is well-within the scope of this proceeding because that issue ultimately impacts the entries PG&E made to its balancing accounts, including the Portfolio Allocation Balancing Account (PABA) during the 2022 record period. Those entries directly contribute to the rates PG&E's customers ultimately pay.

To be more specific, PG&E's attempts to sell its excess RA impact not only the magnitude of PG&E's credit to PABA resulting from the transfer of excess RA to CAM, but also the actual amount of RA capacity PG&E sold during the record year. Ultimately, PG&E's Actual Sold RA (compared to the amount of Sold RA it had forecasted it would sell) is a key factor driving whether

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<sup>56</sup> Scoping Memo at 2-3.

<sup>57</sup> PG&E Prepared Testimony at 12-15.

an over- or under-collection exists in the PABA, which in turn drives the revenue requirement for the following year's PCIA rates that PG&E's customers pay.<sup>58</sup>

The facts of PG&E's attempts to sell excess RA during the summer of 2022 therefore go to whether PG&E's PABA entries are "reasonable, appropriate, accurate, and in compliance with Commission decisions." Put differently, should the Commission find PG&E's attempts to sell its excess RA capacity were *not* reasonable, and could have resulted in a different PABA balance at the end of 2022 due to increased sales of RA, it might determine PG&E's PABA entries were not "reasonable, appropriate, accurate and in compliance with Commission decisions." CalCCA's testimony is replete with the facts of PG&E's attempts to sell excess RA during the summer of 2022, including (but not limited to) the following specific portions:

- At page 4, lines 2-11 of CalCCA witness Shuey's direct testimony, discusses the amount of excess RA that PG&E counted towards its incremental system reliability procurement targets between June and October 2022.
- At page 5, lines 4-13 of CalCCA witness Shuey's direct testimony, discusses the RA sales requirements in PG&E's BPP.
- At page 5, lines 14-19 of CalCCA witness Shuey's direct testimony, discusses PG&E's calculation of its RA position for the purposes of its RA sales solicitations.
- At page 6, lines 1-6 of CalCCA witness Shuey's direct testimony, summarizes PG&E's System RA Positions calculated for solicitations with delivery in 2022.
- At page 6, lines 6-11 of CalCCA witness Shuey's direct testimony, discusses the discrepancy between PG&E's Excess Resources Report and its RA Positions calculated for the purposes of RA sales solicitations.
- At page 6, line 12 to page 7, line 8 of CalCCA witness Shuey's direct testimony, discusses the timing of PG&E's RA sales solicitations, PG&E's preparation of an RA Position for the purposes of that solicitation, and PG&E's identification of excess RA capacity counted towards meeting incremental system reliability

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<sup>58</sup> PG&E's PCIA rates are set in the ERRR Forecast proceeding based on: (1) the Indifference Amount (the difference in the forecast year between the cost of PG&E's supply portfolio and the market value of that portfolio); and (2) the year-end balance in the PABA. The Indifference Amount and the year-end PABA over- or under-collection are added together to form the PABA revenue requirement underlying PCIA rates.



procurement targets.

- At page 7, lines 12-20 of CalCCA witness Shuey's direct testimony, discusses PG&E's responses to certain CalCCA discovery requests scrutinizing the attempts (or lack thereof) PG&E made to sell its excess capacity during the summer of 2022.
- At page 7, line 21 to page 8, line 6 of CalCCA witness Shuey's direct testimony, discusses the terms of PG&E's RA sales under its BPP.
- At page 8, line 7 to page 11, line 3, discusses RA offered for sale in each RA sales solicitation with delivery periods from June through October 2022, the bids PG&E received, as well as the outcomes of those solicitations.
- Attachment B (PG&E responses to CalCCA Data Requests) to CalCCA witness Shuey's direct testimony includes discovery responses addressing:
  - PG&E's sold, unsold and retained RA; its RA positions; and its operational constraints (PG&E response to CalCCA data request 1.08);
  - PG&E's evaluation of the bids it received in response to its RA sales solicitations (PG&E responses to CalCCA data requests 2.21 and 2.23);
  - PG&E's attempts to sell any portion of its excess RA capacity to any other LSEs prior to transferring that capacity out of PABA (PG&E response and supplemental response to CalCCA data request 2.54);
  - PG&E's receipt of offers from other LSEs to purchase any portion of its excess RA capacity (PG&E response to CalCCA data request 2.55);
  - PG&E's response to offers from other LSEs to purchase any portion of its excess RA capacity (PG&E response to CalCCA data request 2.56);
  - PG&E's efforts to make excess capacity available in RA solicitations before counting that capacity toward PG&E's incremental system reliability procurement target (PG&E response to CalCCA data request 2.57);
  - When PG&E knew it had excess RA capacity available (PG&E response to CalCCA data request 3.26);
  - Circumstances that caused changes to PG&E's RA position such that PG&E had excess RA capacity available for use to meet summer reliability needs in 2022 (PG&E responses to CalCCA data request 3.27, 3.33CONF, 4.14CONF, 4.15);
  - The System RA volumes PG&E offered for sale in its RA solicitations for delivery between June and October 2022 (PG&E response to CalCCA data request 3.31CONF); and

- PG&E’s efforts to communicate the availability of its excess RA capacity to other LSEs (PG&E response to CalCCA data request 3.28).

CalCCA’s testimony is therefore relevant to Scoping Issue 3, and this, on its own, should have been sufficient to defeat PG&E’s Motion to Strike.

3) CalCCA’s testimony is relevant to whether PG&E administered resource adequacy sales consistent with its BPP (Scoping Issue 5)

Scoping Issue 5 asks “[w]hether PG&E administered resource adequacy procurement and sales consistent with its [BPP].”<sup>59</sup> Facts related to PG&E’s RA sales in 2022—including PG&E’s RA positions; the calculation of its RA positions; the timing of PG&E’s calculation of its RA position; the timing and outcomes of its RA solicitations; and PG&E’s attempts to sell its excess RA capacity—are each relevant to Scoping Issue 5, because those facts go to whether PG&E conducted RA sales consistent with Appendix S of its BPP. CalCCA witness Shuey’s testimony adduces several of these facts, including in particular:

- At pages 5-7, discusses PG&E’s System RA Positions calculated for each RA sales solicitation with delivery during 2022;
- At pages 7-11, discusses PG&E’s attempts to sell excess RA capacity in 2022, including the timing of PG&E’s RA solicitations; the RA volumes PG&E offered for sale by solicitation; and the bids PG&E received and rejected; and
- In Attachment B (PG&E’s responses to CalCCA data requests), includes several of PG&E’s responses to CalCCA data requests seeking information regarding the RA volumes PG&E offered for sale by solicitation (PG&E response to CalCCA data request 3.31CONF); PG&E’s calculation of its RA position for the purposes of its RA sales solicitations (PG&E response to CalCCA data request 1.08); and the outcomes of PG&E’s RA sales solicitations (PG&E responses to CalCCA data requests 2.21, 2.23, 2.55, 2.56 and 2.57).

While CalCCA witness Shuey does not reach a conclusion regarding PG&E’s compliance with its BPP, the facts adduced in his testimony nevertheless inform the Commission’s evaluation of Scoping Issue 5, and CalCCA may address PG&E’s consistency with its BPP in legal briefing.

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<sup>59</sup> Scoping Memo at 3.

CalCCA's testimony is therefore relevant to Scoping Issue 5, and this, on its own, should have been sufficient to defeat PG&E's Motion to Strike.

#### **IV. THE COMMISSION SHOULD REVERSE THE RULING DENYING CALCCA'S MOTION REQUESTING OFFICIAL NOTICE**

In support of its motion to admit the testimony of witness Shuey, CalCCA moved for and requested official notice of the following four documents (collectively, the "SDG&E Filings"):

1. Assigned Commissioner's Scoping Memo and Ruling filed October 31, 2023 in Application (A.) 23-06-002<sup>60</sup> ("SDG&E Scoping Ruling", Exhibit C to this Motion);
2. Motion to Compel Discovery of San Diego Community Power and Clean Energy Alliance, filed on November 22, 2023 in A.23-06-002, ("Joint CCA Motion to Compel", Exhibit D to this Motion);
3. San Diego Gas & Electric Company's (U 902-E) Response to San Diego Community Power and Clean Energy Alliance's Motion to Compel Discovery, filed on December 1, 2023 in A.23-06-002 ("SDG&E Response to Motion to Compel", Exhibit E to this Motion);
4. E-mail Ruling Granting San Diego Community Power and Clean Energy Alliance Motion to Compel San Diego Gas & Electric Company to Fully Respond to San Diego Community Power and Clean Energy Alliance Data Requests by 5 P.M. on December 8, 2023, issued on December 4, 2023 in A.23-06-002 ("SDG&E Ruling", Exhibit F to this Motion).

Similar to the ruling granting PG&E's motion to strike, the ALJ's ruling denying CalCCA's request for official notice offers no discussion or reasoning in support of its conclusion. The Commission should reverse the ruling because the documents above are plainly relevant to the evidentiary question PG&E's Motion to Strike raises, and because CalCCA's request easily meets the legal standard.

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<sup>60</sup> A.23-06-002, *Application of San Diego Gas & Electric Company (U 902-E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022.*

1) The Commission Should Take Official Notice of the SDG&E Filings Because Those Documents are Relevant to a Key Disputed Evidentiary Issue in this Proceeding

The evidentiary question PG&E’s Motion to Strike presents—Whether CalCCA’s testimony regarding PG&E’s attempts to sell its excess RA during the summer of 2022 is relevant to the scope of this ERRA Compliance proceeding?—mirrors a question that was recently resolved in San Diego Gas & Electric Company’s (SDG&E) 2022 ERRA Compliance proceeding. As the table below demonstrates, Scoping Issues 1 through 3 of the SDG&E proceeding are exceedingly similar to Scoping Issues 1 and 3 of the instant proceeding:

Scoping Issue	A.23-02-018, PG&E 2022 ERRA Compliance proceeding <sup>61</sup>	Scoping Issue	A.23-06-002, SDG&E 2022 ERRA Compliance proceeding <sup>62</sup>
Scoping Issue 1	Whether PG&E, during the record period, prudently administered and managed, in compliance with all applicable rules, regulations and Commission decisions, including but not limited to Standard of Conduct No. 4 (SOC 4), the following:  a. Utility-Owned Generation Facilities, except for the Elkhorn Battery Energy Storage System and Pit 1 Powerhouse outages which will be reviewed in the 2023 ERRA Compliance proceeding; b. Qualifying Facilities (QF) Contracts; and c. Non-QF Contracts  If not, what adjustments, if any, should be made to account for imprudently managed or administered resources?	Scoping Issue 1	Whether SDG&E administered and managed its own generation resources prudently, to include the management of outages and associated fuel costs, according to Standard of Conduct (“SOC”) 4
		Scoping Issue 2	Whether SDG&E administered and managed its Qualifying Facility (“QF”) and non-QF contracts for generation and power purchase agreements in accordance with the contract provisions and otherwise followed Commission guidelines relating to those contracts and their amendments according to SOC 4.
Scoping Issue 3	Whether the entries recorded in the ERRA and the Portfolio Allocation Balancing Account are reasonable, appropriate, accurate, and in compliance with Commission decisions.	Scoping Issue 3	Whether the entries recorded during the record year in the following accounts are correctly stated and in compliance with Commission directives: [...]

<sup>61</sup> A.23-02-018, Assigned Commissioner’s Scoping Memo and Ruling at 2-3 (June 2, 2023).

<sup>62</sup> Exhibit C at 2-3.

			b. Portfolio Allocation Balancing Account [...].
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In SDG&E’s 2022 ERRR Compliance proceeding, the Joint CCAs sought a ruling compelling SDG&E to produce information fully responsive to data requests seeking to scrutinize SDG&E’s attempt to maximize its RA sales during the record period.<sup>63</sup> The Joint CCAs explained that between June and October of 2022, SDG&E relied on excess RA capacity from its existing resources to count toward its incremental system reliability procurement targets<sup>64</sup>—mirroring PG&E’s treatment of excess RA during the summer of 2022. The Joint CCAs asserted, therefore, that “[a]n important question for the Commission to consider in [SDG&E’s 2022 ERRR compliance] proceeding is whether SDG&E should have offered more RA for sale in 2022 given this substantial excess RA capacity, *i.e.*, whether SDG&E prudently managed its portfolio during the record year that is the focus of this proceeding.”<sup>65</sup> That question parallels the key disputed issue between CalCCA and PG&E in this proceeding: whether PG&E made reasonable attempts to sell its excess capacity to other LSEs during the summer of 2022 before transferring that capacity to CAM.

In order to help the Commission address that question in SDG&E’s proceeding, according to the Joint CCAs’ Motion to Compel, the Joint CCAs issued data requests seeking information regarding SDG&E’s RA solicitation materials, RA positions, and bid outcomes of SDG&E’s sales of excess RA.<sup>66</sup> The CCAs explained SDG&E’s attempts to maximize its RA sales “[go] directly to the heart of whether [SDG&E] prudently managed its generation portfolio during the 2022

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<sup>63</sup> Exhibit D.

<sup>64</sup> *Id.* at 4-5.

<sup>65</sup> *Id.* at 5.

<sup>66</sup> *Id.* at 5-6.

compliance period. SDG&E's efforts in this regard ultimately impact the entries it made into its balancing accounts, including the [PABA], which is subject to a compliance review in this proceeding."<sup>67</sup> Similarly, here, CalCCA's testimony adduces facts regarding PG&E's attempts to sell its excess RA, including PG&E's RA positions and solicitations, because those facts go to whether PG&E prudently managed its resource portfolio (Scoping Issue 1); whether PG&E's entries to the PABA were appropriate (Scoping Issue 3); and whether PG&E complied with its BPP (Scoping Issue 5).

SDG&E objected to the Joint CCAs' data requests.<sup>68</sup> It contended any information regarding its attempts (or lack thereof) to sell excess RA was not relevant to its ERRA Compliance proceeding.<sup>69</sup> In response to the Joint CCAs' Motion to Compel, while acknowledging intervening parties in an ERRA Compliance proceeding "may make a threshold inquiry as to whether SDG&E sold excess RA in the record year", SDG&E asserted intervenors "are not allowed to review or examine the specifics of those activities for the purposes of contesting their reasonableness."<sup>70</sup> SDG&E also argued it had already "justified its methodology for determining how much of its PCIA-eligible RA is reserved in its BPP" and the Commission "recently confirmed that SDG&E's methodology for determining how much of its [PCIA]-eligible RA is reserved in its BPP is reasonable."<sup>71</sup> SDG&E further argued its RA transactions in compliance with an approved BPP are not subject to any additional "after-the-fact" reasonableness review.<sup>72</sup>

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<sup>67</sup> *Id.* at 1-2.

<sup>68</sup> *Id.* at 5-6.

<sup>69</sup> *Id.*

<sup>70</sup> Exhibit E at 12.

<sup>71</sup> *Id.* at 12-13.

<sup>72</sup> *Id.* at 11.

The substance of SDG&E’s evidentiary arguments echoes the substance of the arguments PG&E advances in this proceeding, even if the form of each utility’s argument differs (*i.e.* SDG&E sought to deny the Joint CCAs the opportunity to review its RA activities by objecting to discovery, whereas PG&E seeks to deny CalCCA the opportunity to meaningfully dispute its RA activities by moving to strike portions of its testimony after objecting to discovery). Like SDG&E, PG&E argues CalCCA’s data and arguments on PG&E’s RA activities during the summer of 2022 “are not relevant to the scope of this proceeding”;<sup>73</sup> asserts its BPP establishes an “upfront reasonableness standard” by which the Commission evaluates PG&E’s RA sales;<sup>74</sup> and asserts the Commission’s review of PG&E’s RA activities during the record year is limited to a review of PG&E’s compliance with its BPP.<sup>75</sup>

The ALJ in SDG&E’s proceeding ruled in favor of the Joint CCAs. The Ruling concludes the Joint CCAs “showed that SDG&E’s responses to [their] Data Requests are relevant to the scope of this proceeding.”<sup>76</sup> The Exhibits therefore support the relevance of CalCCA’s prepared testimony in this proceeding, and CalCCA reference the Exhibits in its motion for the admission of the prepared testimony of Brian Shuey. The Commission should take official notice of the SDG&E Filings because the documents are plainly relevant to a key disputed evidentiary issue between PG&E and CalCCA in this proceeding.

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<sup>73</sup> Motion to Strike at 1.

<sup>74</sup> *Id.* at 4.

<sup>75</sup> *Id.* at 6-7.

<sup>76</sup> Exhibit F at 2-3.

2) Official Notice of the SDG&E Filings is Proper Under Commission Rule 13.10.

The Commission may take official notice of the SDG&E Filings under Rule 13.10 because these documents may be judicially noticed by California courts pursuant to Evidence Code section 450 *et seq.*

First, the SDG&E Filings meet the standard set forth in Evidence Code section 452(c). That section permits notice of “[o]fficial acts of the legislative, executive and judicial departments of the United States and of any state in the United States.”<sup>77</sup> Official acts include records, reports and orders of administrative agencies<sup>78</sup> and therefore include the Exhibits, each of which constitute records of the Commission.

Second, the SDG&E Filings meet the standard set forth in Evidence Code section 452(h). That section permits notice of “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.”<sup>79</sup> The existence of the SDG&E Filings, and the content therein, are facts and propositions that are not reasonably subject to dispute because each document includes the Docket Office’s electronic filing stamp. Further, the existence of the SDG&E Filings, and the content therein, are capable of immediate and accurate determination by resort to the Commission’s electronic filing system, which is a source of reasonably indisputable accuracy.

Consistent with the requirements of Evidence Code section 453, CalCCA attached copies of the SDG&E Scoping Ruling, Joint CCA Motion to Compel, SDG&E Response to Motion to Compel, and SDG&E Ruling as exhibits to its Motion for Official Notice (and again provides

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<sup>77</sup> Cal. Evid. Code sec. 452(c).

<sup>78</sup> *Rodas v. Spiegel*, 87 Cal. App. 4<sup>th</sup> 513, 518 (2d Dist. Jan. 30, 2001).

<sup>79</sup> Cal. Evid. Code sec. 452(h).



those documents as exhibits to this motion). In addition, prior to filing its Motion for Official Notice, CalCCA notified the parties and the Commission of its intention to file that request, including via the Joint Report of Meet and Confer filed in this proceeding on January 8, 2024.<sup>80</sup> CalCCA therefore provided adverse parties sufficient notice of CalCCA's request and furnished the Commission with sufficient information to enable it to take notice of the existence of, and content in, the SDG&E Filings. CalCCA's motion for official notice therefore met the requirements of the Evidence Code. The Commission should reverse the ALJ's ruling denying CalCCA's motion, and take official notice of the SDG&E Filings.

#### **V. THE COMMISSION SHOULD REVERSE THE RULING TAKING THE EVIDENTIARY HEARING OFF THE CALENDAR**

On February 14, 2024, CalCCA and PG&E filed a Joint Report in which CalCCA explained an evidentiary hearing is necessary to address the following disputed factual issues:<sup>81</sup>

1. Whether PG&E made attempts to sell excess Resource Adequacy capacity to other LSEs in 2022 once it determined excess Resource Adequacy capacity was available, and if so, the nature and timing of those attempts.
2. Whether PG&E made attempts to sell excess Resource Adequacy capacity to other LSEs in 2022 beyond year-ahead and quarterly solicitations once it determined excess Resource Adequacy capacity was available, and if so, the nature and timing of those attempts.

The ALJ issued a ruling on February 15, 2024 determining "the above issues are irrelevant for evaluating PG&E's Resource Adequacy procurement and sales in accordance with its Bundled

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<sup>80</sup> Joint Report of Meet and Confer by Pacific Gas and Electric Company (U 39 E), Public Advocates Office, and the California Community Choice Association at 4 (Jan. 8, 2024).

<sup>81</sup> Joint Report by Pacific Gas and Electric Company (U 39 E) and the California Community Choice Association (Feb. 14, 2024).

Procurement Plan and outside the scope of the Scoping Memo.”<sup>82</sup> Based on that determination, the ruling took the evidentiary hearing off calendar.

As this motion discusses at length above, the facts of PG&E’s attempts to sell excess Resource Adequacy to other LSEs in 2022 after it identified that excess are relevant to multiple scoping issues. Even if the ALJ’s ruling on PG&E’s motion to strike were to stand and CalCCA’s scrutiny of PG&E’s RA sales were limited to PG&E’s consistency with Appendix S (Scoping Issue 5), the disputed issues CalCCA identified for hearing would clear that bar. That is because, as explained above, Appendix S [REDACTED]

[REDACTED].<sup>83</sup> Thus, cross examination of PG&E’s witness regarding the utility’s sales of excess RA [REDACTED] [REDACTED] once it determined excess RA was available is relevant to the question of whether PG&E “administered resource adequacy procurement and sales consistent with its Bundled Procurement Plan.”<sup>84</sup> Put differently, CalCCA’s intended lines of questioning (which would drive at the disputed issues CalCCA identified) would produce facts that tend to prove PG&E *did not* administer RA sales consistent with its Bundled Procurement Plan.

By not only precluding CalCCA from pursuing those lines of questioning (the remedy PG&E’s motion *in limine* requests) wholesale, but also taking the evidentiary hearing off calendar altogether, *i.e.*, going further than the remedy PG&E’s motion *in limine* requests, the ALJ’s ruling unreasonably limits CalCCA from asking *any* questions of PG&E’s witness and developing a

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<sup>82</sup> Administrative Law Judge’s Ruling Taking Status Conference and Evidentiary Hearing off Calendar at 1 (Feb. 15, 2024).

<sup>83</sup> CalCCA-03C at 12-14.

<sup>84</sup> Scoping Memo at 3.

robust record on PG&E's RA sales activities for the Commission's consideration. Again, the ruling offers no discussion or reasoning for its determination. The Commission should reverse the ruling and permit CalCCA to cross examine PG&E's witness on the factual issues identified in the February 14, 2024 Joint Report.

**VI. THE COMMISSION SHOULD CONSIDER THIS MOTION CALCCA'S OFFER OF PROOF FOR THE RECORD PURSUANT TO RULE 13.6 (E)**

Rule 13.6 (e) permits parties to make an offer of proof for the record, and requires that the offer "consist of a statement of the substance of the evidence to which objection has been sustained." CalCCA has not had an opportunity to make an offer of proof for the evidence to which the ALJ sustained PG&E's objection because the ALJ took the evidentiary hearing off the calendar. CalCCA therefore requests the Commission consider this motion its offer of proof of the following evidence to which the ALJ sustained an objection:

- Prepared Direct Testimony of Brian Shuey on behalf of the California Community Choice Association, dated September 22, 2023 (public version marked CalCCA-01, confidential version marked CalCCA-01-C).
- Assigned Commissioner's Scoping Memo and Ruling filed October 31, 2023 in A.23-06-002;
- Motion to Compel Discovery of San Diego Community Power and Clean Energy Alliance, filed on November 22, 2023 in A.23-06-002;
- San Diego Gas & Electric Company's (U 902-E) Response to San Diego Community Power and Clean Energy Alliance's Motion to Compel Discovery, filed on December 1, 2023 in A.23-06-002;
- E-Mail Ruling Granting San Diego Community Power and Clean Energy Alliance Motion to Compel San Diego Gas & Electric Company to Fully Respond to San Diego Community Power and Clean Energy Alliance Data Requests by 5 P.M. on December 8, 2023, issued on December 4, 2023 in A.23-06-002;
- Cross examination regarding the following disputed factual issues:
  - Whether PG&E made attempts to sell excess Resource Adequacy capacity to other LSEs in 2022 once it determined excess Resource Adequacy capacity was available, and if so, the nature and timing of those attempts.

- Whether PG&E made attempts to sell excess Resource Adequacy capacity to other LSEs in 2022 beyond year-ahead and quarterly solicitations once it determined excess Resource Adequacy capacity was available, and if so, the nature and timing of those attempts.

The substance, purpose and relevance of CalCCA's evidence listed above is discussed in detail in this motion, consistent with the requirements of Rule 13.6(e).

## VII. CONCLUSION

For the reasons described herein, CalCCA respectfully requests the Commission reverse the Rulings.

Respectfully submitted,



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CALIFORNIA COMMUNITY CHOICE  
ASSOCIATION

Dated: February 23, 2024

**Exhibit A**

**A.23-02-018**

**Prepared Direct Testimony of Brian Shuey**  
**Public Version**

Docket No.: A.23-02-018

Exhibit No.: CalCCA-01

Date: September 22, 2023

Witness: Brian Shuey

**PREPARED DIRECT TESTIMONY OF BRIAN SHUEY  
ON BEHALF OF  
THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION  
IN PACIFIC GAS AND ELECTRIC COMPANY'S  
2022 ERRR COMPLIANCE PROCEEDING**

**Public Version**

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## Attachments

- Attachment A:** Curriculum Vitae of Brian Shuey  
**Attachment B:** PG&E Responses to CalCCA Data Requests

1     **I.     INTRODUCTION AND SUMMARY OF TESTIMONY**

2             The California Community Choice Association (**CalCCA**) presents this direct  
3             testimony in the *Application of Pacific Gas and Electric Company (PG&E) for*  
4             *Compliance Review of Utility Owned Generation Operations, Portfolio Allocation*  
5             *Balancing Account (PABA) Entries, Energy Resource Recovery Account (ERRA)*  
6             *Entries, Contract Administration, Economic Dispatch of Electric Resources, Utility*  
7             *Owned Generation Fuel Procurement, and Other Activities for the Record Period*  
8             *January 1 Through December 31, 2022 (Application)*. This testimony has been prepared  
9             on behalf of CalCCA by Brian Shuey, Senior Manager, NewGen Strategies and  
10            Solutions, LLC. Mr. Shuey’s qualifications are set forth in Attachment A.

11           CalCCA has a particular interest in the PABA, which is charged to CalCCA  
12           members’ customers through the Power Charge Indifference Adjustment (**PCIA**) rates.  
13           This testimony presents CalCCA’s recommendations on issues falling within scope of the  
14           following items from the Assigned Commissioner’s Scoping Memo and Ruling in this  
15           case:<sup>1</sup>

- 16           1.   Whether PG&E, during the record period, prudently administered and  
17                managed, in compliance with all applicable rules, regulations and  
18                Commission decisions, including but not limited to Standard of Conduct No.  
19                4 (SOC 4), the following:
- 20                a.   Utility-Owned Generation Facilities, except for the Elkhorn Battery
  - 21                Energy Storage System and Pit 1 Powerhouse outages which will be
  - 22                reviewed in the 2023 ERRA Compliance proceeding;
  - 23                b.   Qualifying Facilities (QF) Contracts; and
  - 24                c.   Non-QF Contracts.

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<sup>1</sup>           Application (A.) 23-02-018, *Assigned Commissioner’s Scoping Memo and Ruling* at 2-3 (June 2, 2023) (Scoping Ruling).



1 If not, what adjustments, if any, should be made to account for imprudently  
2 managed or administered resources?

3 2. Whether the entries recorded in the ERRRA and the Portfolio Allocation  
4 Balancing Account are reasonable, appropriate, accurate, and in compliance  
5 with Commission decisions.

6 5. Whether PG&E administered resource adequacy procurement and sales  
7 consistent with its Bundled Procurement Plan;

8 Based on my review of PG&E's Application, supporting workpapers, and  
9 responses to discovery I make the following recommendations:

10 • PG&E should be required to provide a detailed reconciliation between the  
11 resource adequacy (**RA**) position reports used as the basis for its solicitations  
12 offering to sell RA for delivery in 2022 and its final RA positions resulting in  
13 excess capacity in June through October 2022.

14 • The Commission should scrutinize PG&E's assumptions about resource  
15 availability and the adjustments made to its RA position to ensure reductions  
16 to capacity made available to the market are justified and to eliminate  
17 potential overlap among categories.

18 • PG&E's Bundled Procurement Plan (**BPP**) should be updated to ensure excess  
19 capacity is made available to the market, either through refined adjustments to  
20 available capacity in RA position reports or through market offers outside of  
21 the scheduled solicitation process.

22 • The Commission should consider whether disallowance, penalty, or other  
23 remedy is warranted for the 2022 record year based on PG&E's non-  
24 compliance with Decision (**D.**) 21-12-015.

1     **II. PG&E COUNTED A SIGNIFICANT QUANTITY OF PCIA-ELIGIBLE**  
2     **RESOURCES TOWARD 2022 SYSTEM RELIABILITY INCREMENTAL**  
3     **PROCUREMENT TARGETS.**

4             In its Prepared Testimony, PG&E reported it transferred a total of 923 MW of  
5     excess RA capacity from its existing PCIA-eligible resource portfolio to its Cost  
6     Allocation Mechanism (CAM) portfolio to be counted toward its 2022 System Reliability  
7     Incremental Procurement requirement established in D.21-03-056.<sup>2</sup> According to D.21-  
8     12-015 if PG&E has not met its minimum contingency procurement target for June and  
9     October it may:

10            “...use excess resources in its existing portfolios to meet the  
11            minimum contingency procurement target (900 MW for PG&E and  
12            SCE, and 200 MW for SDG&E), *provided it has made reasonable*  
13            *attempts to sell this excess capacity to other LSEs.*”<sup>3</sup>  
14

15            Additionally, for the months of July, August, and September, excess resources may:

16            “... be used to meet or supplement these procurement targets up to  
17            the upper end of its contingency procurement target (1,350 MW for  
18            PG&E and SCE, and 300 MW for SDG&E), *provided it has made*  
19            *reasonable attempts to sell this excess capacity to other LSEs.*”<sup>4</sup>

20            As noted in D.21-12-015, PG&E is authorized to count excess RA capacity from  
21     existing resources to meet its System Reliability Incremental Procurement targets  
22     provided it has first made reasonable attempts to sell this excess capacity to other load  
23     serving entities (LSEs). Because cost recovery for System Reliability Incremental  
24     Procurement is through the CAM, the value of excess RA capacity provided by existing  
25     resources must be transferred from the applicable balancing account to the CAM  
26     balancing account (for PG&E, the New System Generation Balancing Account

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<sup>2</sup> PG&E’s Prepared Testimony, Chapter 12, page 12-15, lines 3-19.

<sup>3</sup> D.21-02-015, Phase 2 Decision Directing PG&E, SCE, and SDG&E to take actions to prepare for potential extreme weather in the summers of 2022 and 2023, page 183 (emphasis added).

<sup>4</sup> *Id.*, page 184 (emphasis added).

(NSGBA)).

PG&E reports that it counted 923 MW of excess RA from existing PCIA-eligible resources, during the months of June through October of 2022.<sup>5</sup> As required, PG&E credited PABA and charged NSGBA for the value of the RA transferred to CAM. Transfers were valued at the Forecasted 2022 System RA Adder for June through September, prior to the publishing of the Final 2022 System RA Adder. PG&E trued-up the entries through October and made an adjustment to account for the publishing of the Final RA Adders. The total amount transferred to NSGBA was [REDACTED] over the five months. See Table 1 for the transfers by month.

**Table 1: System RA Transfer from PABA to NSGBA<sup>6</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 that PG&E is authorized under D.21-12-015 and D.21-03-056 to count excess RA capacity toward incremental procurement obligations. However, even though PG&E appropriately credited the PABA for the PCIA resources it borrowed, my testimony demonstrates that PG&E did not make reasonable attempts to sell the ‘excess’ capacity to other LSEs as required by D.21-12-015.

<sup>5</sup> See PG&E’s response to CalCCA data requests 2.19 and 2.58.

<sup>6</sup> RA Transferred to CAM from PG&E 2022 IOU Excess Resources Summary Report, <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/oct-2022pge-template-for-excess-resource-reporting-d2112015-public-083122.xlsx>.

1 **III. PG&E'S SYSTEM RA POSITION REPORTS ARE INCONSISTENT WITH**  
2 **PG&E'S CLAIM THAT IT HAD 923 MW OF EXCESS RA AVAILABLE DURING**  
3 **SUMMER MONTHS IN 2022.**

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

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED] [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 PG&E creates a projected RA position at the time it holds each solicitation in  
15 order to determine the quantity of RA available for sale at that point in time.<sup>8</sup> As part of  
16 the Joint CCA Master Data Request included with PG&E's filing in this case, PG&E  
17 provided CalCCA the RA positions it prepared for each solicitation in which it offered to  
18 sell RA with delivery during 2022. Table 2 summarizes PG&E's System RA position for  
19 the months of June through October 2022 as calculated at the time of each solicitation.

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<sup>7</sup> See PG&E's Bundled Procurement Plan Appendix S Section B.3.b.1.a

<sup>8</sup> See PG&E's response to Joint CCA Master Data Request 1.08.

**Table 2: Summer System RA Position (MW)**

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

PG&E reported a dramatically different picture to the Commission in its 2022 Excess Resources Report. In that report, PG&E reported that it had 923 MW of *excess* RA from existing resources during June through October 2022, including 183 MW in July and 330 MW in October.<sup>9</sup>

In response to CalCCA’s discovery requests, PG&E explained that it identified the final quantity of excess RA capacity counted towards meeting System Reliability Incremental Procurement targets between T-50 and T-30 days prior to each compliance month.<sup>10</sup> That timing coincides with PG&E’s preparation of monthly RA supply plans required to be submitted to the CAISO 45 days prior to the compliance month.<sup>11</sup> This means, for example, that PG&E did not identify that it had 183 MW of excess RA for

<sup>9</sup> Excess RA from PG&E 2022 IOU Excess Resources Summary Report, <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/oct-2022pge-template-for-excess-resource-reporting-d2112015-public-083122.xlsx>.

<sup>10</sup> See PG&E’s response to CalCCA data request 3.26.

<sup>11</sup> See CAISO Open Access Transmission Tariff Section 40.4.7.1.b.

1 July 2022 until sometime around May 12, 2022, while preparing its monthly RA supply  
2 plan. But just 31 days earlier (for its April 11, 2022 solicitation), PG&E prepared a  
3 System RA position report [REDACTED]  
4 [REDACTED].<sup>12</sup> For  
5 October 2022, the change from PG&E's System RA position report [REDACTED] to  
6 the amount of excess RA counted towards PG&E's System Reliability Incremental  
7 Procurement targets (330 MW excess) [REDACTED]  
8 [REDACTED]

9 **IV. PG&E DID NOT OFFER TO SELL EXCESS SYSTEM RA TO OTHER LSES**  
10 **PRIOR TO COUNTING THE CAPACITY TOWARD ITS SYSTEM**  
11 **RELIABILITY INCREMENTAL PROCUREMENT TARGETS.**

12 When asked to explain all attempts made to sell any portion of the 923 MW of  
13 excess capacity, PG&E responded that it “attempts to sell all excess capacity, or its long  
14 RA position, as determined by Appendix S [of the BPP], pursuant to the commercial  
15 processes in Appendix S.”<sup>13</sup> Specifically, PG&E issued six solicitations offering to sell  
16 System RA for delivery during the 2022 Compliance Year. PG&E held two year-ahead  
17 solicitations in August 2021 and October 2021, in which PG&E projected out the  
18 available RA for the full twelve months of 2022. PG&E also held four quarterly  
19 solicitations in November 2021, January 2022, April 2022, and July 2022, projecting the  
20 available RA for the remaining months of 2022 updated on a quarterly basis.

21 As described earlier, PG&E's BPP prescribes [REDACTED]  
22 [REDACTED]  
23 [REDACTED]

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<sup>12</sup> PG&E held no solicitations after April 11, 2022, offering to sell RA capacity in July 2022.  
<sup>13</sup> See PG&E's response to CalCCA data request 2.54.

PG&E's BPP

also states,

<sup>14</sup>

Table 3 summarizes the System RA 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>15</sup> Consistent with PG&E's BPP Appendix S,

**Table 3: Summer System RA Volumes Offered for Sale by Solicitation (MW)**

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					
10/6/2021	Phase 2 2022 YA Solicitation					
11/22/2021	Q1 Balance-of-Year Solicitation					
1/14/2022	Q2 Balance-of-Year Solicitation					
4/11/2022	Q3 Balance-of-Year Solicitation					
7/18/2022	Q4 Balance-of-Year Solicitation					

As Table 3 demonstrates,

<sup>16</sup>

<sup>14</sup> See PG&E's Bundled Procurement Plan Appendix S Section B.3.d.1.

<sup>15</sup> See PG&E's response to Joint CCA Master Data Request 1.08 Attachment 2 and CalCCA data request 2.57.

<sup>16</sup> See PG&E's response to CalCCA data request 3.31.

1           When asked to provide documentation demonstrating whether it received any  
2           offers from other LSEs to purchase any portion of the 923 MW of excess RA, PG&E  
3           responded that it “did not receive any bids from other LSEs to purchase any portion of  
4           the excess capacity *after it was known to be available.*”<sup>17</sup> However, PG&E issued each of  
5           the solicitations summarized in Table 3 above *before* PG&E had determined the quantity  
6           of excess RA from existing resources that it would count toward System Reliability  
7           Incremental Procurement targets. In other words, PG&E offered solicitations based on a  
8           System RA Position that was calculated *before* PG&E calculated the excess RA it had  
9           available to meet System Reliability Incremental Procurement targets.

10           PG&E issued its final two solicitations for RA with delivery in 2022 on April 11,  
11           2022, and July 18, 2022, which projected System RA positions for July through  
12           December 2022 and October through December 2022, respectively. According to  
13           PG&E’s BPP, [REDACTED]

14           [REDACTED]

15           [REDACTED]

16           When asked whether it had rejected offers from other LSEs to purchase any  
17           portion of the 923 MW of excess capacity, PG&E simply referred back to its statement  
18           that it did not receive any bids “after the excess capacity was known to be available.”<sup>18</sup>  
19           Reviewing data from PG&E’s RA solicitations tells a more complete story, however.  
20           Table 4 below details for each RA solicitation the bids submitted by third parties seeking  
21           to purchase System RA, but which were rejected by PG&E [REDACTED]

22           [REDACTED]

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<sup>17</sup> See PG&E’s response to CalCCA data request 2.55 (emphasis added).

<sup>18</sup> See PG&E’s response to CalCCA data request 2.56.



Table 4 summarizes the number of bids rejected

. As Table 4 demonstrates,

.<sup>19</sup>

**Table 4: Bids Rejected**

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										
Phase 2 2022 YA										
Q1 2022 BOY Solicitation										
Q2 2022 BOY Solicitation										
Q3 2022 BOY Solicitation										
Q4 2022 BOY Solicitation										

PG&E’s responses that it had not received any bids to purchase the RA “after it was known to be available” obfuscates the reality of the solicitation and compliance reporting processes. A follow-up discovery question from CalCCA asked PG&E to explain specifically how it communicated to other LSEs that excess capacity had become available following its solicitation, to which PG&E simply replied that it complied with the requirements in Appendix S of its BPP at all times.<sup>20</sup> PG&E’s responses to discovery fail to acknowledge that there was no RA solicitation that would have been timely enough to offer PG&E’s excess RA for sale, and that therefore, LSEs *could not have* made bids to purchase excess RA “once it was known to be available.” Therefore, those LSEs did not have the opportunity to use PG&E’s excess RA capacity to meet their own System RA obligations. PG&E’s failure to make reasonable attempts to sell the excess

<sup>19</sup> See PG&E’s response to CalCCA data requests 2.21, 2.23, and 2.54 Supplemental.

<sup>20</sup> See PG&E’s response to CalCCA data request 3.28.

1 capacity to other LSEs, as required by D.21-12-015, should have disqualified it from  
2 counting the capacity towards its 2022 System Reliability Incremental Procurement  
3 targets.

4 **V. LSES HAVE PAID SUBSTANTIAL FINES BECAUSE THEY WERE UNABLE TO**  
5 **PROCURE SUFFICIENT RA CAPACITY.**

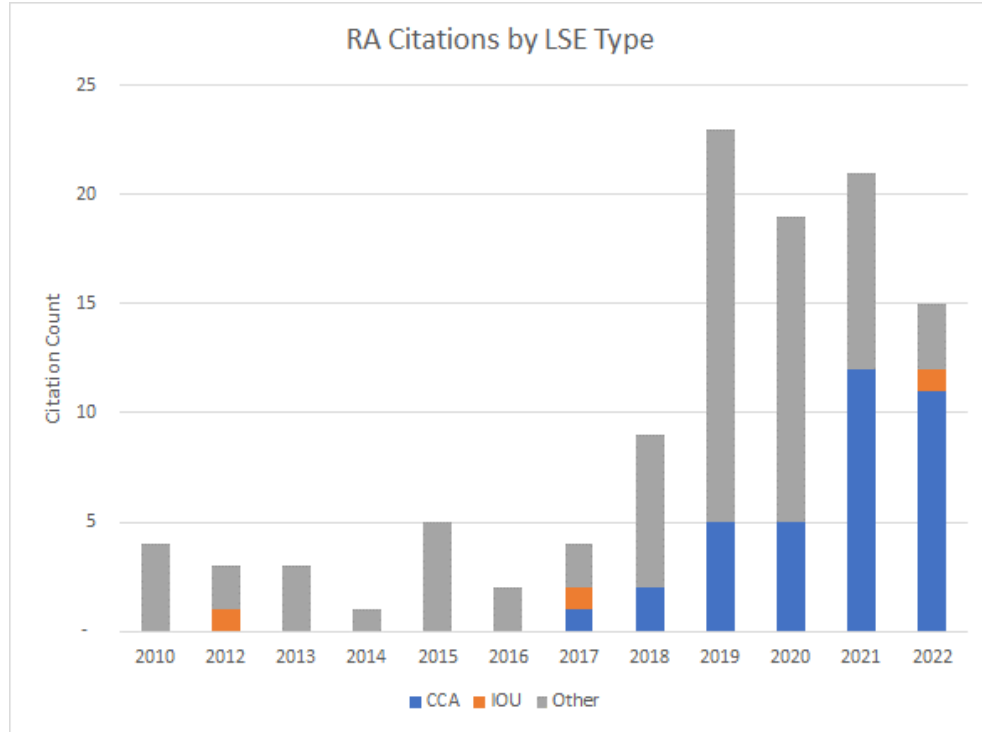
6 Allowing PG&E to count RA from existing resources toward its System  
7 Reliability Incremental Procurement target without first making that capacity available to  
8 other LSEs cannibalizes an already constrained RA market and increases costs to all  
9 customers. One symptom of the constrained RA market is that many LSEs have been  
10 unable to meet their System RA requirements despite being willing to pay. The  
11 Enforcement Actions Spreadsheet updated by the Consumer Protection and Enforcement  
12 Division in July 2023 tracks RA citations issues to various entities from October 2009  
13 through July 2023. As shown in Figure 1, there was a sharp increase in the number of  
14 citations in 2019, and elevated levels continued through 2022.<sup>21</sup>

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<sup>21</sup> CPUC's Utility Enforcement Branch – July 2023 Energy Citations, <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/consumer-protection-and-enforcement-division/documents/ueb/energy-citations/2023/july-2023-ueb-energy-citations.pdf>.

1

**Figure 1: RA Citations by LSE Type**



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Since 2009 there have been 130 fines totaling \$39.6 million to LSEs for failing to meet RA compliance requirements.<sup>22</sup> In 2022 alone, there were 18 citations issued totaling \$10.9 million, including 11 citations to CCAs that failed to meet the Commission’s RA requirements.<sup>23</sup> According to the Energy Division’s Annual RA Report from 2021 “Citations and penalties have increased in recent years, likely driven by issues related to supply and demand balances due to resource retirements, load forecast increases, and changes in counting conventions.”<sup>24</sup>

<sup>22</sup>

*Id.*

<sup>23</sup>

*Id.*

<sup>24</sup>

2021 Resource Adequacy Report, [https://webproda.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/2021\\_ra\\_report\\_040523.pdf](https://webproda.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/2021_ra_report_040523.pdf).

Another symptom of the constrained market is the steadily increasing price of System RA. Figure 2 below reproduces Figure 4 from the 2021 Resource Adequacy Report,<sup>25</sup> showing the rise in RA prices from 2017 to 2021.

**Figure 2: Weighted Average Price of System RA, January and August 2017-2021**

2021 Resource Adequacy Report

Figure 4: Weighted Average Price of System RA (\$/kW-month), January and August 2017- 2021



Source: 2017-2021 price data submitted by LSEs.

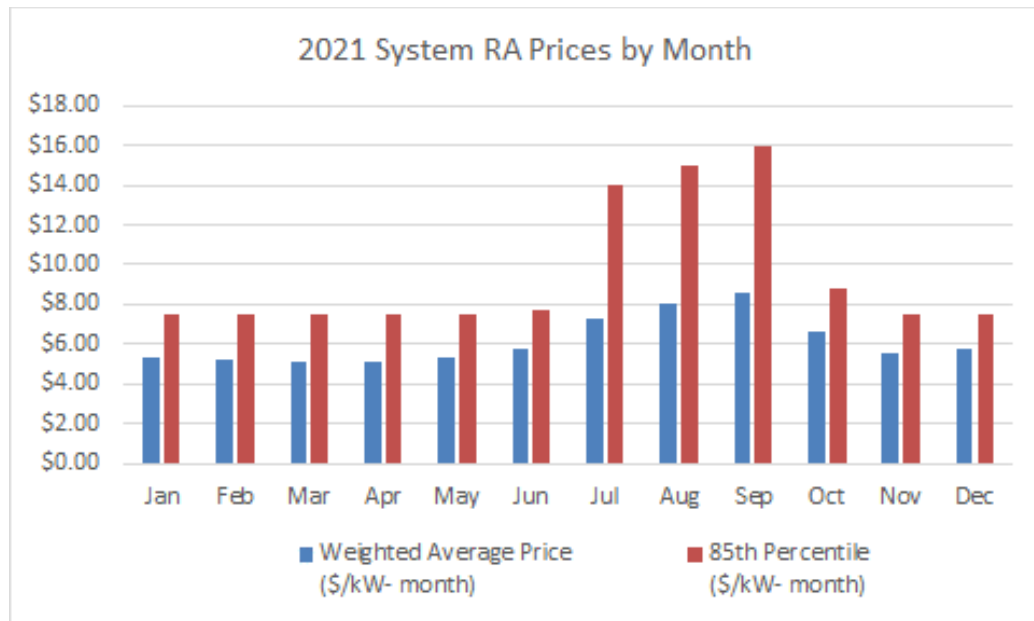
As Figure 2 shows, Energy Division's 2021 Resource Adequacy Report illustrates that the average price of System RA transactions executed for August 2021 was 158% higher than for August 2017.<sup>26</sup> The RA market price benchmarks calculated by Energy Division in September 2022 report that System RA prices in 2022 averaged \$8.11/kW-month over the entire year, and the forecast for average System RA prices in 2023 is \$7.39/kW-month.

<sup>25</sup> 2021 Resource Adequacy Report, [https://webproda.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/2021\\_ra\\_report\\_040523.pdf](https://webproda.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/2021_ra_report_040523.pdf).

<sup>26</sup> *Id.* at 28-29.

Energy Division's data also shows that variation in RA prices during 2021 was significantly greater during high-demand summer months relative to other periods; prices for 15 percent of transactions exceeded \$14/kW-month during July – September 2021.<sup>27</sup> Figure 3 below presents Energy Division's monthly price data for 2021 in graph form.

**Figure 3: 2021 System RA Prices by Month**



Price spikes such as these in the short-term RA market simply create a windfall for existing generation owners at the expense of retail consumers; there is no incremental reliability benefit to the system. If LSEs are not provided with a reasonable opportunity to purchase PG&E's excess RA in a timely manner, they will continue to struggle to meet RA compliance requirements and incur penalties that increase costs to customers.

**VI. THE COMMISSION SHOULD SCRUTINIZE THE ASSUMPTIONS USED IN PG&E'S POSITION REPORTING AND SOLICITATION PROCESS.**

The fact that [REDACTED]

[REDACTED] but then

<sup>27</sup> *Id.* at 27-28.

1 count excess capacity of 923 MW for System Reliability Incremental Procurement,  
2 indicates the current RA solicitation process is flawed. CalCCA asked PG&E several  
3 times in discovery to explain how it could forecast a shortfall in RA for a given period  
4 but later have excess RA in that same period. PG&E merely responded that its “bundled  
5 RA position changed due to a variety of conditions”<sup>28</sup> and reiterated that it identified the  
6 excess capacity between T-50 and T-30 days prior to the compliance month.<sup>29</sup>

7 As described earlier, PG&E determines its System RA position by [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]<sup>30</sup> Table 5 below details each of those line items as  
12 calculated by PG&E in its RA position reports for the summer 2022 delivery period.

13 Table 5 also shows the change from the previous RA position for each component of the  
14 reports.

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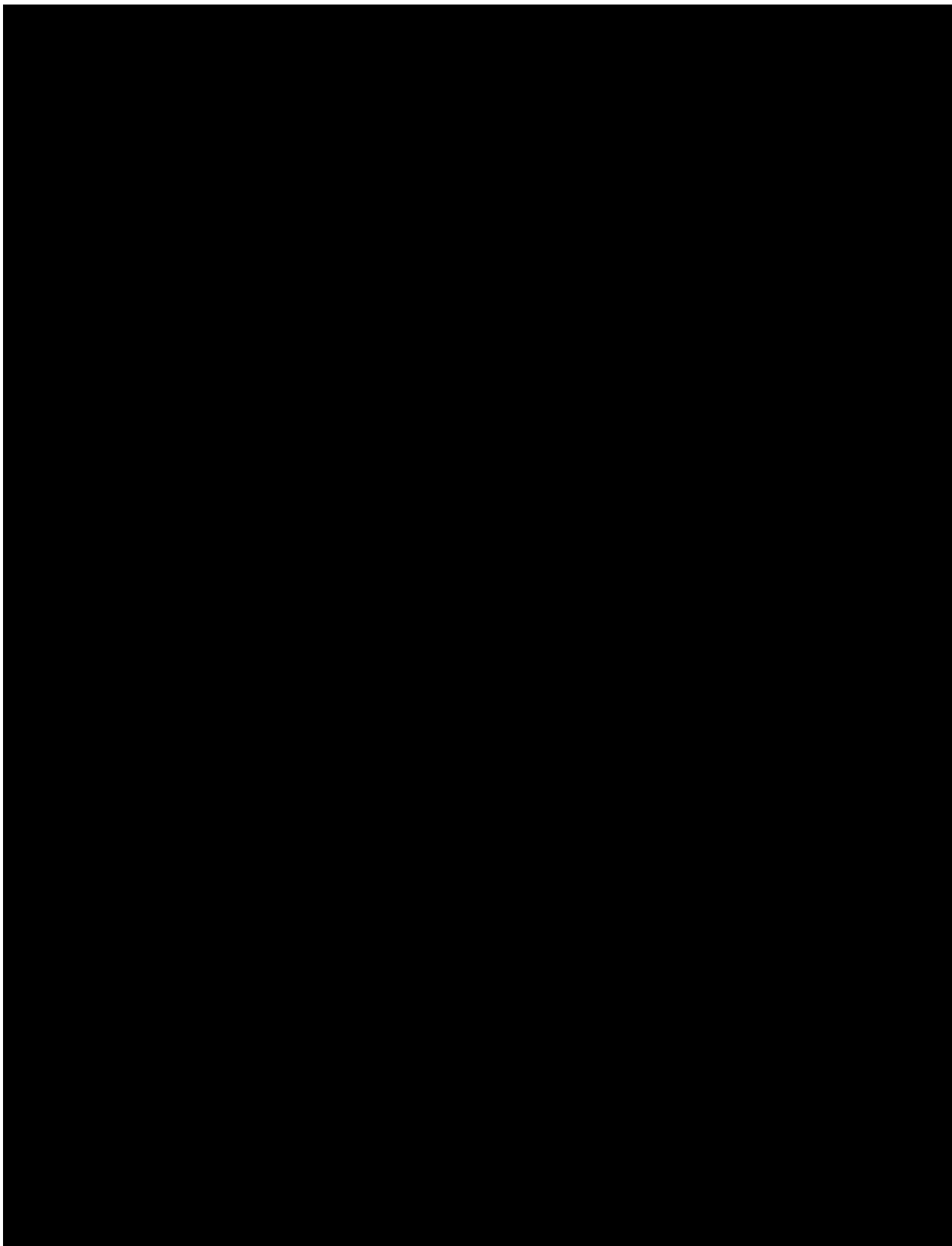
<sup>28</sup> See PG&E’s response to CalCCA data requests 3.27, 4.14 and 4.15.

<sup>29</sup> See PG&E’s response to CalCCA data requests 3.33.

<sup>30</sup> See PG&E’s Bundled Procurement Plan Appendix S Section B.3.b.1.a.

1

**Table 5: RA Position Reports Detail**



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1           Table 5 demonstrates that there is little change to PG&E's RA Position  
2           components after the two year-ahead solicitations (based on the 8/23/2021 and  
3           10/26/2021 position reports) are complete and resulting RA sales are incorporated. Once  
4           the year ahead solicitations are complete the line-item assumptions that go into the  
5           ultimate RA position do not change significantly. In fact, the changes are generally  
6           smaller than the RA swings in capacity described earlier [REDACTED] between  
7           PG&E's position reports and ultimate excess RA used towards its System Reliability  
8           Incremental Procurement.<sup>31</sup> CalCCA is continuing to issue discovery to PG&E on this  
9           point and may seek to supplement this testimony if it will provide additional clarity. In  
10          any event, PG&E should be required to explain specifically what changed relative to its  
11          RA position reports such that it ended up with 923 MW of excess summer RA capacity,  
12          most of which was never made available to the market.

13          One potential explanation for the swing in PG&E's available RA capacity is that  
14          PG&E determines factors in its RA position reporting that are impacted by resource  
15          availability and other adjustments to available capacity. To the extent PG&E has  
16          discretion with regard to assumptions of resource availability, outage schedules, or  
17          operational constraints, it is likely to make conservative assumptions that ensure  
18          resources are used to meet its own compliance rather than make those resources available  
19          to the market.

20          Concerns over service reliability and resource adequacy in California, and the  
21          increasingly constrained RA market, make it critical that PG&E does not improperly

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<sup>31</sup>       The reason we're looking at the later position reports only is to get past the major updates from the Commission on RA requirements and CAISO on resource Net Qualifying Capacity. The remaining large changes are in the existing sales line due to previous solicitations.



1 withhold available RA capacity from the market. As such, CalCCA recommends the  
2 following:

- 3 • PG&E should be required to provide a detailed reconciliation between the RA  
4 position reports used as the basis for its solicitations offering to sell RA for  
5 delivery in 2022 and its final RA positions resulting in excess capacity in June  
6 through October 2022.
- 7 • The Commission should scrutinize PG&E's assumptions about resource  
8 availability and the adjustments made to its RA position to ensure reductions  
9 to capacity made available to the market are justified and to eliminate  
10 potential overlap among categories.
- 11 • PG&E's BPP should be updated to ensure excess capacity is made available to  
12 the market, either through refined adjustments to available capacity in RA  
13 position reports or through market offers outside of the scheduled solicitation  
14 process.
- 15 • The Commission should consider whether disallowance, penalty, or other  
16 remedy is warranted for the 2022 record year based on PG&E's non-  
17 compliance with D.21-12-015.

18 This concludes my testimony.

**Attachment A**

**Curriculum Vitae of Brian Shuey**

Mr. Brian Shuey joined NewGen as a Senior Manager in May 2022, with over 15 years of experience in consulting and the utility industry. Mr. Shuey has audited specialized financial statements and reviewed adjustment clause rate filings for electric, gas, water, and steam utility companies. Additionally, Mr. Shuey participated in various special projects regarding utility rate-making issues. He also has significant Big 4 internal audit, enterprise risk management, regulatory compliance, IT consulting, and process improvement experience.

## EDUCATION

Bachelor of Science in Accounting, The Pennsylvania State University

## PROFESSIONAL CERTIFICATIONS

Certified Internal Auditor; Institute of Internal Auditors

## KEY EXPERTISE

Adjustment Clause Rate Filing Review

Cost Recovery

Enterprise Risk Management

Financial Statement Audits

IT Consulting

Management Consulting

Process Improvement

Project Management

Regulatory Compliance

Utility Rate Design

## RELEVANT EXPERIENCE

### Litigation Support

Mr. Shuey provides litigation support related to utility revenue requirements, rate design, and other ratemaking issues before state and local regulatory bodies. He has evaluated utility stranded costs and exit fees for retail customer choice, including on behalf of approximately a dozen Community Choice Aggregators in California.

A sample of Mr. Shuey's clients includes the following:

- California Community Choice Association, CA
- Clean Power Alliance, CA

# Brian Shuey

SENIOR MANAGER

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## PRIOR RELEVANT EXPERIENCE

Below is a small sample of Mr. Shuey's work within the energy utility industry.

### PA Public Utility Commission Auditor & Supervisor

- Experience reviewing and auditing Electric Default Service, Transmission Service, Competitive Transition Charges, and Infrastructure Improvement Charges.
- Developed and maintained a training program for new and current employees to complete the review of adjustment clause rate filings.
- Assigned and supervised the review of over 300 adjustment clause filings per year for conformity to Commission directives and State statutes.
- Led discussions with utility personnel to revise or update filings as needed.
- Supervised the preparation of all audit work papers and reports for a team of seven auditors.
- Reviewed the work of Audit Team Leaders to ensure the audits were in accordance with generally accepted auditing standards.

### Enterprise Risk Management/Internal Audit

- Directed and supervised up to 15 staff while completing multi-year internal control assessments over multiple large and small state agencies.
- Participated in risk assessments and control testing in multiple organizations over five years, utilizing COSO 13 and Green Book internal control frameworks.
- Facilitated the documentation of over 35 key processes and over 500 controls for a single client and assisted in developing and executing a risk-based monitoring plan for these controls.
- Participated in executing a risk-based audit plan, including process/control documentation and control testing.

**Attachment B**

**PG&E Responses to CalCCA Data Requests**

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account Compliance**  
**Application 23-02-XXX**  
**Data Response**

PG&E Data Request No.:	JointCCAs 001-Q08		
PG&E File Name:	ERRA-2022-PGE-Compliance DR JointCCAs 001-Q08		
Request Date:	January 6, 2021	Requester DR No.:	001
Date Sent:	February 28, 2023	Requesting Party:	Joint CCAs
PG&E Witness:	Robert Gomez	Requester:	

**QUESTION 08**

Provide Resource Adequacy (RA) information as follows:

- (1) sold, unsold and retained resource adequacy by resource and balancing account (RA Tracker)
- (2) system, local and flex positions for solicitations governed by Appendix S including the data as presented in the attached RA Position Table for (a) each solicitation in which RA for delivery in the record year was offered for sale (b) at the time each solicitation took place
- (3) all Tier 1 advice letter filings addressing Operational Constraints, including confidential attachments.

**ANSWER 08**

***THE ATTACHMENTS TO THIS DATA RESPONSE CONTAIN CONFIDENTIAL INFORMATION PROTECTABLE UNDER DECISION 14-10-033, DECISION 06-06-066, PUBLIC UTILITIES CODE SECTION 454.5(G) AND/OR PURSUANT TO NON-PROCUREMENT DECLARATION DATED FEBRUARY 28, 2023***

- (1) Sold, unsold, and retained resource adequacy by resource and balancing account are included in the attachment "ERRA-2022-PGE-Compliance\_DR\_JointCCAs\_001-Q08\_Atch01-2022\_20221231\_Retained\_RA\_Tracker\_December\_2022\_CONF.xlsx" in the "2022 RA Tracker" tab.
- (2) Positions for solicitations governed by Appendix S for (a) each solicitation in which RA for delivery in the record year was offered for sale (b) at the time each solicitation took place are included in ERRA-2022-PGE-Compliance\_DR\_JointCCAs\_001-Q08\_Atch02-2022\_Positions\_CONF.xlsx. Each RA Position Table reflects the system, flex, or local area position at the time of solicitation and the quantity available for sale at that point in time.
- (3) All Tier 1 Advice Letter filings addressing Operational Constraints, including confidential attachments are included in ERRA-2022-PGE-Compliance\_DR\_JointCCAs\_001-Q08\_Atch03-Advice\_Letter\_Filings\_CONF.zip.

Attachment is confidential.

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 002-Q019		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 002-Q019		
Request Date:	March 15, 2023	Requester DR No.:	002
Date Sent:	April 5, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 019**

Referring to PG&E's prepared testimony, Page 8-4, lines 24-30: Did PG&E meet its minimum target of 900 MW as required in D.21-12-015? If yes, provide workpapers demonstrating compliance. If no, explain why not.

**ANSWER 019**

Yes. Attached is the public version of PG&E's progress towards the minimum procurement target of 900 MW (ERRA-2022-PGE-Compliance\_DR\_CalCCA\_002\_Q019\_Atch01.xlsx). This document can also be found on the CPUC's RA Compliance website at the following link: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/oct-2022pge-template-for-excess-resource-reporting-d2112015-public-083122.xlsx>.



## IOU EXCESS RESOURCE REPORTING SUMMARY

Utility Name:	Pacific Gas and Electric
Monthly Minimum MW Target:	900
Date of Report	10/1/22

### Instructions:

General: Report actual MW values for previous months and estimates for future months. At the top, enter the subset of the resources from Sections 1 and 2 shown on the IOU's supply plan for each summer month.

**1. Supply-Side Emergency Reliability OIR Procurement:** Report all approved contracts for supply-side resources authorized under D.21-12-015 showing the amount being claimed toward the IOU's monthly incremental procurement target, even if the amount for any given month is zero MW.

**2. Excess Resources from IOU Portfolio Above 15% PRM:** Report any additional "excess resources" above the IOU's 15% PRM requirement being applied to CAM for each month.

**3. Demand-Side Emergency Reliability OIR Procurement:** Report a demand-side resources authorized under D.21-12-015 and being claimed toward the IOU's monthly incremental procurement target.

### Subset of the resources below shown on the IOU's supply plan

	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22
IOU Supply Plan Summer Reliability MW Amount	670.84	706.00	652.66	756.94	703.90

### Total resources available as incremental above 15% RA requirement (i.e., progress toward the IOU's incremental effective PRM target)

Project/Resource Name	Resource Type	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Advice Letter and/or Resolution	Notes
<b>1. Supply-Side Emergency Reliability OIR Procurement -</b> <i>Itemize each new project/resource by name</i>	<i>Indicate whether the resource is new build, firm import, short-term energy, only call option, etc.</i>	<i>MW to be claimed for CAM Cost Recovery</i>					<i>List # if applicable</i>	<i>E.g. exp. in monthly variability, discrepancies between contract values, etc.</i>
Sierra Pacific Industries	Short-term Energy-Only Call-Option	7.00	7.00	7.00	7.00	10.00	AL-6604	
Chevron Taft/Cadet	Short-term Energy-Only Call-Option	2.20	2.20	2.20	2.20	2.20	AL-6604	
Chevron Cymric	Short-term Energy-Only Call-Option	1.50	1.50	1.50	1.50	1.50	AL-6604	
Chevron Coalina	Short-term Energy-Only Call-Option	3.20	3.20	3.20	3.20	3.20	AL-6604	
Chevron SE Kern River	Short-term Energy-Only Call-Option	15.00	15.00	15.00	15.00	15.00	AL-6604	
Chevron East Ridge	Short-term Energy-Only Call-Option	3.00	3.00	3.00	3.00	3.00	AL-6604	
Chevron McKittick	Short-term Energy-Only Call-Option	4.50	4.50	4.50	4.50	4.50	AL-6604	
Wheelabrator Shasta	Short-term Energy-Only Call-Option	15.90	15.90	15.90	15.90	15.90	AL-6604	
Import RA: PowerEx	Firm Import	125.00	125.00	125.00	125.00		AL-6504	
Import RA: PowerEx	Firm Import	75.00	75.00	75.00	75.00			
Import RA: PowerEx	Firm Import	200.00	200.00	200.00	200.00			
Import RA: Morgan Stanley	Firm Import	50.00	50.00		41.00	100.00		
Import RA: TransAlta	Firm Import		50.00	50.00	50.00	50.00		
Import RA: Guzman Energy LLC	Firm Import				25.00			
Import RA: Dynasty Power Inc.	Firm Import				25.00			
Import RA: BPA	Firm Import				100.00			
Tesoro Martinez	PPA extension	45.00	100.00	100.00	100.00	100.00	AL-6323	
Import RA: ConocoPhillips	Firm Import		25.00	25.00	75.00			
Calpine	Short-term RA only	190.00					AL-6604	
E k Hills	Short-term RA only	70.00					AL-6604	
Vistra	Short-term RA only	30.00					AL-6604	
New build	New build					150.00		
New build	New build			63.00	63.00	63.00		
New build	New build			47.00	47.00	47.00		
UOG Enhancements - Gateway	UOG Enhancement	10.00	10.00	10.00	10.00	10.00	AL-6088 page 6	Not included in Cost Recovery for System Reliability OIR
UOG Enhancements - Colusa	UOG Enhancement	10.00	10.00	10.00	10.00	10.00	AL-6088 page 6	Not included in Cost Recovery for System Reliability OIR
<b>2. Excess Resources from IOU Portfolio Above 15% PRM</b>		<i>MW to be claimed for CAM Cost Recovery</i>						
Excess Resources from IOU Portfolio	Excess Resources	103.70	183.14	148.97	156.70	330.00		Amount to be Shown on RA/Supply Plan
<b>SUBTOTAL SUPPLY-side Excess Procurement</b>		<b>961</b>	<b>855</b>	<b>906</b>	<b>1,105</b>	<b>990</b>		
<b>3. Demand-Side Emergency Reliability OIR Procurement</b>	<i>Indicate subcategories of resource, if applicable</i>	<i>MW reported</i>						
ELRP Enrollment		378.00	423.00	466.00	466.00		N/A	
DR program expansion		19.00	15.00	14.00	14.00	12.00	N/A	
Other (Smart Thermostat)		12.00	13.00	14.00	13.00	5.00	N/A	
DRAM					5.00		AL-6619	Amount to be Shown on RA/Supply Plan
<b>SUBTOTAL DEMAND-side Excess Procurement</b>		<b>409</b>	<b>451</b>	<b>494</b>	<b>498</b>	<b>483</b>		

<b>IOU Progress toward Monthly Target</b>	<b>1,370</b>	<b>1,306</b>	<b>1,400</b>	<b>1,603</b>	<b>1,473</b>	<-- total MW procured
<b>Minimum Excess Procurement Target per D.21-12-015</b>	<b>900</b>	<b>900</b>	<b>900</b>	<b>900</b>	<b>900</b>	
<b>DIFFERENCE</b>	<b>-470</b>	<b>-406</b>	<b>-500</b>	<b>-703</b>	<b>-573</b>	<-- negative values mean minimum target exceeded; positive values mean minimum target not met
<b>Supply Side Headroom (3,000 Max)</b>	<b>389</b>	<b>495</b>	<b>444</b>	<b>245</b>	<b>360</b>	

Monthly IOU reports available at: <https://www.cpuc.ca.gov/General.aspx?id=6311>

### D.21-12-015 Ordering Paragraph 74:

"In recognition of the continued tight grid conditions experienced this summer, the California Independent System Operator's testimony reflecting a significant shortfall in Load Serving Entity supply plan resources at net peak, and the need for additional contingency resources identified in the California Energy Commission's Summer 2022 Stack Analysis, Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric Company (SDG&E) shall use their best efforts to meet a revised targeted procurement range of 2,000 megawatts (MW) to 3,000 MW for summers 2022 and 2023, which includes and is not additive to the targeted procurement of 1,000 MW of contingency resources adopted in Decision (D.) 21-02-028 and D.21-03-056 and results in an "effective PRM" of 20%-22.5%. Based on the proportional load share in each utility's service territory, the revised targeted procurement range represents 900 – 1,350 MW of additional procurement for SCE and PG&E, and 200 – 00 MW for SDG&E."

### D.21-12-015 Ordering Paragraph 74:

"Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company shall provide the monthly amounts of the excess resources they applied to the Cost Allocation Mechanism, as well as the calculus used to determine these amounts to Commission's Energy Division, and Energy Division will post this information on the Commission's website."

Applying the TAC as a CAISO load share for each utility's service territory to the contingency procurement set forth in the decisions on results, net to get procurement amounts of 900 MW, 1,350 MW each for PG&E and SCE as a result of the 200 MW, 300 MW for SDG&E as a result of the 10-12-12-015, find of fact 28) PG&E has Excess Resources from its portfolio available to supplement the above stated resources in October 2022. These supplemental megawatts are not captured in the above total and will not be subtracted to cost recovery through D.21-12-015. The available energy from any Excess Resources will be offered in the CA ISO market based on least cost dispatch standards.

"PG&E bids resources with bid rights into the CAISO market based on the incremental costs of opportunity costs. By bidding its resources into the CAISO market at the incremental opportunity costs, PG&E enables total procurement to meet customer demand in the CA ISO market at least cost. Resources with contract physical constraints that limit the ability to be bid may be fully or partially self-scheduled into the CAISO market." Page 17, 2020 PG&E EBR Compliance Testimony

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 002-Q021		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 002-Q021		
Request Date:	March 15, 2023	Requester DR No.:	002
Date Sent:	April 5, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 021**

Referring to PG&E's prepared testimony, Page 8-7, lines 18-23: For each solicitation referenced in the cited testimony, please provide all workpapers detailing PG&E's quantitative evaluation of all bids received. Workpapers should include, but not be limited to, the following:

- a. Details of all bids received, by solicitation, including buyer, term, volume, bid price, product, area, etc.
- b. Each bid received but rejected
- c. Justification for rejecting any bid
- d. Each bid received resulting in an executed contract.

**ANSWER 021**

***THE ATTACHMENTS TO THIS DATA RESPONSE CONTAIN CONFIDENTIAL INFORMATION PROTECTABLE UNDER DECISION 14-10-033, DECISION 06-06-066, AND/OR PUBLIC UTILITIES CODE SECTION 454.5(G) – SUBJECT TO NDA***

- a) Please see the following attachments for the bid summary or shortlist files for each solicitation that were submitted to the PRG.

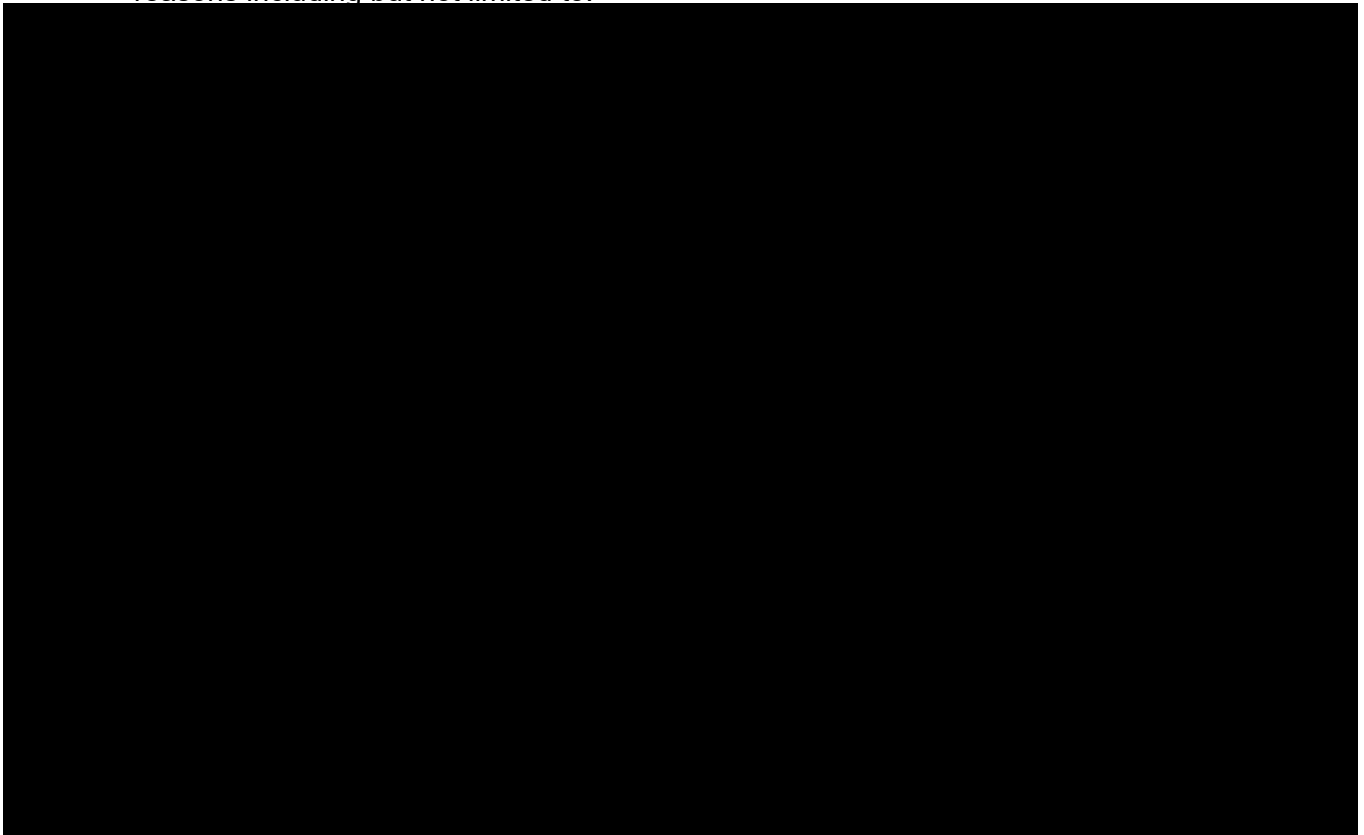
- **Q2 2022 Balance of Year Solicitation:** ERRA-2022-PGE-Compliance\_DR\_CalCCA\_002-Q021\_Atch1-CONF
- **Q3 2022 Balance of Year Solicitation:** ERRA-2022-PGE-Compliance\_DR\_CalCCA\_002-Q021\_Atch2-CONF
- **Q4 2022 Balance of Year Solicitation:** ERRA-2022-PGE-Compliance\_DR\_CalCCA\_002-Q021\_Atch3-CONF
- **Q3 2023 Year Ahead Phase 1 Solicitation:** ERRA-2022-PGE-Compliance\_DR\_CalCCA\_002-Q021\_Atch4-CONF)
- **Q3 2023 Year Ahead Phase 2 Solicitation:** ERRA-2022-PGE-Compliance\_DR\_CalCCA\_002-Q021\_Atch5-CONF)
- **Q2 2023 Balance of Year Solicitation:** ERRA-2022-PGE-Compliance\_DR\_CalCCA\_002-Q021\_Atch6-CONF

These files mentioned above contain the details of all bids received for each RA solicitation with 2022 and 2023 delivery, including counterparty, term, volume, bid price,

product, area. For reference, the table below shows the file that corresponds to each solicitation.

Solicitation	Q2 through Balance of Year 2022	Q3 through Balance of Year 2022	Q4 through Balance of Year 2022	Q3 2023 Year Ahead (Phase 1)	Q3 2023 Year Ahead (Phase 2)	February through Balance of Year 2023
Date Issued to the Market	1/26/2022	3/31/2022	7/21/2022	8/11/2022	9/29/2022	11/9/2022
Attachment	ERRA-2022- PGE- Compliance_DR_ _CalCCA_002- Q021_Atch1- CONF	ERRA-2022 PGE- Compliance_DR_ _CalCCA_002- Q021_Atch2- CONF	ERRA-2022- PGE- Compliance_ DR_CalCCA_0 02- Q021_Atch3- CONF	ERRA-2022- PGE- Compliance_D R_CalCCA_002 -Q021_Atch4- CONF	ERRA-2022-PGE- Compliance_DR_ CalCCA_002- Q021_Atch5- CONF	ERRA-2022- PGE- Compliance_ _DR_CalCCA _002- Q021_Atch6 -CONF

- b) Attachments referenced in 2.21a shows accepted or rejected status of received bids for solicitations held in 2022. Accepted bids are shortlisted with the intention of execution while rejected bids are labelled as "Not Shortlisted". Some bids are partially shortlisted and partially rejected.
- c) PG&E rejected bids received in response to RA solicitations in 2022 for a variety of reasons including but not limited to:



- d) All attachments referenced in 2.21a show the accepted status of received bids. Accepted bids are shortlisted with the intention of execution but not all shortlisted bids result in executed contracts for reasons #6,8 and 9 stated in 2.21c. Bids that resulted in executed contracts are in Attachment E and H of the QCR.

Attachment is confidential.

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 002-Q023		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 002-Q023		
Request Date:	March 15, 2023	Requester DR No.:	002
Date Sent:	April 5, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 023**

Referring to the previous question (CalCCA to PG&E 2.22): For PG&E's 2022 year ahead RA solicitation(s), please provide all workpapers detailing PG&E's quantitative evaluation of all bids received. Workpapers should include, but not be limited to, the following:

- a. Details of all bids received, by solicitation, including buyer, term, volume, bid price, product, area, etc.
- b. Each bid received but rejected
- c. Justification for rejecting any bid
- d. Each bid received resulting in an executed contract.

**ANSWER 023**

**THE ATTACHMENTS TO THIS DATA RESPONSE CONTAINS CONFIDENTIAL INFORMATION PROTECTABLE UNDER DECISION 14-10-033, DECISION 06-06-066, AND/OR PUBLIC UTILITIES CODE SECTION 454.5(G) – SUBJECT TO NDA**

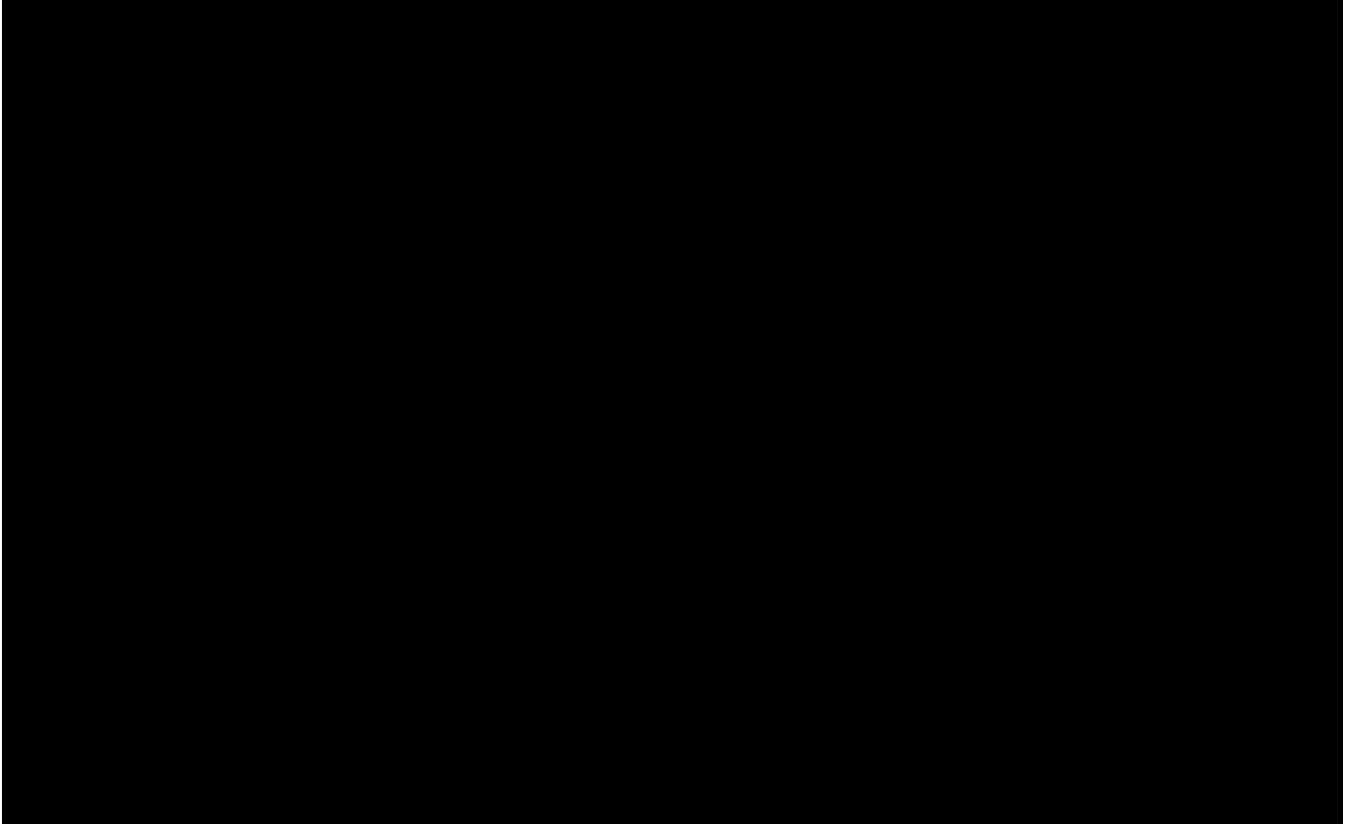
- a) Refer to the following Attachments for PG&E's 2022 year ahead RA solicitation(s) that were submitted to the PRG.

- **Phase 1 2022 Year-Ahead:** ERRA-2022-PGE-Compliance\_DR\_CalCCA\_002-Q023\_Atch1-CONF
- **Phase 2 2022 Year-Ahead:** ERRA-2022-PGE-Compliance\_DR\_CalCCA\_002-Q023\_Atch2-CONF

These files mentioned above contain the details of all bids received for each RA solicitation with 2022 delivery, including counterparty, term, volume, bid price, product, area. For reference, the table below shows the file that corresponds to each solicitation.

Solicitation	Phase 1 2022 Year-Ahead	Phase 2 2022 Year-Ahead
Date Issued to the Market	8/31/2021	10/1/2021
Attachment	ERRA-2022-PGE-Compliance_DR_CalCCA_002-Q023_Atch1-CONF)	ERRA-2022-PGE-Compliance_DR_CalCCA_002-Q023_Atch2-CONF)

- b) Attachments referenced in 2.23a above shows the accepted or rejected status of received bids for PG&E's 2022 year ahead RA solicitation(s). Accepted bids are shortlisted with the intention of execution while rejected bids are labelled as "Not Shortlisted". Some bids are partially shortlisted and partially rejected.
- c) PG&E rejected bids received in response to PG&E's 2022 year ahead RA solicitation(s) for a variety of reasons including but not limited to:



- d) All attachments referenced in 2.23a show the accepted status of received bids. Accepted bids are shortlisted with the intention of execution but not all shortlisted bids result in executed contracts for reasons stated in 2.23c 6, 8 and 9. Bids that resulted in executed contracts are in Attachment E and H of the QCR.

Attachment is confidential.

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 002-Q054		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 002-Q054		
Request Date:	March 15, 2023	Requester DR No.:	002
Date Sent:	April 5, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 054**

Referring to PG&E's prepared testimony, page 12-15, lines 13-19: Please explain in detail all attempts to sell to other LSEs any portion of the 923 MW of excess capacity prior to it being transferred from PABA to ERRA.

**ANSWER 054**

PG&E made attempts to sell all excess capacity, or its long RA position, as determined by Appendix S, pursuant to the commercial processes in Appendix S. Please see Table 8-1 of PG&E's prepared testimony of a list of solicitations, and Question 21 - attachments 1-6 and Question 23 - attachments 1-2 for the results of each solicitation.



**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 002-Q054		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 002-Q054Supp01		
Request Date:	March 15, 2023	Requester DR No.:	002
Date Sent:	April 5, 2023(original)	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 054**

Referring to PG&E's prepared testimony, page 12-15, lines 13-19: Please explain in detail all attempts to sell to other LSEs any portion of the 923 MW of excess capacity prior to it being transferred from PABA to ERRA.

**ANSWER 054**

PG&E made attempts to sell all excess capacity, or its long RA position, as determined by Appendix S, pursuant to the commercial processes in Appendix S. Please see Table 8-1 of PG&E's prepared testimony of a list of solicitations, and Question 21 - attachments 1-6 and Question 23 - attachments 1-2 for the results of each solicitation.

**ANSWER 001\_SUPP**

***THE ATTACHMENT TO THIS DATA RESPONSE CONTAINS CONFIDENTIAL INFORMATION PROTECTABLE UNDER DECISION 14-10-033, DECISION 06-06-066, AND/OR PUBLIC UTILITIES CODE SECTION 454.5(G) – SUBJECT TO NDA***

PG&E's February-December 2022 Balance of Year solicitation held in Q4 of 2021 was not included in PG&E's original response to 2.54. Please see attachment 1 (ERRA-2022-PGE-Compliance\_DR\_CalCCA\_002-Q54\_Atch1-CONF) for the results of this solicitation.

Attachment is confidential.

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 002-Q055		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 002-Q055		
Request Date:	March 15, 2023	Requester DR No.:	002
Date Sent:	April 5, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 055**

Referring to PG&E's prepared testimony, page 12-15, lines 13-19: Please provide documentation demonstrating whether PG&E received any offers from other LSEs to purchase any portion of the 923 MW of excess PCIA resource capacity.

**ANSWER 055**

PG&E did not receive bids from other LSEs to purchase any portion of the excess capacity after it was known to be available.

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 002-Q056		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 002-Q056		
Request Date:	March 15, 2023	Requester DR No.:	002
Date Sent:	April 5, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 056**

Referring to PG&E's prepared testimony, page 12-15, lines 13-19: Please explain whether any offers to purchase any portion of the 923 MW of excess PCIA resource capacity were rejected by PG&E. If yes, provide all details supporting why PG&E rejected the offer.

**ANSWER 056**

Please see answer to CalCCA DR 002 Q55.

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 002-Q057		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 002-Q057		
Request Date:	March 15, 2023	Requester DR No.:	002
Date Sent:	April 5, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 057**

Referring to PG&E's prepared testimony, page 12-15, lines 13-19: Please provide all RA Position Breakdown documents demonstrating that the excess capacity was made available in an RA solicitation pursuant to Appendix S of PG&E's approved Bundled Procurement Plan prior to being counted toward PG&E's system reliability procurement target.

**ANSWER 057**

Please see please see PG&E's response to the Joint CCA's Master Data Request question 8, Attachment 2: "ERRA-2022-PGE-Compliance\_DR\_JointCCAs\_001-Q08\_Atch02-2022\_Positions\_CONF.xlsx".

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 002-Q058		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 002-Q058		
Request Date:	March 15, 2023	Requester DR No.:	002
Date Sent:	April 5, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 058**

Referring to PG&E's prepared testimony, page 12-15, footnote 25:

- a. What factors caused Diablo Canyon to have excess capacity?
- b. How was it determined that Diablo Canyon was the resource with the excess capacity?
- c. Why wasn't it another resource with the excess capacity at this time?
- d. Does PG&E have discretion to select the resource with the excess capacity? If so, please describe how PG&E makes that determination.

**ANSWER 058**

**This data response contains confidential information protectable under Decision 14-10-033, Decision 06-06-066, and/or Public Utilities Code Section 454.5(G) – Subject to NDA**

- a. During the summer months of June through October 2022, [REDACTED] [REDACTED] not fully utilized to meet PG&E's bundled compliance commitments, RA sales, or planned outage substitution obligations.
- b. PG&E selected resources to meet its bundled compliance obligations, RA sales obligations, and planned outage substitution obligations. After meeting those obligations, [REDACTED] [REDACTED].
- c. [REDACTED] excess capacity available during the summer months.
- d. D.21-12-015 authorized IOUs to meet incremental procurement targets with excess RA capacity, and was silent regarding how excess resources should be selected. See response to Joint CCA DR 002 Q58 part a.

**.PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 003-Q026		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 003-Q026		
Request Date:	April 25, 2023	Requester DR No.:	003
Date Sent:	May 23, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 026**

Referring to CalCCA DR Response 2.55: When did it become known to PG&E that the excess PCIA resource capacity was available?

**ANSWER 026**

PG&E objects to this question on the grounds that it is beyond the scope of the ERRA Compliance proceeding, is irrelevant, and is not reasonably calculated to lead to admissible evidence. This data request is irrelevant to the subject matter of this proceeding because the ERRA Compliance proceeding concerns PG&E's demonstration of compliance with its Bundled Procurement Plan (BPP), [REDACTED]

[REDACTED] Subject to and without waiving this objection, PG&E responds as follows:

The final quantity of excess RA capacity shown towards meeting Summer Reliability procurement targets was identified between T-50 and T-30 days prior to the compliance month.

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 003-Q027		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 003-Q027		
Request Date:	April 25, 2023	Requester DR No.:	003
Date Sent:	May 23, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 027**

Referring to CalCCA DR Response 2.55: If the referenced excess PCIA resource capacity was not previously known to be available, what circumstances changed that caused the capacity to become excess and available for use to meet summer reliability needs?

**ANSWER 027**

PG&E objects to this question on the grounds that it is beyond the scope of the ERRA Compliance proceeding, is irrelevant, and is not reasonably calculated to lead to admissible evidence. This data request is irrelevant to the subject matter of this proceeding because the ERRA Compliance proceeding concerns PG&E's demonstration of compliance with its Bundled Procurement Plan (BPP).

Subject to and without waiving this objection, PG&E responds as follows:

PG&E's bundled RA position changed due to a variety of conditions.



**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 003-Q028		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 003-Q028		
Request Date:	April 25, 2023	Requester DR No.:	003
Date Sent:	May 23, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 028**

Referring to CalCCA DR Response 2.55: Please explain specifically how PG&E communicated to other LSEs that the excess capacity had become available.

**ANSWER 028**

PG&E objects to this question on the grounds that it is beyond the scope of the ERRA Compliance proceeding, is irrelevant, and is not reasonably calculated to lead to admissible evidence. This data request is irrelevant to the subject matter of this proceeding because the ERRA Compliance proceeding concerns PG&E's demonstration of compliance with its Bundled Procurement Plan (BPP), [REDACTED]

[REDACTED] Subject to and without waiving this objecting, PG&E responds as follows:

For information regarding the required commercial processes under Appendix S of PG&E's BPP, please refer to Section B.1.d of Appendix S. PG&E complied with the requirements in Appendix S of its BPP at all times.

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 003-Q031		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 003-Q031CONF		
Request Date:	April 25, 2023	Requester DR No.:	003
Date Sent:	May 23, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 031**

Referring to the previous question and MDR 1.8, Attachment 2:

- a. Please confirm [REDACTED] If not confirmed, please explain.
- b. Please confirm [REDACTED] If not confirmed, please explain.
- c. Please confirm [REDACTED] If not confirmed, please explain.

**ANSWER 031**

***THIS DATA RESPONSE CONTAINS CONFIDENTIAL INFORMATION PROTECTABLE UNDER DECISION 14-10-033, DECISION 06-06-066, PUBLIC UTILITIES CODE SECTION 454.5(G) AND/OR PURSUANT TO NON-PROCUREMENT DECLARATION DATED MAY 23, 2023 – SUBJECT TO NDA.***

PG&E objects to this data request to the extent that it seeks information intended to support an argument that excess capacity was required to be offered in an RA solicitation pursuant to Appendix S of PG&E's BPP on the grounds that it assumes facts not in evidence, is beyond the scope of the ERRA Compliance proceeding, is irrelevant, and is not reasonably calculated to lead to admissible evidence. This data request refers to the previous question, which refers to CalCCA DR Response 2.57, which is premised on the false assumption [REDACTED]

[REDACTED] As a result, this data request is irrelevant to the subject matter of this proceeding, which concerns PG&E's demonstration of compliance with its BPP. Subject to and without waiving this objection, PG&E responds as follows:





**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 003-Q033		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 003-Q033CONF		
Request Date:	April 25, 2023	Requester DR No.:	003
Date Sent:	May 23, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 033**

Referring to CalCCA MDR 1.8, Attachment 2: Please explain how PG&E ends up with excess to transfer from PABA to CAM for Summer Reliability even though the position reports showed [REDACTED] ?

**ANSWER 033**

PG&E objects to this question on the grounds that it is beyond the scope of the ERRA Compliance proceeding, is irrelevant, and is not reasonably calculated to lead to admissible evidence. This data request is irrelevant to the subject matter of this proceeding because the ERRA Compliance proceeding concerns PG&E's demonstration of compliance with its Bundled Procurement Plan (BPP). [REDACTED]

[REDACTED] Subject  
to and without waiving this objection, PG&E responds as follows:

The final quantity of excess RA capacity shown towards meeting Summer Reliability procurement targets was identified between T-50 and T-30 days prior to the compliance month.

**PACIFIC GAS AND ELECTRIC COMPANY  
2022 Energy Resource Recovery Account – Compliance  
Application 23-02-018  
Data Response**

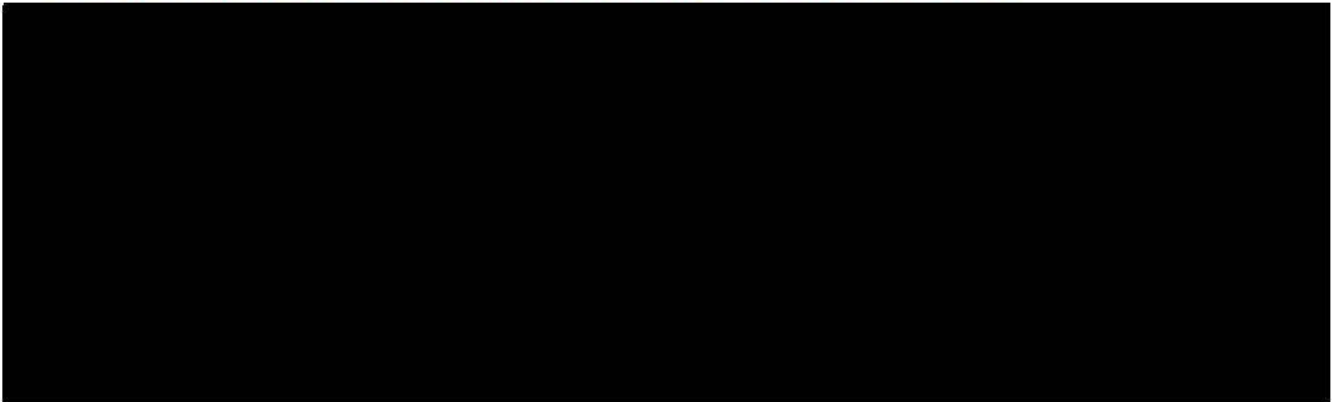
PG&E Data Request No.:	CalCCA_004-Q014		
PG&E File Name:	ERRA-2022-PGE-Compliance_DR_CalCCA_004-Q014CONF		
Request Date:	June 29, 2023	Requester DR No.:	004
Date Sent:	July 14, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 014**

Referring to PG&E's response to CalCCA 03.33: Please explain in detail how PG&E can show [REDACTED]

**ANSWER 014**

***THIS DATA RESPONSE CONTAINS CONFIDENTIAL INFORMATION  
PROTECTABLE UNDER DECISION 14-10-033, DECISION 06-06-066, AND/OR  
PUBLIC UTILITIES CODE SECTION 454.5(G) – SUBJECT TO NDA***



**PACIFIC GAS AND ELECTRIC COMPANY**  
**2022 Energy Resource Recovery Account – Compliance**  
**Application 23-02-018**  
**Data Response**

PG&E Data Request No.:	CalCCA 004-Q015		
PG&E File Name:	ERRA-2022-PGE-Compliance DR CalCCA 004-Q015		
Request Date:	June 29, 2023	Requester DR No.:	004
Date Sent:	July 14, 2023	Requesting Party:	California Community Choice Association
PG&E Witness:	Robert Gomez	Requester:	Nikhil Vijaykar

**QUESTION 015**

Referring to PG&E's response to CalCCA 03.33: Please explain how PG&E may forecast a shortfall in RA for a given period but later have actual excess RA in that period.

**ANSWER 015**

PG&E objects to this question on the grounds that it is beyond the scope of the ERRA Compliance proceeding, is irrelevant, and is not reasonably calculated to lead to admissible evidence. This data request is irrelevant to the subject matter of this proceeding because the ERRA Compliance proceeding concerns PG&E's demonstration of compliance with its Bundled Procurement Plan (BPP). The possible RA position changes that can occur after the monthly sales amount is determined pursuant to the BPP are not relevant to whether PG&E complied with the BPP. Subject to and without waiving this objection, PG&E responds as follows:

PG&E's bundled RA position changed due to a variety of conditions.

**Exhibit B**

**A.23-06-002**

**Prepared Direct Testimony of Carlo Bencomo-Jasso**  
**Public Version**

Docket No.: A.23-06-002

Exhibit No.: \_\_\_\_\_

Date: December 22, 2023

Witness: Carlo Bencomo-Jasso

**PREPARED DIRECT TESTIMONY OF CARLO BENCOMO-JASSO  
ON BEHALF OF  
SAN DIEGO COMMUNITY POWER AND CLEAN ENERGY ALLIANCE  
IN SAN DIEGO GAS AND ELECTRIC COMPANY'S  
2022 ERRR COMPLIANCE PROCEEDING**

**PUBLIC**



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## Attachments

<b>Attachment A:</b>	Curriculum Vitae of Carlo Bencomo-Jasso
<b>Attachment B:</b>	Select SDG&E Responses to SDCP and CEA Data Requests
<b>Attachment C:</b>	Advice Letter 3836-E
<b>Attachment D:</b>	Excerpt from Advice Letter 3738-E
<b>Attachment E:</b>	Excerpt from CAISO Fifth Replacement FERC Electric Tariff

1     **I.       INTRODUCTION AND SUMMARY OF TESTIMONY**

2             San Diego Community Power (“**SDCP**”) and Clean Energy Alliance (“**CEA**”)  
3     (together, “**CCA Parties**”) present this direct testimony in the *Application of San Diego*  
4     *Gas & Electric Company (“SDG&E”)* for Approval of: (i) *Contract Administration,*  
5     *Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to*  
6     *those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation*  
7     *Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing*  
8     *Account, Transition Cost Balancing Account, and Local Generating Balancing Account*  
9     *in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022*  
10    (“**Application**”). This testimony has been prepared on behalf of the CCA Parties by  
11    Carlo Bencomo-Jasso, Manager, NewGen Strategies and Solutions, LLC. Mr. Bencomo-  
12    Jasso’s qualifications are set forth in Attachment A.

13            The CCA Parties have a particular interest in the Power Charge Indifference  
14    Adjustment (“**PCIA**”) and the Portfolio Allocation Balancing Account (“**PABA**”), both  
15    of which are charged to the CCA Parties’ customers through the PCIA rates.  
16    Additionally, the CCA Parties are interested in SDG&E’s Resource Adequacy (“**RA**”)  
17    solicitation practices for the sale of excess RA capacity and the results of its RA  
18    solicitations held for the record year 2022. Revenue from SDG&E’s sale of RA capacity  
19    in its portfolio not required for RA program compliance (“**Excess RA**”) is passed back to  
20    customers as a credit against the cost of SDG&E’s generation resources. To the extent  
21    RA sales are facilitated by PCIA-eligible resources, the revenue credit reduces PABA  
22    costs paid by bundled and unbundled customers.

1 The issues raised in this testimony relate to the following issues in Commissioner  
2 John Reynolds' October 31, 2023, Scoping Ruling:<sup>1</sup>

- 3 1. Whether SDG&E administered and managed its own generation resources  
4 prudently, to include the management of outages and associated fuel costs,  
5 according to Standard of Conduct ("SOC") 4.  
6
- 7 2. Whether the entries recorded during the record year in the following accounts  
8 are correctly stated and in compliance with Commission directives:  
9
  - 10 a. Energy Resource Recovery Account;
  - 11 b. Portfolio Allocation Balancing Account;
  - 12 c. Undercollection Balancing Account;
  - 13 d. Transition Cost Balancing Account;
  - 14 e. Local Generating Balancing Account;
  - 15
  - 16
  - 17
  - 18
  - 19
  - 20 . . .
  - 21

22 Based on my review of SDG&E's Application, supporting workpapers, and  
23 responses to discovery, I make the following findings and recommendations to bring  
24 SDG&E's request in line with prior Commission decisions and just and reasonable  
25 ratemaking:

- 26 • SDG&E did not prudently manage its Excess RA position in 2022.

27 SDG&E should have [REDACTED]

28 [REDACTED]

29 [REDACTED] Additionally, [REDACTED]

30 [REDACTED]

---

<sup>1</sup> Application (A.) 23-06-002, *Assigned Commissioner's Scoping Memo and Ruling*, pp. 2-4 (October 31, 2023) ("2023 Scoping Ruling").

- SDG&E’s Bundled Procurement Plan (“**BPP**”) does not contain sufficient guidance regarding the quantity of Excess RA that should be offered for sale in SDG&E’s RA solicitations. Furthermore, the BPP does not describe [REDACTED].

Because the BPP doesn’t include specific directions, SDG&E’s efforts to sell Excess RA must be reviewed to determine whether it prudently managed its resources on customers’ behalf.

- SDG&E should be required to refine its BPP to be more prescriptive regarding how much Excess RA it should offer for sale during its RA solicitations. The BPP should also outline how SDG&E [REDACTED]

[REDACTED]

[REDACTED]

- SDG&E should transfer the 2022 California Independent System Operator (“**CAISO**”) net revenues derived from its Miguel Battery NGR SP15 (“**Miguel Battery**”) resource out of the Energy Resource Recovery Account (“**ERRA**”) balancing account and into a distribution balancing account. This transfer would allow both the revenues and capital costs associated with the Miguel Battery resource to be reflected in distribution rates.

## **II. SDG&E DID NOT PRUDENTLY MANAGE ITS EXCESS RA POSITION IN RECORD YEAR 2022.**

Costs and revenues related to SDG&E’s generation resource portfolio are recorded to various balancing accounts, including the ERRA, PABA, and Local Generating Balancing Account (“**LGBA**”), and are recovered from customers through

various retail rate components. For example, as reflected in the current Application, the PABA tracks actual costs and revenues of PCIA-eligible generation contracts throughout 2022. For 2022, the PABA recorded an undercollection of \$161.108 million which, if approved, will be recovered from bundled and unbundled customers in SDG&E's service territory.<sup>2</sup> Revenue from selling Excess RA capacity provided by PCIA-eligible resources is an important offset to costs recorded to the PABA during the record year. Excess RA from PCIA-eligible resources that is not sold to third parties is classified as Unsold RA pursuant to Decision ("D.") 19-10-001 and valued at \$0 in the PABA. For the 2022 record year, SDG&E's Unsold RA capacity from PCIA-eligible resources averaged 484 MW per month.<sup>3</sup>

**Table 1: 2022 Unsold RA from PCIA-eligible Resources**

	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22
Unsold RA (MW)	328	339	689	618	712	798	738	301	0	476	340	475

Review of SDG&E's actions and decisions affecting the sale of RA capacity (or lack thereof) in 2022 ensures SDG&E properly managed its generation portfolio on customers' behalf. Because customers are required to pay the cost of these generation resources, SDG&E should be expected to maximize wholesale revenue from selling Excess RA capacity, thereby reducing the costs that must be passed on to customers.

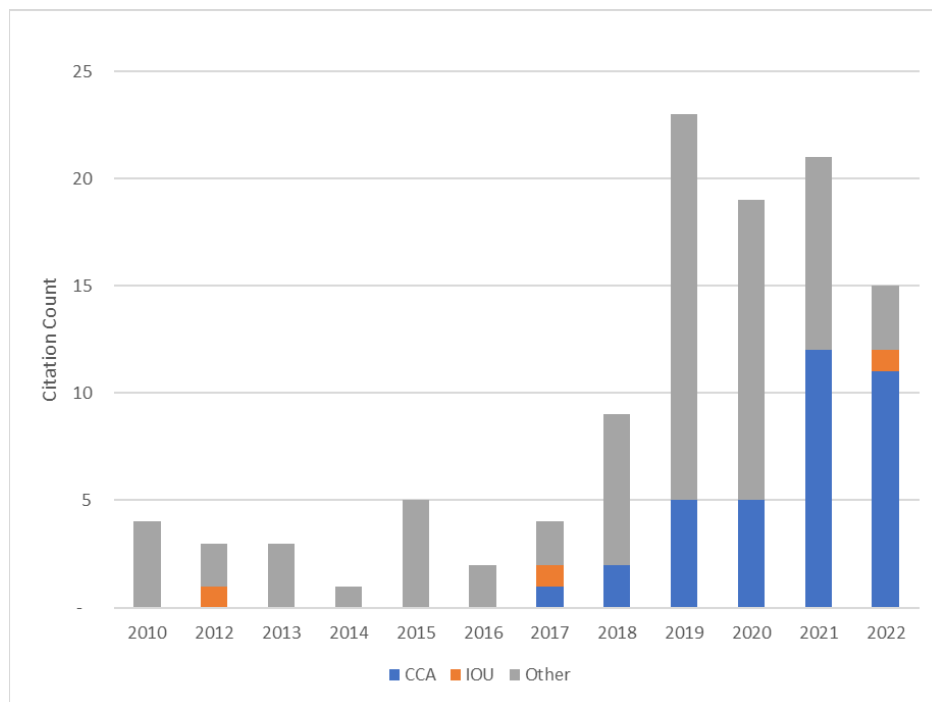
In addition, the reasonableness of SDG&E's attempts to sell Excess RA has larger implications for other load-serving entities ("LSEs") in its service territory. During the summer of 2022, LSEs faced a severely constrained RA market, which led to difficulty procuring sufficient RA to meet compliance obligations. The Enforcement Actions

<sup>2</sup> Application, p. 7.

<sup>3</sup> SDG&E Response to SDCP and CEA DR 1.05.

Spreadsheet updated by the Consumer Protection and Enforcement Division of the California Public Utilities Commission (“Commission”) tracks RA citations issued to various entities for deficiencies meeting RA compliance requirements.<sup>4</sup> As shown in Figure 1, there was a sharp increase in the number of citations for RA deficient LSEs in 2019, and elevated levels continued through 2022.

**Figure 1: RA Citations by LSE Type**



Under these market conditions, SDG&E should be expected to maximize RA sales to interested LSEs to both lower costs to customers and ensure that regional RA needs are able to be met.

<sup>4</sup> California Public Utilities Commission Consumer Protection Enforcement Division, Enforcement Actions Spreadsheet (2023). Accessible at: <https://www.cpuc.ca.gov/-/media/cpucwebsite/divisions/consumer-protection-and-enforcement-division/documents/ueb/energycitations/2023/july-2023-ueb-energy-citations.pdf>.

1       **A.       SDG&E did not make all of its Excess RA available to the market.**

2               Each year, SDG&E must procure and/or retain specific volumes of RA capacity  
3       to meet its annual and monthly RA compliance requirements, as defined by the  
4       Commission. RA capacity not used by SDG&E for compliance purposes is considered  
5       Excess RA and should be made available for sale through RA solicitations. Indeed, in  
6       Advice Letter (“AL”) 3836-E SDG&E stated, “Since 2020, SDG&E has sought to make  
7       all RA in its portfolio not required for RA program compliance (“Excess RA”) available  
8       to the market regardless of its PCIA-eligibility.”<sup>5</sup> SDG&E further explained it “expects to  
9       maintain this approach going forward.”<sup>6</sup>

10              Although SDG&E indicated that it makes available for sale all RA capacity in  
11      excess of its compliance requirements, the utility disregarded this policy during  
12      solicitations offering to sell Excess RA for delivery in the 2022 record year. In response  
13      to CCA Parties Data Requests 1.09 and 1.10, SDG&E provided solicitation materials, RA  
14      position reports, and details of bids received, awarded, and rejected related to five  
15      different offerings to sell 2022 Excess RA capacity.<sup>7</sup> These solicitations included a  
16      multiyear (2022-2024) RA solicitation held prior to the 2022 year-ahead RA compliance  
17      deadline and four quarterly RA solicitations held during 2022. SDG&E’s RA position  
18      reports at the time of each solicitation show that SDG&E [REDACTED]

19      [REDACTED] For some of these solicitations, SDG&E [REDACTED]

20      [REDACTED] Table 2 and Table 3 show the amount of monthly

---

<sup>5</sup> Advice Letter 3836-E, August 23, 2021, p. 2.

<sup>6</sup> *Id.*

<sup>7</sup> SDG&E Response to SDCP and CEA DRs 1.09 and 1.10.

System Excess RA that was available and offered for sale in the referenced RA solicitations for 2022.<sup>8</sup>

**Table 2: System RA Volumes for SDG&E's 2022 Quarterly RA Solicitations**

System RA	Q1 2022 Solicitation			Q2 2022 Solicitation			Q3 2022 Solicitation			Q4 2022 Solicitation		
	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22
Available RA Capacity (MW)												
RA Requirements (MW)												
Portfolio Reserves (MW)												
Existing RA Sales (MW)												
RA Position (MW)												
Volumes Offered in Solicitation (MW)												
Excess RA Not Offered in Solicitation (MW)												

**Table 3: System RA Volumes for SDG&E's Multiyear Solicitation – 2022**

System RA	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22
Available RA Capacity (MW)												
RA Requirements (MW)												
Portfolio Reserves (MW)												
Existing RA Sales (MW)												
RA Position (MW)												
Volumes Offered in Solicitation (MW)												
Excess RA Not Offered in Solicitation (MW)												

As shown in Table 2 and Table 3, the monthly amounts of System Excess RA offered for sale in each solicitation were [REDACTED]. For several months in 2022, the excess System RA amounts offered for sale in the quarterly solicitations were [REDACTED].

Although it is unclear why SDG&E consistently [REDACTED] [REDACTED] during its 2022 RA solicitations, SDG&E did provide some explanations for why it [REDACTED]

<sup>8</sup> SDG&E Response to SDCP and CEA DR 2.03.



1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]<sup>10</sup> Despite [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]

8 These [REDACTED] to the  
9 statements made by SDG&E in AL 3836-E that it makes “all RA in its portfolio not  
10 required for RA program compliance (“Excess RA”) available to the market regardless of  
11 its PCIA-eligibility.”<sup>11</sup> Further, they undermine the objective of maximizing revenue  
12 from the sale of Excess RA and ensuring there is sufficient capacity in the market for all  
13 LSEs to meet their RA obligations.

14 **B. SDG&E improperly limited Excess RA sales based on price.**

15 SDG&E [REDACTED]  
16 [REDACTED] not conducive to  
17 maximizing buyer participation or RA sales during its solicitations. Solicitation  
18 documents demonstrate that SDG&E [REDACTED]  
19 [REDACTED] and then ending the year  
20 with unsold Excess RA and higher net costs to be passed on to customers.

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<sup>9</sup> SDG&E Response to SDCP and CEA DR 1.10, Independent Evaluator Final Report – SDG&E Multiyear 2022-24 RA Solicitation, December 22, 2021, p. 9.

<sup>10</sup> SDG&E Response to SDCP and CEA DR 1.09, Independent Evaluator Final Report – SDG&E Q3 2022 Excess RA Solicitation, July 29, 2022, p. 11.

<sup>11</sup> Advice Letter 3836-E, August 23, 2021, p. 2.

SDG&E [REDACTED]

[REDACTED]. SDG&E's RA

solicitation materials indicate that SDG&E [REDACTED]

[REDACTED].<sup>12</sup> [REDACTED]

**Table 4:** [REDACTED]

**Table 5:** [REDACTED]

<sup>12</sup> SDG&E Response to SDCP and CEA DR 1.09, Independent Evaluator Final Report – SDG&E Q3 2022 Excess RA Solicitation, July 29, 2022, p. 10.

<sup>13</sup> SDG&E Responses to SDCP and CEA DRs 1.09 and 1.10, Independent Evaluator Reports for SDG&E's Q1, Q2, Q3, and Q4 of 2022 Excess RA Solicitations.

<sup>14</sup> SDG&E Response to SDCP and CEA DR 1.10, Independent Evaluator Final Report – SDG&E Multiyear 2022-24 RA Solicitation, December 22, 2021, p. 6.

1 [REDACTED]. The RA solicitation bidding process should produce a  
2 competitive price for RA capacity through the bids offered by the solicitation respondents  
3 and revenue should be maximized by choosing the highest prices among competitive  
4 respondents with conforming bids. [REDACTED]

5 [REDACTED]. The Independent Evaluator report for  
6 the 3<sup>rd</sup> Quarter 2022 Excess RA Solicitation explains, [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]<sup>15</sup>

17 SDG&E's current [REDACTED]

18 [REDACTED]

19 [REDACTED]. Table 6 summarizes the  
20 number of bids received and accepted by SDG&E from respondents during its various  
21 2022 RA solicitations. As Table 6 shows, SDG&E [REDACTED]

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<sup>15</sup> SDG&E Response to SDCP and CEA DR 1.09, Independent Evaluator Report – SDG&E Q3 2022 Excess RA Solicitation, July 29, 2022, pp. 9-10.

1 [REDACTED]

2 [REDACTED]

3 **Table 6: Bid Summary for 2022 RA Solicitations**

	Multiyear Solicitation - 2022	Q1 2022 Solicitation	Q2 2022 Solicitation	Q3 2022 Solicitation	Q4 2022 Solicitation
Total bids received	[REDACTED]				

4 Bids taken to purchase RA capacity

5 Figure 2 compares [REDACTED]

6 [REDACTED]

---

<sup>16</sup> SDG&E Responses to SDCP and CEA DRs 1.09 and 1.10, Independent Evaluator Reports for SDG&E's Multiyear 2022-24, Q1, Q2, Q3, and Q4 of 2022 Excess RA Solicitations.

**Figure 2:** [REDACTED] <sup>17</sup>



In Figure 2, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

<sup>17</sup> SDG&E Responses to SDCP and CEA DRs 1.09 and 1.10, Independent Evaluator Reports for SDG&E's Q1, Q2, Q3, and Q4 of 2022 Excess RA Solicitations.

<sup>18</sup> SDG&E Response to SDCP and CEA DR 1.09, Independent Evaluator Report – SDG&E Q4 2022 Excess RA Solicitation, July 13, 2022, p. 7.

**Table 7: Quarter 4 RA Solicitation Bids**[illegible]

<sup>19</sup> *Id.*

<sup>20</sup> SDG&E Response to SDCP and CEA DR 2.03, part d, attachment SDGE\_JulAug\_2022\_RA – 090922.xlsx.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] For example, if SDG&E were to sell all its Excess RA in a solicitation, it may be subject to a penalty or other CAISO backstop procurement costs if its remaining RA portfolio does not perform or it does not have sufficient RA capacity to cover its RA deficiency.<sup>21</sup> In fact, SDG&E's BPP explains that "SDG&E may choose to retain all or some portion of excess RA in order to retain surplus RA for use in management of scheduled outage replacement or lowering the CAISO's RA product charges."<sup>22</sup> [REDACTED]

[REDACTED]

[REDACTED]

**C. SDG&E'S BPP should be revised to ensure Excess RA sales are maximized for customers.**

After reviewing SDG&E's 2022 RA solicitation data and its explanations regarding the selection of bids during each solicitation, I believe that SDG&E did not prudently manage its Excess RA position in the record year 2022. SDG&E abandoned its own prescribed approach of offering all available Excess RA for sale [REDACTED]

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<sup>21</sup> CAISO Fifth Replacement FERC Electric Tariff, Effective November 1, 2023. Section 40.9.6. Accessible at: <https://www.caiso.com/Documents/Section40-RADemonstration-for-SchedulingCoordinatorsintheCAISOBalancingAuthorityArea-asof-Nov1-2023.pdf>.

<sup>22</sup> SDG&E Advice Letter 3738-E, Attachment B, Original Sheet 32 (April 15, 2021).

[REDACTED]

[REDACTED]. SDG&E should be offering all its available Excess RA in each solicitation to maximize potential revenues from RA sales, which would benefit all customers by lowering PCIA rates. Additionally, SDG&E [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SDG&E's BPP does not contain sufficient guidance regarding the quantity of Excess RA that should be offered for sale in SDG&E's RA solicitations, nor does it

[REDACTED]

[REDACTED] When asked in discovery whether SDG&E is required to offer Excess RA for sale at specific times, SDG&E stated that it will issue at least one Request for Offers prior to the deadline for LSEs' annual RA filing with the Commission and that it may seek to sell RA outside through other means.<sup>23</sup> In fact, SDG&E's BPP contains no real requirements or guidelines for maximizing RA sales to benefit customers. Rather, it uses vague language such as "SDG&E may make excess local, system, or flexible RA supply (*i.e.*, RA in excess of what SDG&E requires to meet its own RA obligations) available to the market" and "SDG&E may offer such excess RA products to the market through an RFO process, through the CAISO's Competitive Solicitation Process where the offers are submitted to the CAISO and CAISO optimizes to procure backstop capacity to meet

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<sup>23</sup> SDG&E Response to SDCP and CEA DR 2.04.



1 deficiencies or significant events, through a response to a counter-party RFO or through  
2 bilateral negotiations with counterparties.”<sup>24</sup>

3 The 2022 record year demonstrates the disconnect between the desired goals of  
4 SDG&E’s RA solicitations and the reality of its solicitation outcomes. This Commission  
5 should act to address this situation. One solution to addressing this issue is to review and  
6 revise SDG&E’s BPP. The BPP should be more prescriptive about the RA solicitation  
7 process and the quantity of Excess RA that SDG&E offers for sale. Additionally,  
8 SDG&E’s BPP should outline [REDACTED]

9 [REDACTED]  
10 [REDACTED]

11 **III. THE 2022 REVENUES FROM SDG&E’S MIGUEL BATTERY RESOURCE**  
12 **SHOULD BE TRANSFERRED OUT OF ERRR AND INTO A DISTRIBUTION**  
13 **BALANCING ACCOUNT.**  
14

15 Among the utility-owned generation (“UOG”) resources listed in the Application,  
16 SDG&E includes the Miguel Battery resource, which is a battery storage resource with a  
17 capacity of two megawatts.<sup>25</sup> SDG&E explained that in 2022, both the revenues it  
18 receives for the sale of energy from Miguel Battery into the CAISO market and the cost  
19 of energy it uses to charge the resource were recovered in the ERRR, which is reflected  
20 in commodity rates.<sup>26</sup> However, the capital costs associated with Miguel Battery were  
21 approved in SDG&E’s 2019 General Rate Case (“GRC”) as a distribution resource and  
22 therefore the revenue requirement for the resource would be recovered in distribution  
23 rates.<sup>27</sup>

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<sup>24</sup> SDG&E Advice Letter 3738-E, Attachment B, Original Sheet 32 (April 15, 2021).

<sup>25</sup> A.23-06-002, Prepared Direct Testimony of Andrew Scates, AS-7 at Table 1b.

<sup>26</sup> SDG&E Response to SDCP and CEA DR 1.24.

<sup>27</sup> *Id.*

1           The assignment of the costs and revenues associated with the Miguel Battery  
2           between different generation and distribution functions contributes to inconsistent  
3           treatment of costs and revenues, which leads to unequal impacts to bundled and  
4           unbundled customers. Bundled customers receive the benefit of the CAISO revenues  
5           generated by the Miguel Battery, which is offset by the costs of the energy used to charge  
6           the resource, through the ERRA. However, the assignment of capital costs to distribution  
7           results in both bundled and unbundled customers paying for the costs of the Miguel  
8           Battery resource, with unbundled customers not receiving any benefits from the CAISO  
9           revenues associated with the resource. SDG&E reports that it recorded [REDACTED] in net  
10          CAISO revenue from the Miguel Battery resource in 2022.<sup>28</sup> To ensure that the 2022  
11          costs and revenues associated with Miguel Battery are treated consistently and impact  
12          bundled and unbundled customers fairly, I recommend that the Miguel Battery's net  
13          CAISO revenues be transferred out of the ERRA and into a distribution balancing  
14          account. SDG&E should also correct the accounting for the year 2022 and going forward  
15          so that costs and revenue for the Miguel Battery are matched and recovered consistently  
16          from customers.

17  
18          This concludes my testimony.

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<sup>28</sup> SDG&E Response to SDCP and CEA DR 2.18.

## **Attachment A**

Curriculum Vitae of Carlo Bencomo-Jasso

Mr. Carlo Bencomo-Jasso joined NewGen as a Manager in April 2022. Mr. Bencomo-Jasso has over 10 years of experience in the energy industry, with prior experience working on regulatory and resource planning issues in California, including rate and feasibility analysis for Community Choice Aggregators.

## EDUCATION

- Master of Environment and Energy, Boston University – Boston, Massachusetts
- Master of Environmental Science and Management, Bren School of Environmental Science & Management – University of California, Santa Barbara
- Bachelor of Arts in History, Princeton University – Princeton, New Jersey

## KEY EXPERTISE

- Financial Advisory
- Economic and Regulatory Analysis
- Financial Planning
- Rate Design and Strategy
- Ratemaking Activities
- Regulatory
- Resource Planning

## RELEVANT EXPERIENCE

### Electric Cost of Service, Rate Design, and Regulatory Analysis

Mr. Bencomo-Jasso assists with preparing cost of service studies and rate design studies, and performing financial and regulatory analyses for electric utilities. A sample of the utility clients that Mr. Bencomo-Jasso's has supported includes the following:

- Central Coast Community Energy, California
- Orange County Community Power, California
- City of Burbank, California

## PRIOR RELEVANT EXPERIENCE

Below is a small sample of Mr. Bencomo-Jasso's work within the energy utility industry.

### Project Manager & Senior Associate in Energy Utility Industry

- Conduct forecasting of electric utility rates of Southern California Edison, Pacific Gas & Electric, and San Diego Gas & Electric.
- Track and review regulatory proceedings.
- Provide expert witness testimony for clients on utility general rate cases.
- Assess Integrated Resource Plans of community choice aggregators.
- Create official proposal responses to Requests for Proposals.
- Created proxy price estimates and evaluate bids for power procurements.
- Assessed renewable resource build-outs in Integrated Resource Plans.
- Conducted research and analyses for electric generation, transmission, and distribution

# Carlo Bencomo-Jasso

MANAGER

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- Conduct analysis and research of the feasibility of community choice aggregators in new jurisdictions.

services unbundling.

## Energy Utility Industry Analyst

- Performed collection, cleaning, and statistical analysis of energy commodity pricing and power data for various projects using Excel and R.
- Created data analytics reports, discovery requests, and case testimony for projects.
- Performed load forecasting and capacity market modeling.
- Conducted economic impact and cost-benefit analyses for energy projects, including renewable energy development projects.

## Solar Rooftop Program Analyst

- Aided in identifying and creating leasing agreements with commercial property owners for the installation of solar arrays 1 MW and larger in size.
- Maintained program databases and addressed program inquiries.
- Created presentations and weekly status reports on site acquisitions and leasing agreements for senior management.
- Helped create marketing materials and emails for program promotions and outreach.

## PREVIOUSLY FILED TESTIMONY

- Rhode Island Public Utilities Commission Docket No. 4692 and 4805 – Conclusions and Summary of Opinions of Richard Hahn, Matthew Loiacono, and Carlo Bencomo-Jasso on Behalf of the Rhode Island Division of Public Utilities and Carriers. March 19, 2018.
- Rhode Island Public Utilities Commission Docket No. 4692 and 4805 – Testimony of Carlo Bencomo-Jasso on Behalf of the Rhode Island Division of Public Utilities and Carriers on National Grid's 2018 Annual Retail Rate Filing and 2018 Renewable Energy Standard Charge and Reconciliation Filing. March 28, 2018
- CPUC Application 19-11-019 – Direct Testimony of William A. Monsen and Carlo Bencomo-Jasso on Behalf of the California Farm Bureau Federation Concerning Revenue Allocation and Agricultural Rate Design. November 20, 2020.
- CPUC Application 22-05-025 – Direct Testimony of Carlo Bencomo-Jasso on Behalf of San Diego Community Power and Clean Energy Alliance in San Diego Gas and Electric Company's 2023 ERRRA Forecast Proceeding. August 22, 2022.
- CPUC Application 22-06-001 – Direct Testimony of Carlo Bencomo-Jasso on Behalf of San Diego Community Power and Clean Energy Alliance in San Diego Gas and Electric Company's 2021 ERRRA Compliance Proceeding. December 16, 2022.
- CPUC Application 22-05-023 – Direct Testimony of Carlo Bencomo-Jasso on Behalf of San Diego Community Power in San Diego Gas and Electric Company's 2022 Green Access Programs Proceeding. January 20, 2023.
- CPUC Application 23-05-013 – Direct Testimony of Carlo Bencomo-Jasso on Behalf of San Diego Community Power and Clean Energy Alliance in San Diego Gas and Electric Company's 2024 ERRRA Forecast Proceeding. August 18, 2023.

## **Attachment B**

Select SDG&E Responses to SDCP and CEA Data Requests

**SDG&E RESPONSE TO  
SDCP AND CEA DR001  
RESPONDED: SEPTEMBER 29, 2023**

**SDCP/CEA to SDG&E 1.05:**

Please provide a schedule quantifying, by month and resource, SDG&E's total available RA capacity and the corresponding amount classified as Retained, Sold, and Unsold as defined in D.19-10-001.

**Response to SDCP/CEA to SDG&E 1.05:**

SDG&E objects to this request under Rule 10.1 of the Commission's Rules of Practice and Procedure on the grounds that it seeks the production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. SDG&E further objects to this request on the grounds that it is unduly burdensome. Subject to and without waiving the foregoing objections, SDG&E responds as follows:

**SDG&E RESPONSE TO  
SDCP AND CEA DR001  
RESPONDED: SEPTEMBER 29, 2023**

This response assumes that the question pertains only to PCIA-eligible resources, since it references D.19-10-001, and therefore this response includes only PCIA-eligible resources. Please refer to the attached file “SDCP CEA DR 1 Q1.05 volumes reporting 2022”. Volumes shown in this schedule were compiled from accrued estimates, and may differ somewhat from actuals, but SDG&E is including this schedule because the formatting matches that of the request. For additional detail regarding specific resource generation, please refer to the responses to 1.07 below.



**San Diego Gas & Electric**  
**Portfolio Allocation Balancing Account (PABA) - Summary**  
**Monthly Volumes Report to Accompany the PABA Schedule in the monthly ERRR Reports <sup>1</sup>**  
Non-confidential

	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Total
<b>Customer Monthly Usage (MWh)</b>													
PCIA MWh - CCA	348,283	267,931	387,196	346,661	287,863	574,602	584,782	703,350	757,356	677,645	562,065	561,323	6,059,056
PCIA MWh - DA	268,680	236,658	389,368	286,962	263,071	372,043	331,275	385,601	343,138	377,305	318,597	268,042	3,840,741
PCIA MWh - Bundled	822,155	663,937	779,891	559,994	621,453	516,234	586,658	737,347	797,796	643,848	522,706	548,088	7,800,107
<b>Total PABA volumes</b>	1,439,118	1,168,526	1,556,455	1,193,617	1,172,387	1,462,879	1,502,716	1,826,298	1,898,289	1,698,798	1,403,368	1,377,453	17,699,904
<b>CAISO Supply volumes (MWh)</b>													
<b>CAISO Load volumes (MWh)</b>	(435,859)	(404,404)	(749,688)	(608,874)	(909,222)	(745,496)	(756,689)	(1,241,185)	(1,085,699)	(804,412)	(835,286)	(795,546)	(9,372,359)
<b>Utility-Owned Generation (MWh)</b>													
Combined Cycle generation	86,272	155,412	257,248	133,716	183,013	222,355	414,888	541,752	543,701	352,356	479,951	444,774	3,815,438
Simple Cycle Combustion Turbine generation	81	844	6,923	5,715	1,757	2,623	2,991	7,558	9,900	3,844	1,911	1,969	46,115
Solar Energy	10	2	-	9	-	-	-	-	-	-	-	-	20
<b>Total MWh</b>	86,362	156,258	264,170	139,440	184,770	224,978	417,879	549,310	553,600	356,200	481,862	446,743	3,861,573
<b>CONTRACT PURCHASES</b>													
<b>Purchases of Contract Generation (MWh)<sup>2</sup></b>													
Tolling & Other Conventional Contracts	402	788	3,421	1,496	51,281	88,893	82,871	77,230	75,714	60,339	492	306	443,233
Renewable-Solar	189,416	262,200	285,809	310,488	346,462	340,511	337,940	318,587	266,391	292,108	218,629	181,117	3,349,658
Renewable-Wind	262,671	283,223	310,857	306,013	362,514	288,899	217,328	139,582	165,404	176,904	307,804	238,163	3,059,365
Renewable-Other	7,873	6,612	8,402	8,949	6,154	9,427	9,693	9,643	8,661	5,595	4,562	3,820	89,390
<b>Purchases of Resource Adequacy (MW)</b>													
Purchases - Resource Adequacy-only contracts	604	604	604	604	604	604	604	604	604	604	604	604	
<b>Renewable Energy Credit (REC) Volumes (MWh)</b>													
<b>(1 REC = 1 MWh)</b>													
Total RECs generated by Utility-Owned and Contract Renewable Resources	459,970	552,037	605,067	625,459	715,131	638,837	564,962	467,812	440,456	474,608	530,995	423,100	6,498,434
Less: Sales of Bundled RECs	-	-	-	-	-	-	(360,000)	(360,000)	(345,000)	(325,000)	(230,000)	(210,000)	(1,830,000)
Less: Bundled RECs used for the Green Tariff Interim Pool product	-	-	-	-	-	-	-	-	-	-	-	-	-
=2022 vintage RECs held in Active status in the WREGIS system (may be sold, retired and used for compliance, or retired and kept in the bank).	459,970	552,037	605,067	625,459	715,131	638,837	204,962	107,812	95,456	149,608	300,995	213,100	4,668,434
Unsold RECs	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Resource Adequacy (MW)</b>													
Total Net Qualifying Capacity (NQC) adjusted for outages	1,954	2,047	2,318	1,860	2,315	2,505	2,562	2,297	1,856	2,032	1,947	2,053	
Less: Sales of Resource Adequacy (MW)	(140)	(279)	(219)	(272)	(140)	(330)	(367)	(517)	(434)	(238)	(421)	(338)	
Less: Substitution of PCIA resource RA for CAM resource RA	-	(22)	(8)	(35)	(50)	-	(6)	(0)	-	-	(121)	(8)	
Subtotal NQC adjusted for outages and sales	1,814	1,747	2,090	1,553	2,124	2,175	2,188	1,780	1,422	1,794	1,406	1,707	
Less: Retained for Compliance - Resource Adequacy -Local (MW)	1,286	1,262	1,298	859	1,341	1,270	1,358	1,271	1,070	1,144	912	1,062	
Less: Retained for Compliance - Resource Adequacy -Flex (MW)	-	-	29	26	26	35	20	22	172	86	117	154	
Less: Retained for Compliance - Resource Adequacy - System (MW)	200	145	74	50	45	72	73	185	180	88	37	16	
Subtotal RA used for SDG&E Compliance	1,485	1,407	1,401	936	1,413	1,377	1,450	1,479	1,422	1,318	1,066	1,232	
Unsold RA <sup>3</sup>	328	339	689	618	712	798	738	301	0	476	340	475	

1) All volumes shown are the estimates used for month-end accruals. Actual RECs may not yet have been received. Actual final volumes may differ from this report.

2) Volumes do not include curtailed MWh.

3) SDG&E offers all excess RA for sale, therefore all RA that is not classified as retained for compliance or sold is classified as unsold.

**SDG&E RESPONSE TO  
SDCP AND CEA DR001  
RESPONDED: SEPTEMBER 29, 2023**

**SDCP/CEA to SDG&E 1.09:**

Referring to the Prepared Testimony of Michelle Menvielle and the table at MM-18; for each RA solicitation in 2022 where SDG&E sought to sell excess RA for 2022, please provide the following:

- a. All solicitation materials
- b. SDG&E's detailed 2021 RA position, by month, at the time of the solicitation, detailed by Local, Flex and System RA.
- c. Details of all bids received in the solicitation.
- d. Details of all bids awarded.
- e. Details of all bids rejected and why they were rejected.

**Response to SDCP/CEA to SDG&E 1.09:**

SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, the details of the solicitation materials, RA position, bids received, bids awarded and the reasons bids were rejected are irrelevant to any issue presented in this ERRRA Compliance proceeding. Furthermore, SDG&E notes that SDCP and CEA regularly participate in solicitations, and therefore, it would be improper for SDG&E to disclose confidential and commercially sensitive information regarding SDG&E's sales strategy and other solicitors' bidding strategies. Specific quantitative analysis involved in scoring and evaluation of participating bids is confidential pursuant to D.06-06-066. Finally, this information is confidential, commercially sensitive and could provide an undue competitive advantage, and therefore, is not subject to disclosure.

**SDG&E Supplemental Response to  
SDCP and CEA DR 1.09, 1.10, 2.02, and 2.03  
RESPONDED: 12/8/2023**

**SDCP/CEA to SDG&E 1.09:**

Referring to the Prepared Testimony of Michelle Menvielle and the table at MM-18; for each RA solicitation in 2022 where SDG&E sought to sell excess RA for 2022, please provide the following:

- a. All solicitation materials
- b. SDG&E's detailed 2021 RA position, by month, at the time of the solicitation, detailed by Local, Flex and System RA.
- c. Details of all bids received in the solicitation.
- d. Details of all bids awarded.
- e. Details of all bids rejected and why they were rejected.

**Response to SDCP/CEA to SDG&E 1.09:**

SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, SDG&E's excess RA sales and related activities are irrelevant to any issue presented in this ERRRA Compliance proceeding and are not subject to an after-the-fact reasonableness review pursuant to Pub. Util. Code Section 454.5(d)(2). SDG&E further objects to this request on the grounds that the phrases "All solicitation materials," and "Details of all bids..." are overbroad, unduly burdensome, vague and ambiguous. Subject to and without waiving the foregoing objections, SDG&E responds as follows:

- a. Information responsive to this request can be found in the folder labelled: "1.09\_2022 RA Solicitation Materials". Additional solicitations materials can be found at [RFPs and RFOs | San Diego Gas & Electric \(sdge.com\)](https://www.sdge.com/rfps-and-rfos)
- b. SDG&E's 2021 RA position is out of scope for this ERRRA compliance proceeding and SDG&E objects on relevancy grounds. SDG&E assumes that this is a typographical error in the question and that the requested information is for SDG&E's 2022 RA position. Based upon that assumption, and without waiving its objection, SDG&E responds as follows: Information responsive to this request can be found in the attachment "1.09\_2022 RA Solicitation Materials".
- c. Information responsive to this request can be found in the folder labelled: "1.09\_2022 RA Solicitation Materials".
- d. Information responsive to this request can be found in the folder labelled: "1.09\_2022 RA Solicitation Materials".
- e. Information responsive to this request can be found in the folder labelled: "1.09\_2022 RA Solicitation Materials".

**SDG&E Supplemental Response to  
SDCP and CEA DR 1.09, 1.10, 2.02, and 2.03  
RESPONDED: 12/8/2023**

Certain attachments referenced in this response contain “Protected Materials” (i.e., trade secret, market sensitive, or other confidential and/or proprietary information) as determined by SDG&E in accordance with the provisions of D. 06-06-066 and subsequent decisions and subject to a Nondisclosure Agreement. Those attachments are labelled “Confidential.” A confidentiality declaration is also provided.

Attachment is confidential.

**SDG&E RESPONSE TO  
SDCP AND CEA DR001  
RESPONDED: SEPTEMBER 29, 2023**

**SDCP/CEA to SDG&E 1.10:**

Referring to the Prepared Testimony of Michelle Menvielle and the table at MM-18; for each RA solicitation conducted in 2021 where SDG&E sought to sell excess RA with delivery in 2022, please provide the following:

- a. All solicitation materials
- b. SDG&E's detailed 2021 RA position, by month, at the time of the solicitation, detailed by Local, Flex and System RA.
- c. Details of all bids received in the solicitation.
- d. Details of all bids awarded.
- e. Details of all bids rejected and why they were rejected.

**Response to SDCP/CEA to SDG&E 1.10:**

SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, the details of the solicitation materials, RA position, bids received, bids awarded and the reasons bids were rejected are irrelevant to any issue presented in this ERRRA Compliance proceeding. Furthermore, SDG&E notes that SDCP and CEA regularly participate in solicitations, and therefore, it would be improper for SDG&E to disclose confidential and commercially sensitive information regarding SDG&E's sales strategy and other solicitors' bidding strategies. Specific quantitative analysis involved in scoring and evaluation of participating bids is confidential pursuant to D.06-06-066. Finally, this information is confidential, commercially sensitive and could provide an undue competitive advantage, and therefore, is not subject to disclosure.

**SDG&E Supplemental Response to  
SDCP and CEA DR 1.09, 1.10, 2.02, and 2.03  
RESPONDED: 12/8/2023**

**SDCP/CEA to SDG&E 1.10:**

Referring to the Prepared Testimony of Michelle Menvielle and the table at MM-18; for each RA solicitation conducted in 2021 where SDG&E sought to sell excess RA with delivery in 2022, please provide the following:

- a. All solicitation materials
- b. SDG&E's detailed 2021 RA position, by month, at the time of the solicitation, detailed by Local, Flex and System RA.
- c. Details of all bids received in the solicitation.
- d. Details of all bids awarded.
- e. Details of all bids rejected and why they were rejected.

**Response to SDCP/CEA to SDG&E 1.10:**

SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, SDG&E's excess RA sales and related activities are irrelevant to any issue presented in this ERRRA Compliance proceeding and are not subject to an after-the-fact reasonableness review pursuant to Pub. Util. Code Section 454.5(d)(2). SDG&E further objects to this request on the grounds that the phrases "All solicitation materials," and "Details of all bids..." are overbroad, unduly burdensome, vague and ambiguous. Subject to and without waiving the foregoing objections, SDG&E responds as follows:

Subject to and without waiving the foregoing objections, SDG&E responds as follows:

- a. Information responsive to this request can be found in the folder labelled: "1.10\_2022 RA Solicitation Materials (2021 Solicitations)". Additional solicitations materials can be found at [RFPs and RFOs | San Diego Gas & Electric \(sdge.com\)](#)
- b. Information responsive to this request can be found in the folder labelled: "1.10\_2022 RA Solicitation Materials (2021 Solicitations)"
- c. Information responsive to this request can be found in the folder labelled: "1.10\_2022 RA Solicitation Materials (2021 Solicitations)"

**SDG&E Supplemental Response to  
SDCP and CEA DR 1.09, 1.10, 2.02, and 2.03  
RESPONDED: 12/8/2023**

- d. Information responsive to this request can be found in the folder labelled:  
“1.10\_2022 RA Solicitation Materials (2021 Solicitations)”
- e. Information responsive to this request can be found in the folder labelled:  
“1.10\_2022 RA Solicitation Materials (2021 Solicitations)”

Certain attachments referenced in this response contain “Protected Materials” (i.e., trade secret, market sensitive, or other confidential and/or proprietary information) as determined by SDG&E in accordance with the provisions of D. 06-06-066 and subsequent decisions and subject to a Nondisclosure Agreement. Those attachments are labelled “Confidential.” A confidentiality declaration is also provided.



Attachment is confidential.

**SDG&E RESPONSE TO  
SDCP AND CEA DR001  
RESPONDED: SEPTEMBER 29 2023**

**SDCP/CEA to SDG&E 1.24:**

Referring to the Prepared Testimony of Andrew Scates at Table 1b:

- a. Please explain the cost recovery mechanism for all the resources featured in the table. For any PCIA-designated resources, please provide the PCIA vintage, RA type(s), and RA quantities.
- b. Please explain to which accounts the cost and benefits of the “Miguel Battery” are recorded.

**Response to SDCP/CEA to SDG&E 1.24:**

- a. The cost recovery mechanisms and PCIA vintages are provided in the Attachment 1 to Ms. Menvielle’s testimony. The quantity of RA available for PCIA resources is based on the Net Qualifying Capacity (NQC) of each resource, as published by CAISO. Please

**SDG&E RESPONSE TO**

**SDCP AND CEA DR001**

**RESPONDED: SEPTEMBER 29, 2023**

refer to the attached file “SDG&E response to SDCP\_CEA DR01 Q1\_24a”, for the RA type and quantities. This information was downloaded from the CAISO’s website.

- b. The revenues that SDG&E receives from CAISO, as well as the cost of the energy that is used to charge the Miguel resource, are recovered in the Energy Resource Recovery Account (ERRA). The capital costs of the resource itself were approved in SDG&E’s 2019 GRC as Distribution, and consequently the approved revenue requirement is recovered in distribution rates and not through any balancing account.

	Resource ID	Local Area	RA Type
*	ELCAJN_6_LM6K	San Diego-IV	Local
*	ELCAJN_6_UNITA1	San Diego-IV	Local
*	JOANEC_2_STABT2	LA Basin	
*	KEARNY_6_NESBT1	San Diego-IV	Local
*	KEARNY_6_SESBT2	San Diego-IV	Local
*	LAKHDG_6_UNIT 1	San Diego-IV	Local
*	LAKHDG_6_UNIT 2	San Diego-IV	Local
*	MRCHNT_2_PL1X3	CAISO System	System
*	MRGT_6_MEF2	San Diego-IV	Local
*	MRGT_6_MMAREF	San Diego-IV	Local
*	OGROVE_6_PL1X2	San Diego-IV	Local
*	PALOMR_2_PL1X3	San Diego-IV	Local
*	VLCNTR_6_VCEBT1	San Diego-IV	Local

Generator Name	JAN	FEB	MAR	APR	MAY	JUN	JUL
El Cajon Energy Center	48.1	48.1	48.1	48.1	48.1	48.1	48.1
Cuyamaca Peak Energy Plant	45.42	45.42	45.42	45.42	45.42	45.42	45.42
Santa Ana Storage 2							20
Kearny North Energy Storage				10	10	10	10
Kearny South Energy Storage				10	10	10	10
Lake Hodges Pumped Storage-Unit1	20	20	20	20	20	20	20
Lake Hodges Pumped Storage-Unit2	20	20	20	20	20	20	20
Desert Star Energy Center	419.25	419.25	419.25	419.25	419.25	419.25	419.25
Miramar Energy Facility II	44	44	44	44	44	44	44
Miramar Energy Facility	45	45	45	45	45	45	45
Orange Grove Energy Center	96	96	96	96	96	96	96
Palomar Energy Center	588.21	588.21	588.21	588.21	588.21	588.21	588.21
Valley Center Energy Storage		54	54	54	54	54	54

AUG	SEP	OCT	NOV	DEC	Dispatchable	Path Designation	Deliverability Status	Deliverability MW
48.1	48.1	48.1	48.1	48.1	Y	South	FC	
45.42	45.42	45.42	45.42	45.42	Y	South	FC	
20	20	20	20	20	Y	South	FC	
10	10	10	10	10	Y	South	FC	
10	10	10	10	10	Y	South	FC	
20	20	20	20	20	Y	South	FC	
20	20	20	20	20	Y	South	FC	
419.25	419.25	419.25	419.25	419.25	Y	South	PD	419.25
44	44	44	44	44	Y	South	FC	
45	45	45	45	45	Y	South	FC	
96	96	96	96	96	Y	South	FC	
588.21	588.21	588.21	588.21	588.21	Y	South	FC	
54	54	54	54	54	Y	South	ID	100%

Comments

Waiting for Remedial Action Scheme - Up to 87.73 PCDS at Pmax.

**SDG&E Response to  
SDCP and CEA DR 002  
RESPONDED: 11/16/2023**

**SDCP/CEA to SDG&E 2.03**

Referring to SDG&E's response to Cal Advocates MDR 3.20: Please provide SDG&E's final net RA position for each month of the 2022 compliance period. The net RA position should include details demonstrating:

- a. Total RA capacity owned or purchased
- b. Adjustments for resource outages
- c. Other adjustments for operating constraints
- d. RA sales to third parties
- e. SDG&E's RA requirements
- f. Excess RA



**SDG&E Response to  
SDCP and CEA DR 002  
RESPONDED: 11/16/2023**

**SDG&E Response to SDCP/CEA to SDG&E 2.03**

SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, information regarding SDG&E's final net RA position for each month is irrelevant to any issue presented in this ERRA Compliance proceeding, and therefore out of scope.

**SDG&E Supplemental Response to  
SDCP and CEA DR 1.09, 1.10, 2.02, and 2.03  
RESPONDED: 12/8/2023**

**SDCP/CEA to SDG&E 2.03**

Referring to SDG&E's response to Cal Advocates MDR 3.20: Please provide SDG&E's final net RA position for each month of the 2022 compliance period. The net RA position should include details demonstrating:

- a. Total RA capacity owned or purchased
- b. Adjustments for resource outages
- c. Other adjustments for operating constraints
- d. RA sales to third parties
- e. SDG&E's RA requirements
- f. Excess RA

**SDG&E Response to SDCP/CEA to SDG&E 2.03**

SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, SDG&E's excess RA sales and related activities are irrelevant to any issue presented in this ERRA Compliance proceeding and are not subject to an after-the-fact reasonableness review pursuant to Pub. Util. Code Section 454.5(d)(2). Subject to and without waiving the foregoing objections, SDG&E responds as follows:

SDG&E's understanding of the question is that SDG&E's final net RA position will be considered at the time of its Monthly RA filing deadline.

Information responsive to this request can be found in the folder labelled: "2.03"

- a. See excel spreadsheet labelled "2022\_SDGE\_ERRA\_Comp\_MDR\_3.20.2\_RA\_Position\_Tables.xlsx" in the folder labelled: "2.03"
- b. See excel spreadsheet labelled "2022 Outages.xlsx" in the folder labelled: "2.03"
- c. SDG&E's CPUC RA filings contain no other adjustments for operating constraints at the time of CPUC MA RA filing deadline
- d. See excel spreadsheets labelled "SDGE\_Q1-Q2\_2022\_RA - 072522-Confidential.xlsx," "SDGE\_JulAug\_2022\_RA - 090922-Confidential.xlsx," and "SDGE\_SeptDec\_2022\_RA - 032423- Confidential.xlsx" in the folder labelled: "2.03"

The attachments referenced in this response contains "Protected Materials" (i.e., trade secret, market sensitive, or other confidential and/or proprietary information) as determined by SDG&E in accordance with the provisions of D. 06-06-066 and subsequent decisions and subject to a Nondisclosure Agreement. A confidentiality declaration is also provided.

**SDG&E Supplemental Response to  
SDCP and CEA DR 1.09, 1.10, 2.02, and 2.03  
RESPONDED: 12/8/2023**

- e. SDG&E provides the twelve 2022 CPUC Monthly RA filings which contains the system, local and flex requirements.

The attachments referenced in this response contains “Protected Materials” (i.e., trade secret, market sensitive, or other confidential and/or proprietary information) as determined by SDG&E in accordance with the provisions of D. 06-06-066 and subsequent decisions and subject to a Nondisclosure Agreement. A confidentiality declaration is also provided.

- f. SDG&E objects to subpart f on the grounds that the term “Excess RA” is undefined and thus vague and ambiguous in the context of the question. In the context of the question, SDG&E assumes “Excess RA” is the amount of RA claimed on its CPUC Monthly RA filings above its requirements. Subject to and without waiving the foregoing objection, SDG&E responds as follows:

SDG&E provides the twelve 2022 CPUC Monthly RA filings which contains the amount claimed per requirement as well as the system, local and flex requirements. Therefore, excess RA is provided on the ‘Summary Month Ahead’ tab of the twelve CPUC Monthly RA filings.

The attachments referenced in this response contains “Protected Materials” (i.e., trade secret, market sensitive, or other confidential and/or proprietary information) as determined by SDG&E in accordance with the provisions of D. 06-06-066 and subsequent decisions and subject to a Nondisclosure Agreement. A confidentiality declaration is also provided.

Attachment is confidential.

**SDG&E Response to  
SDCP and CEA DR 002  
RESPONDED: 11/16/2023**

**SDCP/CEA to SDG&E 2.04**

Referring to SDG&E's response to Cal Advocates MDR 3.20 wherein SDG&E states it offers its excess RA for sale regularly:

- a. Is SDG&E required to offer excess RA for sale at specific times (for example, on a scheduled, quarterly basis), or is the timing of any excess RA offerings at SDG&E's sole discretion?

Please provide a description of any requirements for making RA available to the market and include citations to any Commission-approved document ordering such requirement.

**SDG&E Response to SDCP/CEA to SDG&E 2.04**

SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, the timing of SDG&E's RA transactions and RA position are irrelevant to any issue presented in this ERRRA Compliance proceeding, and therefore out of scope. Subject to and without waiving the foregoing objection, SDG&E responds as follows:

As stated in Advice Letter 3836-E, SDG&E will issue at least one Request for Offers ("RFO") prior the deadline for LSEs' annual RA filing. SDG&E may issue additional RFOs during the compliance year if additional Excess RA becomes available due to changes in RA requirements and/or resource availability. SDG&E may also utilize brokers and bilateral negotiations to sell RA outside of the RFO process.

**SDG&E Response to  
SDCP and CEA DR 002  
RESPONDED: 11/16/2023**

**SDCP/CEA to SDG&E 2.18**

Referring to SDG&E's response to SDCP/CEA data request 1.24, part b: Please quantify, through working spreadsheet if possible, the CAISO revenue and energy costs, by month, for "Miguel Battery" in 2022.

**SDG&E Response to SDCP/CEA to SDG&E 2.18**

Please see attached confidential file "Confidential 2022 ERRR Compliance SDCP CEA DR 2 Q2.18.xlsx" and accompanying declaration.

The attachment referenced in this response contains "Protected Materials" (i.e., trade secret, market sensitive, or other confidential and/or proprietary information) as determined by SDG&E in accordance with the provisions of D. 06-06-066 and subsequent decisions and subject to a Nondisclosure Agreement. The Protected Materials have been highlighted in yellow. A confidentiality declaration is also provided.

Attachment is confidential.

**Attachment C**

Advice Letter 3836-E



## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
San Francisco, CA 94102

May 10, 2022

**Advice Letters 3836-E and 3836-E-A**

Greg Anderson  
Regulatory Tariff Manager  
San Diego Gas & Electric  
8330 Century Park Court, CP32C  
San Diego, CA 92123

**SUBJECT: SDG&E Company Description of Methodology for Determining Amount of Power Charge Indifference Adjustment-Eligible Resource Adequacy Reserved in Its Bundled Procurement Plan in Compliance with D. 21-05-030**

Dear Mr. Anderson,

Advice Letter (AL) 3836-E (San Diego Gas & Electric Company Description of Methodology for Determining Amount of Power Charge Indifference Adjustment-Eligible Resource Adequacy Reserved in Its Bundled Procurement Plan in Compliance with Decision 21-05-030) and AL 3836-E-A are approved, effective May 10, 2022 for the reasons described below.

**Background:**

Ordering Paragraph (OP) 11 of Decision (D.) 21-05-030 required Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE), within 90 days of the effective date of the decision, to each file a Tier 2 AL with the Commission justifying its methodology for determining how much of its Power Charge Indifference Adjustment (PCIA)-eligible Resource Adequacy (RA) is reserved as part of its Bundled Portfolio Plan (BPP). This directive arose out of transparency concerns raised by Working Group 3 (WG3) co-chairs in Rulemaking (R.) 17-06-026 regarding the excess sales framework for RA.<sup>1</sup>

SDG&E filed AL 3836-E on August 23, 2021. In its filing, SDG&E explained that it defines "RA Reserves" as "RA capacity that is not required to meet its annual and/or monthly RA compliance requirements but is not offered for sale," and that SDG&E does not maintain RA Reserves given its expectation of significant near-term load departure.<sup>2</sup> Further, SDG&E explained that, since 2020, SDG&E has sought to make all "Excess RA," or RA in its portfolio not required for compliance with the Commission's RA program and the California Independent System Operator's (CAISO) outage substitution capacity requirements, available to the market regardless of its PCIA-eligibility.<sup>3</sup>

On December 22, 2021, in response to a December 8, 2021, the Energy Division request, SDG&E filed a supplement, AL 3836-E-A, providing further details on its methodology with regards to uncertainty surrounding the Commission's planning reserve margin (PRM), RA capacity retained for resource outages, load migration, and how far out SDG&E offers RA capacity for sale to the market.

**Protests, Responses, and Replies:**

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<sup>1</sup> D.21-05-030 at 44.

<sup>2</sup> SDG&E AL 3836-E at 2.

<sup>3</sup> SDG&E AL 3836-E at 2-3.

The California Community Choice Association (CalCCA) protested AL 3836-E on September 13, 2021.

CalCCA recommends that the Commission require SDG&E to provide greater justification on the level of capacity to be retained by demonstrating the risks it describes in its AL based upon historical experience of those risks being realized, arguing that SDG&E fails to provide meaningful insight into its methodology and that based upon the language provided, SDG&E “could retain anywhere from 0 megawatts (MW) to all excess MWs in their portfolio to mitigate any of the uncertainty, compliance, or financial risks.”<sup>4</sup> CalCCA points to July and August 2021 as high load months in which the investor-owned utilities (IOUs) collectively retained 619 MWs and 157 MWs of RA capacity, respectively, which “could have served significant amounts of load for smaller load-serving entities (LSEs).”<sup>5</sup> To reduce the need to retain capacity, CalCCA suggests that the Commission work with the CAISO to determine if the Resource Adequacy Availability Incentive Mechanism (RAAIM) can be replaced with another mechanism to alleviate one of the forms of risk listed by SDG&E in its AL filing.<sup>6</sup> CalCCA further states that retained capacity in excess of a requirement may never be used for RA purposes, which would result in a resource not being subject to the CAISO’s must-offer obligations and therefore not being available to serve the market’s needs.<sup>7</sup> Finally, CalCCA recommends that the Commission place firm monthly caps on the amount of capacity retained, arguing that the IOUs should not be allowed to retain excess RA capacity in a constrained market.<sup>8</sup>

SDG&E filed a reply to CalCCA’s protest on September 20, 2021. In response to CalCCA’s suggestion that SDG&E might retain all excess MWs and withhold RA from the market, SDG&E argues that CalCCA does not offer credible evidence that SDG&E has done or will do so and that CalCCA’s assertion is based on speculation.<sup>9</sup>

With regards to the data on excess resources in July and August 2021 that CalCCA refers to in its protest, SDG&E states that CalCCA fails to provide proper context. SDG&E points to D.21-03-056 in R.20-11-003 (the “Emergency Reliability Proceeding”), in which the Commission ordered the IOUs to meet an effective PRM of 17.5 percent and provided that the IOUs could use “excess resources” to meet this requirement.<sup>10</sup> SDG&E asserts that these figures on excess resources are not the same as “Excess RA” that is available to be sold to the market; rather, these are resources that were available in SDG&E’s portfolio to meet the obligation associated with the higher PRM.

In response to CalCCA’s recommendation that the Commission place limits on the amount of RA capacity retained, SDG&E argues that CalCCA fails to recognize that SDG&E’s RA compliance requirements (and thus, its level of Excess RA) may change based on updates to factors such as load forecast, load migration, changes in the net qualifying capacity (NQC) of its resources, resource outages, and/or changes in resource online dates. As a result, according to SDG&E, it is not reasonable to expect SDG&E to “operate on a razor’s edge” and be subject to penalties resulting from failure to protect against these factors. Finally, SDG&E states that, while this could theoretically result in idle capacity, SDG&E has demonstrated that it will make Excess RA available to the market on a regular basis; thus, CalCCA’s recommendation is “extreme and untenable.”<sup>11</sup>

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<sup>4</sup> CalCCA Protest at 2.

<sup>5</sup> *Ibid.*

<sup>6</sup> CalCCA Protest at 2.

<sup>7</sup> CalCCA Protest at 3.

<sup>8</sup> *Ibid.*

<sup>9</sup> SDG&E Reply to CalCCA Protest at 2.

<sup>10</sup> *Ibid.*

<sup>11</sup> SDG&E Reply to CalCCA Protest at 3.

**Discussion:**

Requirements Under D.21-05-030

OP 11 of D.21-05-030 states as follows: “Within 90 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall each file a Tier 2 advice letter to justify its methodology for determining how much of its PCIA-eligible Resource Adequacy is reserved as part of its Bundled Portfolio Plan.” This directive arose out of transparency concerns raised by WG3 co-chairs in R.17-06-026 regarding the excess sales framework for RA.<sup>12</sup>

The Energy Division acknowledges the transparency concerns raised in R.17-06-026 and the fact that certain IOU procurement information is not available to all parties (e.g., information provided in Procurement Review Group meetings, which are closed to market participants). After reviewing SDG&E’s initial filing for AL 3836-E, the Energy Division requested clarifications on several topics, including uncertainty surrounding the Commission’s PRM, RA capacity retained for resource outages, load migration, and how far out capacity is offered for sale to the market. SDG&E responded to the Energy Division’s questions in its supplemental filing, AL 3836-E-A, summarized as follows:

*PRM Uncertainty for Calculating RA Requirements* – Discussions in various Commission proceedings coupled with the rolling blackouts of 2020 and “unprecedented capacity buildout in the state” suggest a permanent increase to the PRM. In determining the amount of excess capacity that is available for sale, SDG&E considers a variety of factors, including potential changes to the PRM that could impact its compliance requirements.

*Planned Outages/Substitution Capacity* – SDG&E works with generators to avoid sustained scheduled outages during summer months when RA requirements are highest. If SDG&E is aware of a planned outage for a resource that is scheduled to run through a significant portion of a given month, SDG&E will remove that resource from the stack when determining its portfolio position; conversely, for planned outages that are of shorter duration (e.g., only a few hours during the month), SDG&E will include that resource in its position for the month.

*Load Migration* – SDG&E bases its load migration forecasts on the latest adopted California Energy Commission (CEC) system forecast, historical load departure information, forecast information gathered during the annual meet-and-confer process conducted with community choice aggregators (CCAs), and any expected increase to the direct access (DA) cap. SDG&E also considers possible reductions in claimable Demand Response Auction Mechanism (DRAM) RA capacity due to undersubscription when determining excess volume eligible for sale. These forecasts are incorporated in the year-ahead load forecast process in April/May and adjusted in September to account for any changes in migration patterns.

*How Far Out RA Capacity is Offered for Sale* – SDG&E will consider selling RA capacity up to three years from the current year.

CalCCA’s Protest

CalCCA recommends that the Commission require SDG&E to provide greater justification on the level of capacity to be retained by demonstrating the risks it describes in its AL based upon historical

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<sup>12</sup> D.21-05-030 at 44.

experience of those risks being realized and states that based upon the language provided in the AL, SDG&E could retain anywhere from 0 MW to all excess MW in its portfolio to mitigate any uncertainty, compliance, or financial risks.

SDG&E states that it does not maintain RA Reserves (RA capacity that is not required to meet its annual and/or monthly RA compliance requirements but is not offered for sale) and that, since 2020, it has sought to make all Excess RA (RA in its portfolio not required for RA program compliance) available to the market regardless of its PCIA-eligibility. In its reply to CalCCA's protest, SDG&E notes that its level of Excess RA may change based on updates to its RA compliance requirements. To provide further transparency on factors that affect its Excess RA calculation, the Energy Division requested further information on SDG&E's methodology with regards to uncertainty surrounding the Commission's PRM, RA capacity retained for resource outages, load migration, and how far out SDG&E offers RA capacity for sale to the market. SDG&E provided clarifications on the information requested in its supplemental filing, AL 3836-E-A. The Energy Division also notes that, along with the further transparency provided in SDG&E's supplemental filing, the Energy Division staff regularly review SDG&E's Excess RA sales in its Procurement Review Group meetings. CalCCA's concern with regards to SDG&E's ability to "retain anywhere from 0 MW to all excess MW in its portfolio," is unsupported.

CalCCA further argues that retained capacity in excess of a requirement may never be used for RA purposes, which would result in a resource not being subject to the CAISO's must-offer obligation, and therefore not being available to serve the market's needs. CalCCA refers to the high load months of July and August 2021 in which the IOUs collectively retained 619 MWs and 157 MWs of RA capacity, respectively, as examples of months where large amounts of capacity were withheld from other LSEs. CalCCA is correct that the IOUs collectively showed these amounts to the Commission in their monthly excess resources report.<sup>13</sup> However, the Energy Division clarifies that the IOUs were authorized in D.21-03-056 to show excess capacity above their existing RA requirements (based on a 15 percent PRM) to meet an effective PRM of 17.5 percent after making reasonable attempts to first sell this excess capacity to other LSEs to meet their 15 percent PRM RA requirements.<sup>14</sup> SDG&E explains that it will issue at least one Request for Offers (RFOs) prior to the deadline for LSEs' annual RA filing in addition to further RFOs throughout the compliance year if Excess RA becomes available. Additionally, the Energy Division notes that, although the IOUs may technically reserve RA capacity that does not get used for RA purposes, there is no reason to believe that the IOUs are withholding unreasonable amounts of RA capacity from the RA market according to the review the Energy Division Staff have undertaken.

CalCCA also suggests that the Commission work with the CAISO to determine if RAAIM can be replaced with another mechanism to alleviate one of the forms of risk listed by SDG&E in its AL filing. The Energy Division staff is currently engaged in the CAISO's RA Enhancements initiative, where a RAAIM replacement, the Unforced Capacity (UCAP) mechanism, is being considered.<sup>15</sup> The UCAP mechanism is also being considered as part of the CPUC's RA Reform Track in proceeding R.21-10-002.<sup>16</sup>

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<sup>13</sup> Excess Resources Report pursuant to D.21.03-056 at 49. "The IOUs shall provide the monthly amounts of the excess resources they used to meet their additional procurement targets, as well as the calculus used to determine these amounts (i.e., net of other resources contracted under this proceeding's authority including their estimated ELRP resources), to the Energy Division, and the Energy Division is directed to post this information on its website."

<sup>14</sup> D.21-03-056 FOF 79.

<sup>15</sup> See CAISO Stakeholder Initiative "Resource adequacy enhancements," which commenced on October 30, 2018.

<sup>16</sup> R. 21-10-002 Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Reforms and Refinements, and Establish Forward Resource Adequacy Procurement Obligations, Scoping Memo at 6.



Finally, CalCCA recommends that the Commission place firm monthly caps on the amount of capacity retained, arguing that the IOUs should not be allowed to retain excess RA capacity in a constrained market. The Energy Division acknowledges the constrained RA market but rejects CalCCA's recommendation. The Energy Division is of the opinion that firm monthly caps could impact SDG&E's ability to manage its portfolio safely and reliably, in addition to unfairly shifting risk to bundled service customers. Regardless of this opinion, OP 11 of D.21-05-030 requires the IOUs, in a Tier 2 AL filing, to justify their respective methodologies for reserving PCIA-eligible RA capacity in accordance with their BPPs, rather than establish methodologies for doing so. Any Commission-ordered changes with regards to BPP procurement methodologies are under the scope of the current Integrated Resource Planning (IRP) Proceeding, R.20-05-003.<sup>17</sup> Whether the Commission should place firm monthly caps on the amount of capacity retained is not an issue that can be resolved under this AL process. Although the IOUs may currently update their BPPs via Tier 3 AL filings, the Energy Division will not, in its review of AL 3836-E, direct SDG&E to change its methodology with regards to retaining excess RA capacity. Thus, the Energy Division finds that CalCCA's recommendation does not constitute a proper basis for protest under Section 7.4.2 of General Order (G.O.) 96-B.<sup>18</sup>

The Commission requires the IOUs to manage their portfolios reliably and safely; the Energy Division has not seen evidence that SDG&E's methodology and justification, detailed in AL 3836-E and AL 3836-E-A, is unreasonable for doing so or prevents other LSEs from managing their portfolios reliably and safely.

The Energy Division has reviewed AL 3836-E and AL 3836-E-A. The Energy Division finds that AL 3836-E and AL 3836-E-A meet the requirements of D.21-05-030. Based on what SDG&E has provided, its methodology for reserving PCIA-eligible RA capacity is reasonable to manage its portfolio risks and uncertainties.

**Disposition:**

The Energy Division hereby approves SDG&E AL 3836-E and AL 3836-E-A. The justification for SDG&E's methodology for reserving PCIA-eligible RA capacity meets the requirements of D.21-05-030.

Sincerely,



Pete Skala  
Interim Deputy Executive Director for Energy and Climate Policy/  
Interim Director, Energy Division, CPUC

cc: R.17-06-026  
Evelyn Kahl, California Community Choice Association

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<sup>17</sup> R.16-02-007 Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements, OP 3. "This is a successor proceeding to the Commission's procurement rulemaking, Rulemaking 13-12-010, with respect to long-term procurement plans and the record developed in that proceeding is fully available for consideration in this proceeding."

<sup>18</sup> G.O. 96-B, General Rule 7.4.2 reads in part, "a protest may not rely on policy objections to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order applicable to the utility. [¶] Example 1. Where the Commission has approved a rate change, an advice letter submitting tariff sheets in compliance with the Commission order approving the rate change is not subject to protest on the grounds that the rates are unjust, unreasonable, or discriminatory."



Clay Faber - Director  
Regulatory Affairs  
8330 Century Park Court  
San Diego, CA 92123

cfaber@sdge.com

August 23, 2021

**ADVICE LETTER 3836-E**  
(U902-E)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**SUBJECT: SAN DIEGO GAS & ELECTRIC COMPANY DESCRIPTION OF  
METHODOLOGY FOR DETERMINING AMOUNT OF POWER CHARGE  
INDIFFERENCE ADJUSTMENT-ELIGIBLE RESOURCE ADEQUACY  
RESERVED IN ITS BUNDLED PROCUREMENT PLAN IN COMPLIANCE WITH  
DECISION 21-05-030**

### **PURPOSE**

In accordance with Decision ("D.") 21-05-030, Ordering Paragraph ("OP") 11, San Diego Gas & Electric Company ("SDG&E") submits this advice letter to justify its methodology for determining how much of its power charge indifference adjustment ("PCIA")-eligible Resource Adequacy ("RA") is reserved in its Bundled Procurement Plan ("BPP").

### **BACKGROUND**

On May 12, 2021, the Commission issued D.21-05-030, which requires each investor-owned utility ("IOU") to file a Tier 2 advice letter to justify its methodology for determining how much of its PCIA-eligible RA is reserved as part of its BPP. For Local RA resources, the Working Group ("WG") 3 Proposal would have required each IOU to allocate all its local RA capacity to all load-serving entities ("LSE") based on each LSE's forecasted, vintaged, coincident peak load share, as informed by the year-ahead RA procurement obligations within the RA process, in a similar manner to the Cost Allocation Mechanism ("CAM"). Subsequent to submission of the WG3 Proposal for Commission consideration, the Commission approved a Central Procurement Entity ("CPE") for Local RA procurement in the service territories of Pacific Gas and Electric Company ("PG&E") and Southern California Edison Company ("SCE") in D.20-06-002.

The WG3 Proposal aimed to reallocate all PCIA-eligible Local, System and Flexible RA without limitation and did not consider the potential impact of a CPE on Local RA procurement; nor did the WG3 Proposal include a recommendation regarding how to make its RA proposal compatible with the new CPE framework. The Commission found that the WG3 Proposal was not properly tailored to minimize risks and that the proposal to allocate all RA resources would create market inefficiencies for RA, raise costs for bundled and unbundled customers alike, and/or create RA planning and compliance problems when layered with the new CPE and RA compliance requirements. Accordingly, D.21-05-030 declined to adopt the WG3 Proposal for RA. The decision further requires each IOU to submit an advice letter to justify its methodology for determining how much of its PCIA-eligible RA is reserved as part of its BPP.

## **DISCUSSION**

### **RA Reservation Methodology**

SDG&E defines “RA Reserves” as RA capacity that is not required to meet its annual and/or monthly RA compliance requirements but is not offered for sale.

Currently, it is SDG&E’s practice to maintain no RA Reserves given its expectation of significant near-term load departure. Since 2020, SDG&E has sought to make all RA in its portfolio not required for RA program compliance (“Excess RA”) available to the market regardless of its PCIA-eligibility.<sup>1</sup> SDG&E submits that this approach benefits bundled service customers by reducing overall RA costs while still enabling compliance with RA requirements.

SDG&E expects to maintain this approach going forward. Thus, its BPP does not currently specify a methodology for determining RA Reserves. SDG&E may propose a methodology for defining RA Reserves in the future if circumstances warrant. Below, SDG&E describes its process for defining Excess RA to be offered to the market.

### **Excess RA Determination**

SDG&E’s determination regarding Excess RA to be offered to the market begins with consideration of its annual and monthly RA compliance obligations.

The Commission’s RA Program establishes System, Local and Flexible RA procurement requirements as follows:

- System RA Requirements are determined based on each LSE’s California Energy Commission (CEC) adjusted forecast plus a 15 percent planning reserve margin (PRM).
- Local RA requirements are determined based on an annual CAISO study using a 1-in-10 weather year and an N-1-1 contingency.
- Flexible RA requirements are based on an annual CAISO study that currently looks at the largest three-hour ramp for each month needed to run the system reliably.

In addition, the CAISO requires IOUs to account for potential RA resources outages.<sup>2</sup> SDG&E takes all RA requirements into account when determining whether it has Excess RA to offer to the market. For example, SDG&E might have more Local RA than is required to meet its Local RA requirement, but not have adequate System RA to meet its System RA requirement. However, because SDG&E’s Local RA can also be used to meet its System RA requirement, SDG&E might count a portion of its Local RA toward its System RA requirement, and therefore would not deem that portion of its Local RA to be Excess RA.

System, Local, and Flexible RA requirements for each LSE, including Demand Response and CAM allocations, are provided by the Commission in September of each year for the following compliance year. Starting in RA compliance year 2020, in accordance with D.19-02-022,

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<sup>1</sup> SDG&E’s Advice Letter 3738-E seeks to clarify SDG&E’s authority to sell RA, but does not propose a methodology for establishing RA Reserve amounts.

<sup>2</sup> See BPP, pp. 32-33.

Commission-jurisdictional LSEs are allocated Local RA compliance obligations in each of the local capacity areas within the service territory in which they serve load (rather than meeting a Local RA compliance obligation using capacity from any local capacity area).

In addition to the Commission's RA compliance requirements, the CAISO releases the Net Qualifying Capacity ("NQC") and Effective Flexible Capacity ("EFC") in October. The NQC and EFC establish the quantity of MWs a resource can count for RA compliance purposes.

Thus, SDG&E's RA compliance requirements for the following year are generally fixed in the October preceding the compliance year, which allows for determination of the Excess RA to be offered to the market.<sup>3</sup>

However, SDG&E's RA compliance requirements (and, hence, its level of Excess RA) may change based on updates to the load forecast, changes in the NQC of each of its resources, resource outages, and/or changes in resource online dates. SDG&E will rely on the best information available at the time to determine its RA program requirements and its available Excess RA.

#### **Availability of Excess RA**

SDG&E will issue at least one Request for Offers ("RFO") prior the deadline for LSEs' annual RA filing. SDG&E may issue additional RFOs during the compliance year if additional Excess RA becomes available due to changes in RA requirements and/or resource availability. SDG&E may also utilize brokers and bilateral negotiations to sell RA outside of the RFO process.

#### **Sales Volume Reporting**

SDG&E reports the amount of Excess RA determined to be available for sale through competitive solicitation in Attachment E of its Quarterly Compliance Report ("QCR"). SDG&E also discusses the volume and reserve price for its Excess RA solicitations with its Independent Evaluator ("IE") and its Procurement Review Group ("PRG").

#### **EFFECTIVE DATE**

SDG&E believes this submittal is subject to Energy Division disposition and should be classified as a Tier 2 (pending Energy Division disposition) submittal pursuant to GO 96-B and D.21-05-030. SDG&E respectfully requests that this submittal be approved effective September 22, 2021 which is 30 days from the date filed.

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<sup>3</sup> SDG&E may exclude resources that are still under construction or are expected to experience an outage.



**PROTEST**

Anyone may protest this Advice Letter to the Commission. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. The protest must be made in writing and must be received no later than September 13, 2021, which is 21 days after the date this Advice Letter was submitted with the Commission. There is no restriction on who may submit a protest. The address for mailing or delivering a protest to the Commission is:

CPUC Energy Division  
Attention: Tariff Unit  
505 Van Ness Avenue  
San Francisco, CA 94102

Copies of the protest should also be sent via e-mail to the attention of the Energy Division at [EDTariffUnit@cpuc.ca.gov](mailto:EDTariffUnit@cpuc.ca.gov) and to [SDGETariffs@SDGE.com](mailto:SDGETariffs@SDGE.com). A copy of the protest should also be sent via e-mail to the address shown below on the same date it is mailed or delivered to the Commission.

Attn: Greg Anderson  
Regulatory Tariff Manager  
E-mail: [GAnderson@SDGE.com](mailto:GAnderson@SDGE.com)

**NOTICE**

A copy of this submittal has been served on the utilities and interested parties shown on the attached list, including interested parties in R.17-06-026, by providing them a copy hereof either electronically or via the U.S. mail, properly stamped and addressed.

Address changes should be directed to SDG&E Tariffs by email to [SDGETariffs@SDGE.com](mailto:SDGETariffs@SDGE.com).

/s/ Clay Faber

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CLAY FABER  
Director – Regulatory Affairs



# ADVICE LETTER SUMMARY

ENERGY UTILITY



MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No.: San Diego Gas & Electric (U902)

Utility type:

☒ ELC ☐ GAS ☐ WATER  
☐ PLC ☐ HEAT

Contact Person: Joff Morales

Phone #: 858-650-4098

E-mail: JMoraes@sdge.com

E-mail Disposition Notice to: SDGETariffs@sdge.com

## EXPLANATION OF UTILITY TYPE

ELC = Electric      GAS = Gas      WATER = Water  
PLC = Pipeline      HEAT = Heat

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #: 3836-E

Tier Designation: 2

Subject of AL: San Diego Gas & Electric Company Description Of Methodology For Determining Amount Of Power Charge Indifference Adjustment-Eligible Resource Adequacy Reserved In Its Bundled Procurement Plan In Compliance With Decision 21-05-030

Keywords (choose from CPUC listing): Compliance

AL Type: ☐ Monthly ☐ Quarterly ☐ Annual ☐ One-Time ☒ Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #: Decision 21-05-030

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: N/A

Summarize differences between the AL and the prior withdrawn or rejected AL: N/A

Confidential treatment requested? ☐ Yes ☒ No

If yes, specification of confidential information: N/A

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required? ☐ Yes ☒ No

Requested effective date: 9/22/21

No. of tariff sheets:

Estimated system annual revenue effect (%):

Estimated system average rate effect (%):

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected:

Service affected and changes proposed<sup>1</sup>: N/A

Pending advice letters that revise the same tariff sheets: N/A

<sup>1</sup>Discuss in AL if more space is needed.

**Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this submittal, unless otherwise authorized by the Commission, and shall be sent to:**

CPUC, Energy Division  
Attention: Tariff Unit  
505 Van Ness Avenue  
San Francisco, CA 94102  
Email: [EDTariffUnit@cpuc.ca.gov](mailto:EDTariffUnit@cpuc.ca.gov)

Name: Greg Anderson  
Title:  
Utility Name: San Diego Gas & Electric  
Address: 8330 Century Park Court, CP32C  
City: San Diego  
State: California Zip: 92123  
Telephone (xxx) xxx-xxxx:  
Facsimile (xxx) xxx-xxxx:  
Email: GAnderson(@)sdge.com

Name:  
Title:  
Utility Name:  
Address:  
City:  
State: California Zip:  
Telephone (xxx) xxx-xxxx:  
Facsimile (xxx) xxx-xxxx:  
Email:

Clear Form

General Order No. 96-B  
ADVICE LETTER SUBMITTAL MAILING LIST

cc: (w/enclosures)

Public Utilities Commission  
CA. Public Advocates (CalPA)

R. Pocta

F. Oh

Energy Division

M. Ghadessi

M. Salinas

L. Tan

R. Ciupagea

K. Navis

Tariff Unit

CA Energy Commission

B. Penning

B. Helft

Advantage Energy

C. Farrell

Alcantar & Kahl LLP

M. Cade

K. Harteloo

AT&T

Regulatory

Barkovich & Yap, Inc.

B. Barkovich

Biofuels Energy, LLC

K. Frisbie

Braun & Blaising, P.C.

S. Blaising

D. Griffiths

Buchalter

K. Cameron

M. Alcantar

CA Dept. of General Services

H. Nanjo

California Energy Markets

General

California Farm Bureau Federation

K. Mills

California Wind Energy

N. Rader

Cameron-Daniel, P.C.

General

City of Poway

Poway City Hall

City of San Diego

L. Azar

J. Cha

D. Heard

F. Ortlieb

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M. Rahman

Clean Energy Renewable Fuels, LLC

P. DeVille

Clean Power Research

T. Schmid

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Davis Wright Tremaine LLP

J. Pau

Douglass & Liddell

D. Douglass

D. Liddell

Ellison Schneider Harris & Donlan LLP

E. Janssen

C. Kappel

Energy Policy Initiatives Center (USD)

S. Anders

Energy Regulatory Solutions Consultants

L. Medina

Energy Strategies, Inc.

K. Campbell

EQ Research

General

Goodin, MacBride, Squeri, & Day LLP

B. Cragg

J. Squeri

Green Charge

K. Lucas

Hanna and Morton LLP

N. Pedersen

JBS Energy

J. Nahigian

Keyes & Fox, LLP

B. Elder

Manatt, Phelps & Phillips LLP

D. Huard

R. Keen

McKenna, Long & Aldridge LLP

J. Leslie

Morrison & Foerster LLP

P. Hanschen

MRW & Associates LLC

General

NLine Energy

M. Swindle

NRG Energy

D. Fellman

Pacific Gas & Electric Co.

M. Lawson

M. Huffman

Tariff Unit

RTO Advisors

S. Mara

SCD Energy Solutions

P. Muller

SD Community Power

L. Fernandez

Shute, Mihaly & Weinberger LLP

O. Armi

Solar Turbines

C. Frank

SPURR

M. Rochman

Southern California Edison Co.

K. Gansecki

TerraVerde Renewable Partners LLC

F. Lee

TURN

M. Hawiger

UCAN

D. Kelly

US Dept. of the Navy

K. Davoodi

US General Services Administration

D. Bogni

Valley Center Municipal Water Distr

G. Broomell

Western Manufactured Housing

Communities Association

S. Dey

Copies to

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clower@earthlink.net

hpayne3@gmail.com

puainc@yahoo.com

AKanzler@anaheim.net

Service List

R.17-06-026

**Attachment D**

Excerpt from Advice Letter 3738-E





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April 15, 2021

**ADVICE LETTER 3738-E**

(U 902-E)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**SUBJECT: REQUEST TO UPDATE SAN DIEGO GAS & ELECTRIC COMPANY'S  
BUNDLED PROCUREMENT PLAN**

**PURPOSE**

San Diego Gas & Electric Company (SDG&E) hereby requests California Public Utilities Commission (Commission) approval of proposed updates to SDG&E's Bundled Procurement Plan (BPP), and the following appendices:

Appendix B – Electricity and Gas Hedging Strategy  
Appendix C – Gas Supply Plan  
Appendix D – Congestion Revenue Rights  
Appendix E – Convergence Bidding  
Appendix F – Greenhouse Gas/AB 32 Compliance Plan  
Appendix H – Procurement Limits and Ratable Rates  
Appendix J – Acronym Glossary  
Appendix K – Energy Procurement Organization

**BACKGROUND**

Pursuant to Assembly Bill (AB) 57, codified at Public Utilities Code Section 454.5, SDG&E's Commission-approved BPP establishes upfront and achievable standards for procurement activities and cost recovery. On December 30, 2013, the Commission issued Rulemaking (R.) 13-12-010, a successor Long-Term Procurement Plan (LTPP) proceeding, for the purpose, *inter alia*, of updating the investor-owned utilities' (IOUs') respective BPPs. At the time R.13-12-010 commenced, BPP updates through LTPP proceedings had generally operated on a two-year cycle with the IOUs submitting procurement plans that projected their procurement needs over a 10-year horizon and BPPs for authority to procure to meet those needs.<sup>1</sup>

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<sup>1</sup> See D.15-10-031, p. 4.



2014 LONG TERM PROCUREMENT PLAN

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an SDG&E RFO process; or through participation in a counterparty RFO or electronic auction process.<sup>4/</sup> SDG&E may make excess local, system, or flexible RA supply (*i.e.*, RA in excess of what SDG&E requires to meet its own RA obligations) available to the market. SDG&E may procure excess capacity from resources to enhance local area reliability in order to reduce the chance of the backstop by the ISO as part of the ISO's capacity procurement mechanism Tariff authorization. SDG&E may offer such excess RA products to the market through an RFO process, through the CAISO's Competitive Solicitation Process where the offers are submitted to the CAISO and CAISO optimizes to procure backstop capacity to meet deficiencies or significant events, through a response to a counter-party RFO or through bilateral negotiations with counterparties. Such transactions would be for capacity or rights to capacity, and the related cost would be fully recoverable through SDG&E's Energy Resource Recovery Account (ERRA). Current Commission rules permit SDG&E to buy and/or sell products bilaterally when (1) SDG&E is approached by an outside non-affiliated third party seeking to sell or purchase short-term RA of one year or less in duration; or (2) SDG&E has a need to purchase or sell short term system, local, or flexible RA capacity. SDG&E will periodically brief its PRG on its RA positions. SDG&E may choose to retain all or some portion of excess RA in order to retain surplus RA for use in management of scheduled outage replacement or lowering the CAISO's RA product charges.

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<sup>4/</sup> In D.04-07-028, the Commission relaxed the restrictions on negotiated bilateral contracts to allow for the use of bilateral negotiated contracts for capacity and energy from power plants where the purpose is to enhance local area reliability (*mimeo*, p.17 and Ordering Paragraph 1.e.). D.04-07-028 prohibits bilateral negotiations between SDG&E and affiliated third parties.

## **Attachment E**

Excerpt from CAISO Fifth Replacement FERC Electric Tariff



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Resource Adequacy Capacity or Flexible RA Capacity on an Outage, except to the extent the resource provides RA Substitute Capacity for the outage in accordance with Section 40.9.3.6, the Outage is approved by the CAISO without requiring RA Substitute Capacity under other authority of Section 9 or Section 40, or the Outage is excluded from RAAIM under Section 40.9.3.4(d); and

(5) the capacity, duration, and must-offer requirement for any RA Substitute Capacity or CPM Capacity the resource is committed to provide.

- (b) If the resource's minimum daily availability is the same in the Day-Ahead Market and the Real-Time Market, the CAISO will use the availability in the Real-Time Market in the calculation of the monthly average availability.
- (c) If the resource is committed to provide local and/or system RA capacity and Flexible RA Capacity in a month, but is not committed to provide both for the full month, the CAISO prorates the number of days that local and/or system Resource Adequacy Capacity and Flexible RA Capacity was provided against the total number of days in the month.

#### **40.9.5 Availability Standard**

- (a) **Percentage.** The Availability Standard shall be 96.5 percent each month.
- (b) **Availability Range.** The CAISO shall apply the Availability Standard with a bandwidth of plus and minus two percent, which produces a range with a lower bound of 94.5 percent and an upper bound of 98.5 percent.

#### **40.9.6 Non-Availability Charges and Availability Incentive Payments**

- (a) **Non-Availability Charges.** A resource providing local and/or system Resource Adequacy Capacity, Flexible RA Capacity, or CPM Capacity that is subject to the availability assessment in accordance with Section 40.9.3 and whose monthly availability calculation under Section 40.9.4 is below the lower bound of the monthly Availability Standard of 94.5 percent will be subject to a Non-Availability Charge for the month.
- (b) **Availability Incentive Payments.** A resource providing local and/or system Resource Adequacy Capacity, Flexible RA Capacity, or CPM Capacity that is subject to the availability assessment under Section 40.9.3 and whose availability calculation under

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Section 40.9.4 is above the upper bound of the monthly Availability Standard of 98.5 percent will be eligible for an Availability Incentive Payment for the month.

- (c) **No Payment or Charge.** A resource providing local and/or system Resource Adequacy Capacity, Flexible RA Capacity, or CPM Capacity that is subject to the availability assessment under Section 40.9.3 and whose monthly availability calculation under Section 40.9.4 is equal to or between the lower bound of 94.5 percent and the upper bound of 98.5 percent of the Availability Standard will not be assessed a Non-Availability Charge nor paid an Availability Incentive Payment.
- (d) **Advisory Period.** During an advisory period of April 1, 2018 through May 31, 2018, the CAISO will show the Non-Availability Charges and Availability Incentive Payments on Settlement Statements but will not include those Non-Availability Charges and Availability Incentive Payments on Invoices for financial settlement.
- (e) **Separate Calculation of Payments and Charges for Flexible RA Capacity.** The CAISO will calculate separate Non-Availability Charges and Availability Incentive Payments for Resource Adequacy Resources providing Flexible RA Capacity. For RMR Resources, the Non-Availability Charge will be based on the RMR Contract capacity costs. RMR Capacity is otherwise treated the same way as Resource Adequacy Capacity.

**40.9.6.1 Determination of Non-Availability Charge**

- (a) **Calculation**
  - (1) **RA Capacity.** The Non-Availability Charge for a Resource Adequacy Resource providing local, system, or Flexible RA Capacity shall be determined by the resource's average monthly RA and Flexible RA MWs multiplied by the difference between the lower bound of the monthly Availability Standard of 94.5 percent and the resource's monthly availability percentage, and multiplying the product by the RAAIM price.
  - (2) **CPM Capacity.** The Non-Availability Charge for a Resource Adequacy Resource providing CPM Capacity shall be determined by the resource's

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average monthly CPM MWs multiplied by the difference between the lower bound of the monthly Availability Standard of 94.5 percent and the resource's monthly availability percentage, and multiplying the product by the maximum of the resource's CPM price and the RAAIM price.

- (b) **RAAIM Price.** The RAAIM price shall be 60 percent of the CPM Soft-Cap Price in Section 43A.4.1.1.

- (c) **Separate Collection of Non-Availability Charges for Flexible RA Capacity.**

Separately-calculated Non-Availability Charges collected for Resource Adequacy Resources providing Flexible RA Capacity will be held separate from other Non-Availability Charges assessed for Resource Adequacy Resources.

**40.9.6.2 Determination of Availability Incentive Payment**

- (a) **Self-Funding.** The Availability Incentive Payment will be funded entirely through the monthly Non-Availability Charges assessed. Availability Incentive Payments for Resource Adequacy Resources providing Flexible RA Capacity will be funded exclusively by Non-Availability Charges assessed against Resource Adequacy Resources providing Flexible RA Capacity.

- (b) **Eligible Capacity.** The capacity of a Resource Adequacy Resource providing local, system or Flexible RA Capacity that is eligible to receive an Availability Incentive Payment shall be the resource's average monthly MWs of capacity that exceed the upper bound of the Availability Standard.

- (c) **Calculation.**

- (1) The monthly Availability Incentive Payment rate will equal the total Non-Availability Charges assessed for the month plus any unpaid funds under Section 40.9.6.2(d), divided by the total Resource Adequacy Capacity eligible to receive the Availability Incentive Payment that month.
- (2) The Availability Incentive Payment rate shall not exceed three times the Non-Availability Charge rate.
- (3) The Availability Incentive Payment the CAISO shall pay to each eligible resource

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shall equal the product of its eligible capacity and the Availability Incentive Payment rate.

- (d) **Unpaid Funds.** Any Non-Availability Charge funds that are not distributed to Resource Adequacy Resources eligible to receive Availability Incentive Payments in a month will be added to the funds available for Availability Incentive Payments in the next month and will continue to roll over to successive months until the end of the year. The CAISO distributes any unallocated funds remaining after the CAISO settles December monthly RAAIM Non-Availability Charges and Non-Availability Incentive Payments. The separate pool of undistributed Non-Availability Charge funds collected for local and/or system Resource Adequacy Capacity will be distributed to Load Service Entities based on their load ratio share for the year. The separate pool of undistributed Non-Availability Charge funds collected for Flexible RA Capacity will be distributed to Load Serving Entities based on their overall ratio of obligation to demonstrate Flexible RA Capacity for the year.

#### **40.9.7 Reporting**

By July 1 of each year, the CAISO will provide an informational report that will be posted on the CAISO Website and include information on the average actual availability each month of Resource Adequacy Resources, the total amount of Non-Availability Charges assessed and the total amount of Availability Incentive Payments made.

#### **40.10 Flexible RA Capacity**

##### **40.10.1 Flexible Capacity Needs Assessment**

The CAISO shall annually conduct a study to determine the Flexible Capacity Need of the CAISO Balancing Authority Area for each month of the next calendar year and provide the results of the study in the Flexible Capacity Needs Assessment.

##### **40.10.1.1 Process**

- (a) **Schedule.** The CAISO shall conduct the study pursuant to the schedule set forth in the Business Practice Manual, which shall include a process for stakeholders to review and provide input on the study methodology and assumptions and on the draft study results.
- (b) **Completion and Distribution.** The CAISO shall provide the final results of the Flexible

## **Exhibit C**

### **SDG&E Scoping Ruling**



COM/JR5/smt 10/31/2023

**FILED**

10/31/23

09:36 AM

A2306002

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

Application of San Diego Gas & Electric Company (U902E) for Approval of:  
(i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022.

Application 23-06-002

**ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING**

This scoping memo and ruling sets forth the issues, need for hearing, schedule, category, and other matters necessary to scope this proceeding pursuant to Public Utilities Code Section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules).

**1. Procedural Background**

On June 1, 2023, San Diego Gas & Electric Company (SDG&E) filed an application to seek Commission approval of contract administration, least-cost dispatch and power procurement activities, and costs recorded in its Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition



Cost Balancing Account, Local Generating Balancing Account, and other related accounts. On July 6, 2023, Public Advocates Office at the California Public Utilities Commission (Cal Advocates) and California Energy Alliance and San Diego Community Power (Joint CCAs) timely filed protests to SDG&E's application. SDG&E filed a reply to Cal Advocates' and the Joint CCAs' protests on July 17, 2023. On August 4, 2023, an Administrative Law Judge (ALJ) ruling noticed the prehearing conference (PHC). A PHC was held on August 21, 2023, to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary.

After considering SDG&E's application, Cal Advocates' and the Joint CCAs' protests, SDG&E's reply to protests, and discussion at the PHC, I have determined the issues and initial schedule of the proceeding to be set forth in this scoping memo. I have also determined that no environmental and social justice issues have been raised at this time.

## **2. Issues**

The issues to be determined or otherwise considered are:

1. Whether SDG&E administered and managed its own generation resources prudently, to include the management of outages and associated fuel costs, according to Standard of Conduct ("SOC") 4.
2. Whether SDG&E administered and managed its Qualifying Facility ("QF") and non-QF contracts for generation and power purchase agreements in accordance with the contract provisions and otherwise followed Commission guidelines relating to those contracts and their amendments according to SOC 4.
3. Whether SDG&E used the most cost-effective mix of energy resources under its control and achieved Least Cost Dispatch of its energy resources according to SOC 4.

4. Whether SDG&E administered its demand response programs to minimize costs to its ratepayers according to SOC 4.
5. Whether the entries recorded during the record year in the following accounts are correctly stated and in compliance with Commission directives:
  - a. the Energy Resource Recovery Account;
  - b. Portfolio Allocation Balancing Account;
  - c. Undercollection Balancing Account;
  - d. Transition Cost Balancing Account;
  - e. Local Generating Balancing Account;
  - f. New Environmental Regulatory Balancing Account (NERBA);
  - g. Independent Evaluator Memorandum Account;
  - h. Litigation Cost Memorandum Account;
  - i. Green Tariff Marketing Education & Outreach Memorandum Account;
  - j. Green Tariff Shared Renewables Administrative Cost Memorandum Account;
  - k. Enhanced Community Renewable ME&O Memorandum Account;
  - l. Green Tariff Shared Renewables Balancing Account;
  - m. Tree Mortality Non-Bypassable Charge Balancing Account (TMNBCBA);
  - n. Disadvantaged Communities – Single Family Solar Homes Balancing Account;
  - o. Disadvantaged Communities-Green Tariff Balancing Account; and
  - p. Community Solar Green Tariff Balancing Account
6. Whether SDG&E's Greenhouse Gas (GHG) Compliance Instrument procurement was consistent with applicable

standards and in compliance with SDG&E's Commission-approved procurement plans.

7. Whether the entries in SDG&E's Greenhouse Gas Revenue Balancing Account and Greenhouse Gas-related entries in other ERRA sub-accounts are accurate, and whether SDG&E met its burden of proof regarding its claim for these entries.
8. Whether the Commission should authorize SDG&E to pursue adjustment of the undercollection in SDG&E's NERBA in the Annual Electric Regulatory Account Update filing.
9. Whether the Commission should authorize SDG&E to pursue adjustment of the undercollection in SDG&E's TMNBCBA in the Annual Electric Public Purpose Program Account Update filing.

### **3. Need for Evidentiary Hearing**

Based on party feedback at the PHC, there may be disputed issues of material fact including but not limited to SDG&E's prudent management and administration of utility-owned generation resources, purchased power contracts, demand response programs, GHG compliance instrument procurement, and generation-related balancing accounts. Accordingly, parties will be allowed to present evidence on these issues if evidentiary hearings are needed. The need for evidentiary hearings will be determined by the assigned ALJ and further instructions provided at the status conference.

### **4. Schedule**

The following schedule is adopted here and may be modified by the assigned ALJ as required to promote the efficient and fair resolution of the application:

Event	Date
Intervenors' prepared direct testimony served	December 15, 2023
Status Report on Settlement Talks (if needed)	February 17, 2024
Rule 13.9 Meet and Confer Deadline	March 8, 2024
Status Conference on Need for Hearings	March 11, 2024
Evidentiary Hearings	March 18, 2024
Opening Briefs	April 12, 2024
Reply Briefs	May 3, 2024
Proposed Decision	Third Quarter 2024

The purpose of the March 11, 2024 status conference is to ascertain whether, pursuant to Rule 13.8(c), the parties stipulate to the receipt of prepared testimony into evidence without direct or cross examination or other need to convene an evidentiary hearing or, in the alternative, the parties' resources, readiness and needs for the effective remote conduct of the evidentiary hearing, including estimates of time requested for cross-examination and identification of anticipated exhibits.

The proceeding will stand submitted upon the filing of reply briefs, unless the ALJ requires further evidence or argument. Based on this schedule, the proceeding will be resolved within 18 months as required by Public Utilities (Pub. Util.) Code Section 1701.5.

## **5. Alternative Dispute Resolution (ADR) Program and Settlements**

The Commission's Alternative Dispute Resolution (ADR) program offers mediation, early neutral evaluation, and facilitation services, and uses ALJs who have been trained as neutrals. At the parties' request, the assigned ALJ can refer

this proceeding to the Commission's ADR Coordinator. Additional ADR information is available on the Commission's website.<sup>1</sup>

Any settlement between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Rules and shall be served in writing. Such settlements shall include a complete explanation of the settlement and a complete explanation of why it is reasonable in light of the whole record, consistent with the law and in the public interest. The proposing parties bear the burden of proof as to whether the settlement should be adopted by the Commission.

The schedule set forth in this Scoping Memo includes a date for the completion of settlement talks. No later than this date, the parties will submit to the assigned ALJ a status report of their efforts, identifying agreements reached and unresolved issues requiring hearing.

## **6. Category of Proceeding and Ex Parte Restrictions**

This ruling confirms the Commission's preliminary determination that this is a ratesetting proceeding. Accordingly, ex parte communications are restricted and must be reported pursuant to Article 8 of the Rules.

## **7. Public Outreach**

Pursuant to Pub. Util. Code Section 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on communities and businesses that subscribe to it and posted on the Commission's website.

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<sup>1</sup> See Decision 07-05-062, Appendix A, § IV.O.

## **8. Intervenor Compensation**

Pursuant to Pub. Util. Code Section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by September 20, 2023, 30 days after the PHC.

## **9. Response to Public Comments**

Parties may, but are not required to, respond to written comments received from the public. Parties may do so by posting such response using the “Add Public Comment” button on the “Public Comment” tab of the online docket card for the proceeding.

## **10. Public Advisor**

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission’s Public Advisor at 866-849-8390 or 866-836-7825 (TTY), or send an email to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov).

## **11. Filing, Service, and Service List**

The official service list has been created and is on the Commission’s website. Parties should confirm that their information on the service list is correct and serve notice of any errors on the Commission’s Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.<sup>2</sup>

When serving any document, each party must ensure that it is using the current official service list on the Commission’s website.

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<sup>2</sup> The form to request additions and changes to the Service list may be found at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/additiontoservicelisttranscriptordercompliant.pdf>

This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at [process\\_office@cpuc.ca.gov](mailto:process_office@cpuc.ca.gov) to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f).

The Commission encourages those who seek information-only status on the service list to consider the Commission’s subscription service as an alternative. The subscription service sends individual notifications to each subscriber of formal e-filings tendered and accepted by the Commission. Notices sent through subscription service are less likely to be flagged by spam or other filters. Notifications can be for a specific proceeding, a range of documents and daily or weekly digests.

## **12. Receiving Electronic Service from the Commission**

Parties and other persons on the service list are advised that it is the responsibility of each person or entity on the service list for Commission proceedings to ensure their ability to receive emails from the Commission. Please add “@cpuc.ca.gov” to your email safe sender list and update your email

screening practices, settings and filters to ensure receipt of emails from the Commission.

**13. Assignment of Proceeding**

John Reynolds is the assigned Commissioner and Rajan Mutialu is the assigned ALJ and presiding officer for the proceeding.

**IT IS RULED** that:

1. The scope of this proceeding is described above and is adopted.
2. The schedule of this proceeding is set forth above and is adopted.
3. Evidentiary hearings may be needed.
4. The presiding officer is Administrative Law Judge Rajan Mutialu.
5. The category of the proceeding is ratesetting.

Dated October 31, 2023, at San Francisco, California.

/s/ JOHN REYNOLDS

John Reynolds  
Assigned Commissioner



**Exhibit D**

**Joint CCA Motion to Compel**

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



**FILED**

11/28/23

04:59 PM

A2306002

Application of San Diego Gas & Electric Company (U 902-E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022.

Application 23-06-002  
(Filed June 1, 2023)

**MOTION TO COMPEL DISCOVERY OF SAN DIEGO  
COMMUNITY POWER AND CLEAN ENERGY ALLIANCE**

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November 22, 2023

*On behalf of San Diego Community  
Power and Clean Energy Alliance*

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

Application of San Diego Gas & Electric Company (U 902-E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022.

Application 23-06-002  
(Filed June 1, 2023)

**MOTION TO COMPEL DISCOVERY OF SAN DIEGO  
COMMUNITY POWER AND CLEAN ENERGY ALLIANCE**

Pursuant to Rule 11.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (the “Commission”), San Diego Community Power (“SDCP”)<sup>1</sup> and Clean Energy Alliance (“CEA”)<sup>2</sup> (together, “Joint CCAs”) hereby submit this Motion to Compel (“Motion”) San Diego Gas & Electric Company (“SDG&E”) to produce information fully responsive to the Joint CCAs’ Data Requests 1.09, 1.10, 2.02, 2.03, and 2.05 (the “Data Requests”).

The Data Requests seek information regarding the solicitation materials, resource adequacy (“RA”) positions, and bid outcomes of SDG&E’s sales of excess RA in 2021 and 2022. SDG&E’s attempts to maximize its RA sales — and thereby lower costs to customers — goes

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<sup>1</sup> SDCP is the CCA for the cities of Chula Vista, Encinitas, Imperial Beach, La Mesa, National City and San Diego and the unincorporated areas of San Diego County.

<sup>2</sup> CEA is the CCA for the cities of Carlsbad, Del Mar, Solana Beach, Escondido, San Marcos, Oceanside, and Vista.

directly to the heart of whether it prudently managed its generation portfolio during the 2022 compliance period. SDG&E's efforts in this regard ultimately impact the entries it made into its balancing accounts, including the Portfolio Allocation Balancing Account ("PABA"), which is subject to a compliance review in this proceeding.

Despite the broad implications of SDG&E's attempts (or lack thereof) to sell excess RA, SDG&E contends this information is not relevant for stakeholder or Commission review in this proceeding. In addition, SDG&E improperly seeks to withhold the requested information from representatives of the Joint CCAs that have executed non-disclosure agreements, arguing that it would be improper to disclose confidential and commercially sensitive information to the reviewing representatives for community choice aggregators ("CCAs") that participate in its RA solicitations. SDG&E's objections should be rejected.

The information sought through the Data Requests is relevant to whether SDG&E prudently managed its generation resources and should not be withheld from Commission review. SDG&E's efforts to sell excess RA have a direct impact on its customers' rates, and its efforts to prevent a thorough review of its actions raise larger concerns surrounding SDG&E's perception of the Commission's ability to oversee its operations. Further, the Commission adopted a framework to provide market-sensitive data to reviewing representatives for market participants that has largely operated successfully since D.06-06-006. That framework addresses the confidentiality concerns SDG&E has raised; no market participant will receive any market-sensitive materials.

Consequently, and given the December 15, 2023, deadline for intervenor testimony, the Joint CCAs respectfully request the Commission direct SDG&E to produce information fully

responsive to the Data Requests to the Joint CCAs' reviewing representatives by December 8, 2023.

## **I. FACTUAL AND PROCEDURAL BACKGROUND**

On June 1, 2023, SDG&E filed its *Application for Approval of ERRA Compliance for Record Period 2022*. The Application requests, among other things, review and approval of costs related to activities recorded to the ERRA, the PABA, and the PCIA.<sup>3</sup> CCA and other unbundled customers are subject to several non-bypassable charges ("NBCs"), including PCIA rates to recover above market costs of the utility's PCIA-eligible resources and the Local Generation Charge rate to recover Cost Allocation Mechanism costs.

SDG&E's PCIA rates are set in the ERRA Forecast proceeding based on: (1) 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); and (2) the year-end balance in the Portfolio Allocation Balancing Account ("PABA"). 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 ERRA Forecast case sets those rates for implementation on January 1 of the record year.

For bundled customers, the PCIA-related costs are included in the commodity revenue requirement and recovered through a bundled commodity rate, which is also set in the ERRA Forecast case. Costs to meet bundled customers' energy and ancillary service requirements through the CAISO market, along with costs of resources not eligible for recovery in the PABA or CAM, are recovered via the ERRA. The total bundled customer commodity revenue requirement is

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<sup>3</sup> Application (A.) 23-06-002, Application of San Diego Gas & Electric Company (U 902-E) for Approval of ERRA Compliance for Record Period 2022, p. 1 (June 1, 2023).

calculated by combining ERRA costs with bundled customers' share of above market cost of PCIA-eligible contracts and utility owned resources.

SDG&E then tracks actual costs and revenues incurred over the course of the year for PCIA-eligible resources in the PABA. Costs to meet bundled customers' energy and ancillary service requirements are recorded and tracked in the ERRA balancing account during the record year. The result in both balancing accounts is SDG&E 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. The resulting under- or over-collection is then included in the revenue requirement for the following year's ERRA and PCIA rates. For example, customers are currently paying (in 2023) the under- and over-collections that SDG&E recorded over the course of 2022.

One important factor in whether an over- or under-collection exists in the PABA is the actual amount of RA capacity SDG&E sold during the record year ("Sold RA") compared to the amount of Sold RA it had forecasted it would sell. A close review of both (1) the accounting tracking those sales, and (2) whether SDG&E prudently managed its portfolio in making those sales, takes place in the ERRA Compliance proceeding, *i.e.*, the instant proceeding. There is no other proceeding in which to scrutinize these factors from SDG&E's RA sales: this proceeding is the Commission and parties' only opportunity to review SDG&E's accounting of its 2022 RA sales and whether it prudently managed its portfolio in making those sales in 2022.

In the 2022 record year, SDG&E reported it relied on excess RA capacity from existing resources to count toward its incremental system reliability procurement targets.<sup>4</sup> In other words, SDG&E reported it had substantial excess RA capacity available from June through October 2022,

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<sup>4</sup> SDG&E Excess Resources Report (last updated September 28, 2023). Accessible at: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/sdge-excess-resource-reporting-d2112015octpublic081522.xlsx>.

and, as a result, it 1) counted that capacity toward its incremental targets, and 2) transferred the RA value to CAM for cost recovery. An important question for the Commission to consider in this proceeding is whether SDG&E should have offered more RA for sale in 2022 given this substantial excess RA capacity, *i.e.*, whether SDG&E prudently managed its portfolio during the record year that is the focus of this proceeding.

The Joint CCAs issued discovery on August 31, 2023, to further evaluate SDG&E's attempts to sell its excess RA. The Data Requests seek information regarding the solicitation materials, RA positions, and bid outcomes related to SDG&E's sales of excess RA in 2021 and 2022. The Data Requests are attached as Exhibit B. Notably, the Data Requests are substantially similar to information requested by the California Public Advocates Office ("Cal Advocates") in its Master Data Requests ("MDR"). Specifically, MDR 3.20.2 sought the system, local, and flex positions for each solicitation in which RA for delivery in the record year was offered for sale.<sup>5</sup> MDR 3.20, which indicates that parties beyond the Joint CCAs believe this information to be relevant in the present proceeding, is attached as Exhibit D.

SDG&E issued responses to the Joint CCAs' First Set of Data Requests on September 29, 2023. However, SDG&E objected to Data Requests 1.09 and 1.10 in their entirety.<sup>6</sup> In its objections, SDG&E argued that the Data Requests seek production of information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.<sup>7</sup> In addition, SDG&E argued that because the Joint CCAs participate in its RA solicitations, it would be improper to disclose confidential and commercially sensitive information.<sup>8</sup>

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<sup>5</sup> Joint CCA Exhibit D, Cal Advocates MDR 3.20.2 (issued March 30, 2023).

<sup>6</sup> Joint CCA Exhibit B, SDG&E Response to SDCP and CEA Data Request 001, pp. 5-6 (September 29, 2023) and SDG&E Response to SDCP and CEA Data Request 002, pp. 1-3 (November 16, 2023).

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

<sup>8</sup> *Id.*

On October 23, 2023, the Joint CCAs sent an electronic message to counsel for SDG&E to request a meet and confer pursuant to Rule 11.3 to discuss the discovery dispute.<sup>9</sup> The meet and confer took place on November 6, 2023, during which the parties resolved disputes surrounding two additional data requests. However, counsel for SDG&E later notified the Joint CCAs that it maintained its objection to the Data Requests.<sup>10</sup>

On November 2, 2023, the Joint CCAs issued an additional set of discovery requests, including Data Requests 2.02, 2.03, and 2.05.<sup>11</sup> The Data Requests sought information regarding SDG&E's monthly RA requirements, its final net RA position for each month of the 2022 compliance period, and any attachments to its 2022 Quarterly Compliance Reports that address its RA solicitations, RA volumes made available, RA-related filings with the Commission, and the calculation and reporting of SDG&E's net RA position.<sup>12</sup>

SDG&E served its responses to the Joint CCAs' Second Set of Data Requests on November 16, 2023. In its response, SDG&E objected to Data Requests 2.02, 2.03, and 2.05 in their entirety, arguing these requests are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.<sup>13</sup> Further, SDG&E argued the Data Requests are irrelevant to any issue presented in this proceeding and are therefore out of scope.<sup>14</sup>

Given the similar nature of Data Requests 1.09 and 1.10 to Data Requests 2.02, 2.03, and 2.05 and the unsuccessful meet and confer, counsel for the Joint CCAs sent an electronic message to counsel for SDG&E on November 21, 2023 inquiring as to whether an additional meet and

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<sup>9</sup> Joint CCA Exhibit C.

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

<sup>11</sup> Joint CCA Exhibit B.

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

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*



confer was likely to be productive.<sup>15</sup> Counsel for SDG&E indicated that another meet and confer was not necessary.<sup>16</sup> As a result, the Joint CCAs must now request the Commission compel SDG&E to produce the information requested in the Data Requests.

## **II. CALIFORNIA LAW SUPPORTS A BROAD INTERPRETATION OF RELEVANCY.**

SDG&E claims that information regarding its solicitation materials, RA positions, bid outcomes of its 2021 and 2022 excess RA solicitations, and the additional RA-related information requested in the Data Requests is not relevant or reasonably calculated to lead to the discovery of admissible evidence. However, California law favors a broad interpretation of relevancy and supports the Joint CCAs' position that the requested information is, in fact, relevant to the issues in this proceeding.

The California Evidence Code defines "relevant evidence" as evidence "having *any* tendency in reason to prove or disprove *any* disputed fact that is *of consequence* to the determination of the action."<sup>17</sup> The definition is "manifestly broad," and evidence is relevant "no matter how weak it tends to prove a disputed issue."<sup>18</sup> Further, "any 'doubts as to relevance should generally be resolved in favor of permitting discovery.'"<sup>19</sup>

Commission rules also support a broad interpretation of relevance to ensure the Joint CCAs have a meaningful opportunity to rebut evidence affecting the PCIA rates their customers will pay. Under Commission Rule 13.6(a), California's "technical rules of evidence . . . need not be applied

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<sup>15</sup> Joint CCA Exhibit C.

<sup>16</sup> *Id.*

<sup>17</sup> Cal. Evid. Code § 210 (emphasis added).

<sup>18</sup> *See, e.g., People v. Tauber*, 56 Cal. Rptr. 2d 656, 660 (1996).

<sup>19</sup> *Williams v. Superior Court*, 3 Cal. 5th 531, 542 (2017) (quoting *Pacific Tel. & Tel. Co. v. Superior Court*, 2 Cal.3d 161, 173 (1970)).

in hearings” before the Commission.<sup>20</sup> However, “the rights of parties to meaningfully participate in the proceeding and to public policy protections shall be preserved.”<sup>21</sup>

### III. ARGUMENT

#### A. The Requested Information is Relevant to Whether SDG&E Prudently Managed its Portfolio.

Scoping Issue One of the *Assigned Commissioner’s Scoping Memo and Ruling* asks “[w]hether SDG&E administered and managed its own generation resources prudently, to include the management of outages and associated fuel costs, according to Standard of Conduct (‘SOC’) 4.”<sup>22</sup> SDG&E argues that Scoping Issue One is narrowly constrained to whether it administered and managed its generation resources in compliance with the Commission’s Good Utility Practice and reasonable manager standards.<sup>23</sup> Specifically, SDG&E argues that only keeping up with maintenance obligations is essentially all that is required to meet these standards.<sup>24</sup>

However, Scoping Issue One is broader than SDG&E contends. SOC 4 requires utilities to prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner.<sup>25</sup> In an ERRR Compliance proceeding, the Commission’s review typically extends to whether the utility administered and managed its generation resources and contracts in compliance with all applicable rules, regulations, and Commission decisions, including but not limited to SOC 4.<sup>26</sup> No Commission decision has limited the applicability of this review solely to utility maintenance and upkeep of generation resources, and nothing prevents the Commission from

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<sup>20</sup> Rule 13.6(a).

<sup>21</sup> *Id.*

<sup>22</sup> A.23-06-002, *Assigned Commissioner’s Scoping Memo and Ruling*, p. 2 (October 31, 2023).

<sup>23</sup> Joint CCA Exhibit C.

<sup>24</sup> Joint CCA Exhibit C; A.23-06-002, Direct Testimony of Kevin Counts, p. KMC-5 (June 1, 2023).

<sup>25</sup> D.02-10-062, Conclusion of Law 11 (October 24, 2002).

<sup>26</sup> See e.g., A.21-06-004, *Assigned Commissioner’s Scoping Memo and Ruling*, Scoping Issue One (August 13, 2021).

including SDG&E's management of its RA resources in its evaluation of SDG&E's management of its generation resources more generally.

Moreover, the "Good Utility Practice" standard is also broader than SDG&E asserts. SDG&E's compliance with the Good Utility Practice standard includes the need to exercise proper management of its entire business, not just to maintain its utility-owned generation ("UOG"). This includes making reasonable efforts to ensure SDG&E gets value for all its resources, a key consideration in determining whether the utility has prudently managed its generation portfolio.

"Good Utility Practice" was defined in D.02-12-069 as:

***"[A]ny of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice does not require the optimum practice, method, or act to the exclusion of all others, but rather is intended to include acceptable practices, methods, or acts generally accepted in the Western Electric Coordinating Council region."***<sup>27</sup>

In addition, the reasonable manager standard holds utilities to a standard of reasonableness based upon facts that are known or should have been known at the time.<sup>28</sup> The act of the utility should "comport with what a reasonable manager of sufficient education, training, experience and skills using the tools and knowledge at his disposal would do when faced with a need to make a decision and act."<sup>29</sup> While the reasonable manager standard is generally applied to evaluate the reasonableness of outages and contract administration,<sup>30</sup> nothing constrains the Commission to applying the Good Utility Practice standard solely within the prism of utility maintenance

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<sup>27</sup> D.02-12-069, Attachment A, p. 5 (December 19, 2002) (emphasis added).

<sup>28</sup> D.90-09-088, 37 CPUC2d 488, 499 (September 25, 1990).

<sup>29</sup> D.90-09-088 at 499.

<sup>30</sup> See D.16-04-006, pp. 11-12 (April 7, 2016) (describing the application of the reasonable manager standard in ERRa compliance proceedings).

decisions. Rather, SDG&E takes an unduly narrow view of the scope of this proceeding, its obligations, and the Commission's authority. In a compliance proceeding, it is appropriate to review the prudence of portfolio management – including whether the utility maximized the value of its resources for the benefit of its customers. Contrary to SDG&E's suggestion, the Good Utility Practice standard can appropriately be applied to this evaluation.

SDG&E's prudent management of its generation portfolio, specifically the efficiency of its sales of excess RA, directly contributes to the rates its customers ultimately pay. It is crucial that the Commission is able to scrutinize these practices, as "[a]ll charges demanded or received by a public utility for any product or service shall be just and reasonable."<sup>31</sup> To ensure rates are just and reasonable, "it is critical that the Commission have access to **full and accurate information** from utilities to carry out the Commission's responsibilities **to set equitable, just, and reasonable rates.**"<sup>32</sup>

If excess RA is not sold or retained to meet RA compliance obligations, it is valued at zero in Indifference Amount.<sup>33</sup> In turn, the Unsold RA valued at zero increases the overall Indifference Amount, which is a key factor in determining the PCIA rates paid for by both bundled and unbundled customers. The reasonableness of SDG&E's attempts to sell excess RA during the summer of 2022 is relevant to issues in scope in this proceeding because that issue ultimately impacts the entries SDG&E ultimately made to its balancing accounts, including the PABA, during the 2022 record period. Given the direct correlation excess RA has to customer rates, Good Utility Practice would dictate that SDG&E make all reasonable attempts to sell excess RA to lower costs for customers.

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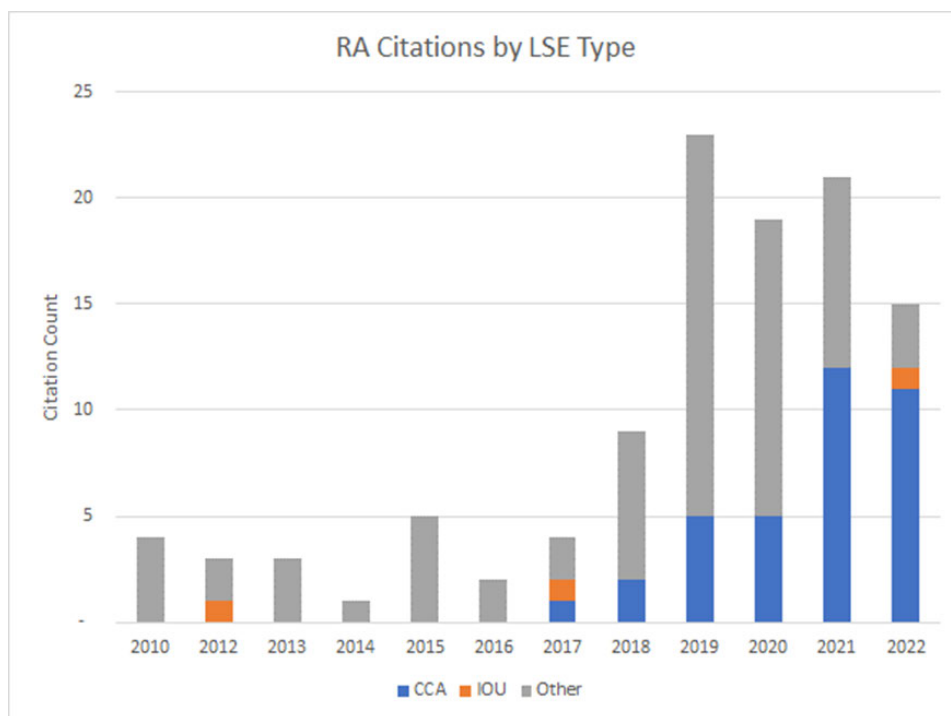
<sup>31</sup> D.21-01-017, p. 17 (January 21, 2021); *see also* D. 19-12-041, p. 217 (emphasis added).

<sup>32</sup> D.19-12-041, p. 217 (emphasis added).

<sup>33</sup> D.19-10-001, Attachment B (October 10, 2019).

In addition, the reasonableness of SDG&E’s attempts to sell excess RA has larger implications for other load-serving entities (“LSEs”) in its service territory. During the summer of 2022, LSEs faced a severely constrained RA market, which led to difficulty procuring sufficient RA to meet compliance obligations. The Enforcement Actions Spreadsheet updated by the Commission’s Consumer Protection and Enforcement Division tracks RA citations issued to various entities for deficiencies meeting RA compliance requirements.<sup>34</sup> As shown in Figure 1, there was a sharp increase in the number of citations for RA deficiency for LSEs in 2019, and elevated levels continued through 2022.

**Figure 1**



<sup>34</sup> California Public Utilities Commission Consumer Protection Enforcement Division, Enforcement Actions Spreadsheet (2023). Accessible at: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/consumer-protection-and-enforcement-division/documents/ueb/energy-citations/2023/july-2023-ueb-energy-citations.pdf>.

Under these market conditions, maximizing RA sales to interested LSEs is a Good Utility Practice to both lower costs to customers and ensure that regional RA needs are able to be met. That SDG&E reported substantial amounts of excess RA given the constrained RA market conditions suggests that further Commission scrutiny is needed into whether SDG&E reasonably offered enough RA for sale.

The information requested by the Data Requests, *i.e.*, the details of SDG&E's solicitation materials, RA positions, and accepted versus rejected bids, along with the additional information requested in Data Requests 2.02, 2.03, and 2.05, will provide the Commission and the Joint CCAs with the information necessary to evaluate the reasonableness of the large amounts of excess RA SDG&E reported for the summer of 2022. Whether SDG&E acted reasonably in conducting solicitations to attempt to sell this excess RA speaks directly to Scoping Issue One — whether SDG&E prudently managed its generation portfolio. Without the requested information, the Joint CCAs will be unable to determine whether the large amount of excess RA, and its ultimate impact on the PABA, were the result of prudent portfolio management. Moreover, the requested information is essential to the Commission's ability to evaluate whether the resulting rates are just and reasonable.

Finally, there is no other venue in which the Commission can review this issue. SDG&E's RA solicitations are governed by its Bundled Procurement Plan ("BPP").<sup>35</sup> Pursuant to § 454.5 of the California Public Utilities Code, transactions in compliance with an approved BPP are not subject to an after-the-fact reasonableness review of the utility's actions.<sup>36</sup> That is, if SDG&E followed its BPP, the Commission cannot later require SDG&E to record different amounts to the PABA if it believes SDG&E should have sold RA for a higher price.

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<sup>35</sup> See SDG&E Advice Letter 3738-E, Attachment B, Original Sheet 31-33 (April 15, 2021).

<sup>36</sup> See Cal. Pub. Util. Code § 454.5(d)(2).

However, parties can contest whether SDG&E followed SOC 4 and prudently managed its resources in making those RA sales through the ERRA Compliance application and review process. Parties can contest if SDG&E's actions during the record year are in compliance with the BPP. In fact, if the question involves actions the IOU should have taken, but did not pursue, the only available venue for parties to utilize is the ERRA Compliance Application and review process. Consequently, the Joint CCAs are limited to raising the question of whether SDG&E followed its BPP and prudently conducted solicitations to sell excess RA to this ERRA Compliance proceeding. While opportunities for oversight of particular contracts or decisions made with respect to BPPs are limited, the Commission's procurement review framework allows the Joint CCAs' narrowly tailored inquiry.

**B. The Commission's Well-Established Confidentiality Practices Adequately Protect SDG&E.**

SDG&E argues that because the Joint CCAs participate in RA solicitations, it would be improper for SDG&E to disclose confidential and commercially sensitive information regarding SDG&E's sales strategy and other solicitors' bidding strategies.<sup>37</sup> SDG&E asserts that disclosing the requested information could provide an undue competitive advantage, and therefore is not subject to disclosure.<sup>38</sup>

The Commission is bound by constitutional due process requirements,<sup>39</sup> which require that parties be given the opportunity to be heard.<sup>40</sup> The Commission has often stated that it applies the elements of due process that the U.S. Supreme Court articulated in *Mullane v. Central Hanover Bank & Trust Co.*:

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<sup>37</sup> Joint CCA Exhibit B, SDG&E Response to SDCP and CEA DR 001 at 5-6.

<sup>38</sup> *Id.*

<sup>39</sup> *People v. Western Airlines Inc.* (1954) 42 Cal.2d 621; *Railroad Commission of California v. Pacific Gas and Electric Company* (1938) 302 U.S. 388.

<sup>40</sup> *People v. Western Airlines Inc.* (1954) 42 Cal.2d at 632.

An elementary and fundamental requirement of due process . . . is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. [Citation omitted.] The notice must be of such nature as reasonably to convey the required information, [citation omitted], and must afford a reasonable time for those interested to make their appearance. . .<sup>41</sup>

While the “opportunity to be heard” does not require the exact same process or procedure in every case, the key is that parties have an opportunity to participate at a meaningful time and in a meaningful manner.<sup>42</sup>

The balance between allowing for meaningful stakeholder participation and providing adequate protections for confidential information has been the subject of extensive legislative and Commission consideration.<sup>43</sup> To this end, the Commission issued D.06-06-066 establishing confidentiality procedures for the disclosure of market sensitive information.<sup>44</sup> The procedures set forth in D.06-06-066 are intended to further the Commission’s policy directive of open decision-making and to ensure that stakeholders are afforded a meaningful opportunity to participate in accordance with the Commission’s constitutional requirements.<sup>45</sup>

The Joint CCAs’ ability to meaningfully participate in ERRA proceedings is critical because the outcome of these proceedings has a direct impact on the rates their customers pay. To participate and advocate on behalf of their customers, the Joint CCAs have always complied with the confidentiality practices established in D.06-06-006. These procedures ensure that information is not directly disclosed to entities that participate in market transactions, but that they are still afforded the opportunity to be heard in Commission proceedings. As in every other ERRA

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<sup>41</sup> *Mullane v. Central Hanover Bank & Trust Co.* (1950) 339 U.S. 306, 314; see e.g., D.01-10-036, Order Modifying Decision 01-09-060 and Denying Rehearing as Modified.

<sup>42</sup> See e.g., *Ryan v. California Interscholastic Federation-San Diego Section* (2001), 94 Cal.App.4th 1048, 1071-1072.

<sup>43</sup> D.06-06-066, p. 2 (June 29, 2006).

<sup>44</sup> See generally, D.06-06-066.

<sup>45</sup> D.06-06-066 at 2-3.



proceeding the Joint CCAs have participated in, the Joint CCAs have engaged Reviewing Representatives that will abide by the confidentiality practices the Commission has adopted to ensure that adequate protections are in place for SDG&E's confidential information. SDG&E provides no explanation as to why these well-established procedures do not provide sufficient protection in this case and should therefore be rejected by the Commission. No CCA market participant will have any access to SDG&E's market-sensitive information.

#### **IV. CONCLUSION**

For the reasons set forth above, the Joint CCAs respectfully request that the Commission grant this Motion, direct SDG&E to produce information responsive to the Data Requests by 5:00 p.m. on December 8, 2023, and provide any other relief the Commission deems reasonable.

Respectfully submitted,

/s/ Alissa Greenwald

Alissa Greenwald

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November 22, 2023

*Counsel to San Diego Community Power and  
Clean Energy Alliance*

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

Application of San Diego Gas & Electric Company (U 902-E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022.

Application 23-06-002  
(Filed June 1, 2023)

**EXHIBIT A**

**[PROPOSED] RULING GRANTING MOTION OF THE  
JOINT CCAS TO COMPEL DISCOVERY**

On November 22, 2023, San Diego Community Power (“SDCP”) and Clean Energy Alliance (“CEA”) (together, the “Joint CCAs”) filed a Motion to Compel San Diego Gas & Electric Company (“SDG&E”) to produce information fully responsive to the Joint CCAs’ Data Requests 1.09, 1.10, 2.02, 2.03, and 2.05 (the “Data Requests”).

The Motion requests an order directing SDG&E to provide all information responsive to the Data Requests by 5 p.m. on December 8, 2023. The Joint CCAs have demonstrated that the Data Requests are proper in light of the scope of issues in this proceeding and a complete response should be provided forthwith by that date and time.

**IT IS RULED THAT** the Motion of the Joint CCAs to Compel SDG&E to produce information responsive to the Data Requests is granted in its entirety. SDG&E shall provide the requested information to the Joint CCAs by 5 p.m. on December 8, 2023.

**SO ORDERED.**

Dated: \_\_\_\_\_, 2023 at San Francisco, California.

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Administrative Law Judge

**EXHIBIT B**

**JOINT CCA'S DATA REQUESTS 1.09, 1.10, 2.02, 2.03, 2.05,  
AND SDG&E'S RESPONSE**

**SDG&E RESPONSE TO  
SDCP AND CEA DR001  
RESPONDED: SEPTEMBER 29, 2023**

**SDCP/CEA to SDG&E 1.09:**

Referring to the Prepared Testimony of Michelle Menvielle and the table at MM-18; for each RA solicitation in 2022 where SDG&E sought to sell excess RA for 2022, please provide the following:

- a. All solicitation materials
- b. SDG&E's detailed 2021 RA position, by month, at the time of the solicitation, detailed by Local, Flex and System RA.
- c. Details of all bids received in the solicitation.
- d. Details of all bids awarded.
- e. Details of all bids rejected and why they were rejected.

**Response to SDCP/CEA to SDG&E 1.09:**

SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, the details of the solicitation materials, RA position, bids received, bids awarded and the reasons bids were rejected are irrelevant to any issue presented in this ERRRA Compliance proceeding. Furthermore, SDG&E notes that SDCP and CEA regularly participate in solicitations, and therefore, it would be improper for SDG&E to disclose confidential and commercially sensitive information regarding SDG&E's sales strategy and other solicitors' bidding strategies. Specific quantitative analysis involved in scoring and evaluation of participating bids is confidential pursuant to D.06-06-066. Finally, this information is confidential, commercially sensitive and could provide an undue competitive advantage, and therefore, is not subject to disclosure.

**SDG&E RESPONSE TO  
SDCP AND CEA DR001  
RESPONDED: SEPTEMBER 29, 2023**

**SDCP/CEA to SDG&E 1.10:**

Referring to the Prepared Testimony of Michelle Menvielle and the table at MM-18; for each RA solicitation conducted in 2021 where SDG&E sought to sell excess RA with delivery in 2022, please provide the following:

- a. All solicitation materials
- b. SDG&E's detailed 2021 RA position, by month, at the time of the solicitation, detailed by Local, Flex and System RA.
- c. Details of all bids received in the solicitation.
- d. Details of all bids awarded.
- e. Details of all bids rejected and why they were rejected.

**Response to SDCP/CEA to SDG&E 1.10:**

SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, the details of the solicitation materials, RA position, bids received, bids awarded and the reasons bids were rejected are irrelevant to any issue presented in this ERRRA Compliance proceeding. Furthermore, SDG&E notes that SDCP and CEA regularly participate in solicitations, and therefore, it would be improper for SDG&E to disclose confidential and commercially sensitive information regarding SDG&E's sales strategy and other solicitors' bidding strategies. Specific quantitative analysis involved in scoring and evaluation of participating bids is confidential pursuant to D.06-06-066. Finally, this information is confidential, commercially sensitive and could provide an undue competitive advantage, and therefore, is not subject to disclosure.

**SDG&E Response to  
SDCP and CEA DR 002  
RESPONDED: 11/16/2023**

**SDCP/CEA to SDG&E 2.02**

For each month during the 2022 compliance period,

- a. Please quantify SDG&E's monthly RA requirement as determined by the CPUC for System, Local, and Flexible RA.
- b. Please provide workpapers with details demonstrating whether SDG&E met the monthly RA requirements in subpart (a), specifying capacity provided by resource.

**SDG&E Response to SDCP/CEA to SDG&E 2.02**

- a. SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, SDG&E's monthly RA requirements for System, Local, and Flexible RA are irrelevant to any issue presented in this ERRRA Compliance proceeding, and therefore out of scope.
- b. SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, SDG&E's monthly RA requirements for System, Local, and Flexible RA are irrelevant to any issue presented in this ERRRA Compliance proceeding, and therefore out of scope.

**SDG&E Response to  
SDCP and CEA DR 002  
RESPONDED: 11/16/2023**

**SDCP/CEA to SDG&E 2.03**

Referring to SDG&E's response to Cal Advocates MDR 3.20: Please provide SDG&E's final net RA position for each month of the 2022 compliance period. The net RA position should include details demonstrating:

- a. Total RA capacity owned or purchased
- b. Adjustments for resource outages
- c. Other adjustments for operating constraints
- d. RA sales to third parties
- e. SDG&E's RA requirements
- f. Excess RA

**SDG&E Response to SDCP/CEA to SDG&E 2.03**

SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, information regarding SDG&E's final net RA position for each month is irrelevant to any issue presented in this ERRRA Compliance proceeding, and therefore out of scope.



**SDG&E Response to  
SDCP and CEA DR 002  
RESPONDED: 11/16/2023**

**SDCP/CEA to SDG&E 2.05**

Referring to SDG&E's response to Cal Advocates MDR 4.1 wherein it provided Advice Letters related to its 2022 Quarterly Compliance Report: For each QCR filed in 2022, please provide all confidential attachments that address, at least in part, any of the following:

- a. SDG&E activity in RA solicitations (for RA purchases or sales).
- b. RA volumes made available for sale by SDG&E.
- c. SDG&E RA transactions executed or amended.
- d. SDG&E RA-related CPUC filings.

Calculation and reporting of SDG&E's net RA position.

**SDG&E Response to SDCP/CEA to SDG&E 2.05**

SDG&E objects to this request pursuant to Rule 10.1 on the Commission's Rules of Practice and Procedure on the grounds that it seeks production of information that is neither relevant to the subject matter involved in the pending proceeding nor is reasonably calculated to lead to the discovery of admissible evidence. Specifically, SDG&E's RA transactions and net RA position are irrelevant to any issue presented in this ERRRA Compliance proceeding, and therefore out of scope.

**EXHIBIT C**

**CONFERRAL CORRESPONDENCE RELATED  
TO THE JOINT CCAS' DATA REQUESTS**

From: "Cerde, Roger A" <RCerde@sdge.com>  
Subject: RE: SDG&E ERRR Compliance: SDCP/CEA DRs 1.09, 1.10, 2.02, 2.03, 2.05, 2.08, and 2.09  
Date: November 21, 2023 at 1:50:27 PM CST  
To: agreenwald <agreenwald@keyesfox.com>  
Cc: Tim Lindl <tlindl@keyesfox.com>, Jacob Schlesinger <jschlesinger@keyesfox.com>

Hi Alissa – Thank you for the courtesy notice. Given that DRs 2.02, 2.03 and 2.05 deal with the same subject matter, we don't believe it is necessary to have an additional meet and confer. We look forward to reviewing your motion.

With respect to DR 2.08 and 2.09, we intend to serve the supplemental responses next week (following the Thanksgiving Holiday).

Regards,

Roger

**From:** Alissa Greenwald <agreenwald@keyesfox.com>  
**Sent:** Tuesday, November 21, 2023 11:23 AM  
**To:** Cerde, Roger A <RCerde@sdge.com>  
**Cc:** Tim Lindl <tlindl@keyesfox.com>; Jacob Schlesinger <jschlesinger@keyesfox.com>  
**Subject:** [EXTERNAL] SDG&E ERRR Compliance: SDCP/CEA DRs 1.09, 1.10, 2.02, 2.03, 2.05, 2.08, and 2.09

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Roger,

I am emailing to let you know in advance that we plan to file a motion to compel tomorrow for SDCP and CEA's DRs 1.09 and

1.10. Given SDG&E's objections to SDCP/CEA DRs 2.02, 2.03, and 2.05 which are similar in nature, we plan to include those in our motion. If you think that a meet and confer could potentially change SDG&E's position on DRs 2.02, 2.03, and 2.05, please let me know today so that we can get this scheduled ASAP.

In light of the tight turnaround for intervenor testimony, we will also be asking for a shortened timeframe for responses, with December 1st being the deadline for SDG&E to respond.

Finally, SDG&E indicated that it will supplement DRs 2.08 and 2.09 as soon as possible, but provided no expectation as to when those answers will be served. Will you please let me know SDG&E's timeline for supplementing these answers? If we do not have them by next week, we may need to request an extension to the intervenor testimony deadline.

Best,

--

Alissa Greenwald

Associate, Keyes & Fox LLP

(913) 302-5567 (mobile)

[agreenwald@keyesfox.com](mailto:agreenwald@keyesfox.com) | [www.keyesfox.com](http://www.keyesfox.com)  
[\[keyesfox.com\]](http://keyesfox.com)

Pronouns: (She/Her)

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From: "Cerde, Roger A" <RCerde@sdge.com>  
Subject: SDG&E 2022 ERRR Compliance - Meet and Confer re Data Request 1.09 and 1.10  
Date: November 10, 2023 at 7:38:15 PM CST  
To: Jacob Schlesinger <jschlesinger@keyesfox.com>, agreenwald <agreenwald@keyesfox.com>  
Cc: "Hughes, Zackary J" <ZHughes@sdge.com>, Carlo Bencomo-Jasso <cbencomojasso@newgenstrategies.net>, Brian Dickman <bdickman@newgenstrategies.net>

Hi Jake – SDG&E has considered your client’s position and stated need for the Resource Adequacy (RA) solicitation information requested in Data Request 1.09 and 1.10. However, after careful review, SDG&E stands by its objections that the solicitation information requested is out of scope of SDG&E’s ERRR Compliance proceeding.

During our meet and confer, you indicated that you believed this information was relevant to Scoping Issue No. 1 (“Whether SDG&E administered and managed its own generation resources prudently, to include the management of outages and associated fuel costs, according to SOC 4.”) However, Scoping Issue No. 1 pertains to SDG&E’s compliance with the CPUC’s Good Utility Practice and reasonable manager standards with respect to Utility Owned Generation (UOG) resources planned and unplanned outages during the record period. This Scoping Issue is covered by the testimony of Kevin Counts. Scoping Issue 1 does not involve contract administration or solicitation practices.

Rather, it is SDG&E’s position that Scoping Issue No. 2 governs and that it limits the ERRR compliance review to the administration and management of executed contracts and power purchased agreements. Scoping Issue No. 2 says nothing about the RA solicitation process.

SDG&E also notes that solicitations are fundamentally different than how it administers contracts. Contractual administration is reviewed “after the fact” in the ERRR compliance proceeding because there is no real-time review or approval from the Commission or stakeholders. This is fundamentally different than

the solicitation process. When SDG&E launches a RA solicitation, it has an independent evaluator, informs the procurement review group (PRG) before launch, consults with PRG during evaluation, and ultimately outlines any transactions in SDG&E's quarterly compliance report (QCR). Given that there are already mechanisms in place to review SDG&E's solicitation transactions, SDG&E believes they are out of scope of ERRRA compliance.

We appreciate the meet and confer discussion on this issue.

**Roger A. Cerda**

Sr. Counsel - Regulatory Law

San Diego Gas & Electric Company

8330 Century Park Court, CP32D | San Diego, CA 92123

Tel: (858) 654-1781

E-mail: [rcerda@sdge.com](mailto:rcerda@sdge.com)

From: Jacob Schlesinger <jschlesinger@keyesfox.com>  
Subject: Re: 1.23-06-002: 2022 ERRA Compliance: Meet and Confer Request  
Date: November 2, 2023 at 9:21:38 AM CDT  
To: "Cerde, Roger A" <RCerde@sdge.com>, "Hughes, Zackary J" <ZHughes@sdge.com>  
Cc: Carlo Bencomo-Jasso <cbencomojasso@newgenstrategies.net>, "BDickman@NewgenStrategies.net" <bdickman@newgenstrategies.net>, agreenwald <agreenwald@keyesfox.com>, Tim Lindl <tlindl@keyesfox.com>

Thanks, Roger. Let's do Monday, please.

## Jake Schlesinger

Partner at Keyes & Fox LLP  
Renewable Energy & Public Utilities Law  
1580 Lincoln St., Suite 1105 Denver, CO 80203  
Office: (720) 639-2190 Mobile: (970) 531-2525  
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**From:** Cerde, Roger A <RCerde@sdge.com>  
**Date:** Wednesday, November 1, 2023 at 11:18 AM  
**To:** Jacob Schlesinger <jschlesinger@keyesfox.com>, Hughes, Zackary J <ZHughes@sdge.com>  
**Cc:** Carlo Bencomo-Jasso <cbencomojasso@newgenstrategies.net>, BDickman@NewgenStrategies.net <bdickman@newgenstrategies.net>, agreenwald <agreenwald@keyesfox.com>, Tim Lindl <tlindl@keyesfox.com>  
**Subject:** RE: 1.23-06-002: 2022 ERRA Compliance: Meet

## and Confer Request

Hi Jake – Coordinating SME availability on these particular issues has been challenging. Here are the earliest dates we could get:

- Monday Nov. 6 from 2-2:30
- Thursday Nov. 9 from 2:30-3

Hopefully one of those slots works for your team. Let me know and I can circulate a teams invite.

Roger

**From:** Cerda, Roger A  
**Sent:** Tuesday, October 31, 2023 1:37 PM  
**To:** Jacob Schlesinger <[jschlesinger@keyesfox.com](mailto:jschlesinger@keyesfox.com)>; Hughes, Zackary J <[ZHughes@sdge.com](mailto:ZHughes@sdge.com)>  
**Cc:** Carlo Bencomo-Jasso <[cbencomojasso@newgenstrategies.net](mailto:cbencomojasso@newgenstrategies.net)>; BDickman@NewgenStrategies.net; agreenwald <[agreenwald@keyesfox.com](mailto:agreenwald@keyesfox.com)>; Tim Lindl <[tlindl@keyesfox.com](mailto:tlindl@keyesfox.com)>  
**Subject:** RE: 1.23-06-002: 2022 ERRR Compliance: Meet and Confer Request

Hi Jake – We've had scheduling issues on our end with the SMEs that we want to participate on the call. Zack and I are working on it and will get you some dates/time soon.

Roger

**From:** Jacob Schlesinger <[jschlesinger@keyesfox.com](mailto:jschlesinger@keyesfox.com)>  
**Sent:** Tuesday, October 31, 2023 12:01 PM  
**To:** Cerda, Roger A <[RCerda@sdge.com](mailto:RCerda@sdge.com)>; Hughes, Zackary J <[ZHughes@sdge.com](mailto:ZHughes@sdge.com)>  
**Cc:** Carlo Bencomo-Jasso <[cbencomojasso@newgenstrategies.net](mailto:cbencomojasso@newgenstrategies.net)>; BDickman@NewgenStrategies.net; agreenwald <[agreenwald@keyesfox.com](mailto:agreenwald@keyesfox.com)>; Tim Lindl <[tlindl@keyesfox.com](mailto:tlindl@keyesfox.com)>  
**Subject:** [EXTERNAL] Re: 1.23-06-002: 2022 ERRR Compliance:



## Meet and Confer Request

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Hey Roger,

We'd very much like to move this along. We were hoping to meet last week; is your team available this week? Please let us know ASAP.

Jake

## Jake Schlesinger

Partner at Keyes & Fox LLP  
Renewable Energy & Public Utilities Law  
1580 Lincoln St., Suite 1105 Denver, CO 80203  
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| [jschlesinger@keyesfox.com](mailto:jschlesinger@keyesfox.com) | [www.keyesfox.com](http://www.keyesfox.com) | [kfwlaw.com](http://kfwlaw.com) |

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**From:** Cerda, Roger A <[RCerda@sdge.com](mailto:RCerda@sdge.com)>  
**Date:** Tuesday, October 24, 2023 at 1:26 PM  
**To:** Jacob Schlesinger <[jschlesinger@keyesfox.com](mailto:jschlesinger@keyesfox.com)>, Hughes, Zackary J <[ZHughes@sdge.com](mailto:ZHughes@sdge.com)>  
**Cc:** Carlo Bencomo-Jasso <[cbencomojasso@newgenstrategies.net](mailto:cbencomojasso@newgenstrategies.net)>,<

[BDickman@NewgenStrategies.net](mailto:BDickman@NewgenStrategies.net)

<[bdickman@newgenstrategies.net](mailto:bdickman@newgenstrategies.net)>, agreenwald

<[agreenwald@keyesfox.com](mailto:agreenwald@keyesfox.com)>, Tim Lindl

<[tlindl@keyesfox.com](mailto:tlindl@keyesfox.com)>

**Subject:** RE: 1.23-06-002: 2022 ERRR Compliance: Meet and Confer Request

Hi Jake – Confirming receipt of this email. Let me confer internally about dates and attendees and I will get back to you shortly with our availability.

We will also follow up on 1.13(d). Thanks for flagging that.

Roger

**From:** Jacob Schlesinger <[jschlesinger@keyesfox.com](mailto:jschlesinger@keyesfox.com)>

**Sent:** Monday, October 23, 2023 3:51 PM

**To:** Cerda, Roger A <[RCerda@sdge.com](mailto:RCerda@sdge.com)>; Bucsit, Geneveve <[GBucsit@sdge.com](mailto:GBucsit@sdge.com)>

**Cc:** Carlo Bencomo-Jasso

<[cbencomojasso@newgenstrategies.net](mailto:cbencomojasso@newgenstrategies.net)>;

[BDickman@NewgenStrategies.net](mailto:BDickman@NewgenStrategies.net); agreenwald

<[agreenwald@keyesfox.com](mailto:agreenwald@keyesfox.com)>; Tim Lindl <[tlindl@keyesfox.com](mailto:tlindl@keyesfox.com)>

**Subject:** [EXTERNAL] 1.23-06-002: 2022 ERRR Compliance: Meet and Confer Request

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Hi Roger,

I'm emailing to schedule meet-and confer on four DRs in our first set, which SDG&E objected to. Those include DRs, 1.09, 1.10, 1.11 and 1.12. Can we please meet this week to

discuss if we can resolve these disputes and find a way to get us what we need? Please let us know a few times on Thursday or Friday that might work.

Also, we did not receive any response or objection to DR 1.13(d). Assuming that was simply an oversight and not an objection, we would ask SDG&E to produce a response to this past due DR as soon as possible.

Best,  
Jake

## Jake Schlesinger

Partner at Keyes & Fox LLP  
Renewable Energy & Public Utilities Law  
1580 Lincoln St., Suite 1105 Denver, CO 80203  
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**EXHIBIT D**

**CAL ADVOCATES MASTER DATA REQUEST**

**3.20**

**SDG&E RESPONSE TO CAL ADVOCATES**  
**ERRA 2022 MASTER DATA REQUEST**  
**DATE RECEIVED: MARCH 30, 2023**  
**DATE RESPONDED: JULY 5, 2023**

3.20. Provide Resource Adequacy (RA) information as follows:

- 3.20.1. Sold, unsold, and retained resource adequacy by resource and balancing account (RA Tracker)
- 3.20.2. System, local, and flex positions for each solicitation in which RA for delivery in the record year was offered for sale using:  
“2022\_SDGE\_ERRA\_Comp\_MDR\_3.20.2\_RA\_Position\_Tables\_TEMPLATE”
- 3.20.3. All Tier 1 advice letter filings addressing Operational Constraints, including confidential attachments.

**SDG&E Response to 3.20:**

Please note that the file “3.20.1 CONFIDENTIAL Resource Adequacy 2022” contains “Protected Materials” (*i.e.*, trade secret, market sensitive, or other confidential and/or proprietary information) as determined by SDG&E in accordance with the provisions of D. 06-06-066 and subsequent decisions. The Protected Materials have been highlighted in yellow and a confidentiality declaration is attached.

Please refer to attached file “3.20.1 CONFIDENTIAL Resource Adequacy 2022.” Note that this resource adequacy report is not adjusted for outages and some substitutions. Also note that because SDG&E offers its excess RA for sale regularly, any RA not used for compliance or sold is considered unsold.

**Exhibit E**

**SDG&E Response to Motion to Compel**



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



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A2306002

Application of San Diego Gas & Electric Company (U 902-E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022.

Application 23-06-002  
(Filed June 1, 2023)

**SAN DIEGO GAS & ELECTRIC COMPANY'S (U 902-E) RESPONSE TO SAN  
DIEGO COMMUNITY POWER AND CLEAN ENERGY ALLIANCE'S MOTION  
TO COMPEL DISCOVERY**

Roger A. Cerda  
Senior Regulatory Counsel  
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Attorney for:  
SAN DIEGO GAS & ELECTRIC COMPANY

December 1, 2023

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

Application of San Diego Gas & Electric Company (U 902-E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022.

Application 23-06-002  
(Filed June 1, 2023)

**SAN DIEGO GAS & ELECTRIC COMPANY’S (U 902-E) RESPONSE TO SAN  
DIEGO COMMUNITY POWER AND CLEAN ENERGY ALLIANCE’S MOTION TO  
COMPEL DISCOVERY**

**I. INTRODUCTION**

Pursuant to Rule 11.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (the “Commission”), San Diego Gas & Electric Company (“SDG&E”) hereby submits this response opposing San Diego Community Power and Clean Energy Alliance’s (the “CCA Parties”) motion to compel discovery (“Motion”). By its Motion, the CCA Parties seek to expand the scope of the ERRRA Compliance proceeding to include a detailed examination into the reasonableness of SDG&E’s Resource Adequacy (“RA”) solicitation practices and activities that are not subject to review pursuant to Public Utilities Code Section 454.5(d)(2). Section 454.5(d)(2) makes clear that transactions in compliance with an approved Bundled Procurement Plan are not subject to an after-the-fact reasonableness review. By allowing the CCA Parties to obtain the detailed, underlying information about SDG&E’s excess RA sales, solicitations, and related activities and allowing them to contest whether those activities were appropriate, the Commission would be authorizing an “after-the-fact

reasonableness review,” which Section 454.5 expressly prohibits. This type of review has never been part of SDG&E’s ERRA Compliance proceeding and the Commission should reject the CCA Parties’ invitation to expand the scope of this year’s proceeding.

## **II. STANDARDS OF REVIEW APPLICABLE TO THIS MOTION**

The crux of this discovery disputes centers around what activities are within the scope of the ERRA Compliance proceeding. The following standards of review are applicable in deciding the issue.

### **A. ERRA Compliance Standard of Review**

In the ERRA Compliance proceeding, the Commission conducts a *compliance* review of the utility’s prior period energy resource contract administration, least-cost dispatch, and ERRA balancing account. The Commission is required to perform a compliance review as opposed to a “reasonableness review” of the ERRA compliance application.<sup>1</sup> “A compliance review considers whether a utility has complied with all applicable rules, regulations, opinions, and laws, while a reasonableness review evaluates not only a utility’s compliance, but also whether the data or actions resulting from, for example, the calculation of a forecasted expense, are reasonable, based on the methods and inputs used.”<sup>2</sup>

In D.02-10-062, the Commission adopted minimum standards of conduct the utilities must follow in performing their procurement responsibilities. Standard of Conduct #4 (“SOC 4”) describes the compliance review criteria for contract administration and economic dispatch of generation resources on which the utilities will be evaluated: “The utilities shall prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner.

---

<sup>1</sup> D.16-05-003, p. 3.

<sup>2</sup> *Id.*

Our definitions of prudent contract administration and least cost dispatch are the same as our existing standard.”<sup>3</sup>

The scope of compliance review described in D.02-10-062 and D.02-12-074 includes Commission review of utility owned generation (“UOG”) management of planned and unplanned outages, fuel expenses, contract administration, California Independent System Operator (“CAISO”)-related costs, existing Qualified Facilities (“QF”) contracts, other power purchase agreements, and economic dispatch of electric generation resources. Accordingly, the Commission’s annual compliance review focuses on UOG management of planned and unplanned outages, prudent contract administration, least-cost dispatch, and UOG fuel procurement activities.

**B. Rule 10.1 Standard for Discovery**

Rule 10.1 governs discovery from parties in Commission proceedings and states in pertinent part that “any party may obtain discovery from any other party regarding any matter, not privileged, *that is relevant to the subject matter involved in the pending proceeding, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence*, unless the burden, expense, or intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence.” (emphasis added)

Per this standard, SDG&E is not required to provide information that is not relevant to issues in scope of the ERRA Compliance proceeding.

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<sup>3</sup> D.02-10-062 at Conclusion of Law 11.

### III. THE CCA PARTIES' MOTION SHOULD BE DENIED IN ITS ENTIRETY

#### A. The CCA Parties' Effort to Conduct a Detailed Review of SDG&E's Excess RA Sales is Outside the Scope of the ERRA Compliance Proceeding

By its data requests, the CCA Parties seek detailed information regarding SDG&E's efforts to sell excess RA during the record year, including solicitation materials, monthly RA positions, bid information (*i.e.*, who bid, how much they bid, why bids were rejected or awarded), and much more. For context, some of the questions include the following requests:<sup>4</sup>

- For each RA solicitation where SDG&E sought to sell excess RA: (a) All solicitation materials regarding excess RA sales, (b) SDG&E's detailed monthly RA position, detailed by Local, Flex and System RA, (c) Details of all bids received, (d) Details of all bills awarded, and (e) Details of all bids rejected and why they were rejected. (DR 1.09).
- For each month the 2022 compliance period: (a) quantify SDG&E's monthly RA requirement for System, Local and Flexible RA, and (b) provide workpapers whether SDG&E met the monthly RA requirements, specifying capacity provided by resource (DR 2.02)
- Provide SDG&E's final net RA position for each month in 2022, including details demonstrating (a) total RA capacity owned or purchased, (b) adjustments for resource outages, (c) adjustments for operating constraints, (d) RA sales to third parties, (e) SDG&E's RA requirements, and (f) excess RA. (DR 2.03)
- For each Quarterly Compliance Report filed in 2022, provide (a) SDG&E activity in RA solicitations, (b) RA volumes made available for sale by SDG&E, (c) RA transactions executed or amended, and (d) SDG&E RA-related CPUC filings. (DR 2.05)

The CCA Parties argue that this information is relevant to Scoping Issue No. 1, which reads: "*Whether SDG&E administered and managed its own generation resources prudently, to include the management of outages and associated fuel costs, according to SOC 4.*" As noted

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<sup>4</sup> The full version of the CCA Parties' data requests and SDG&E's objections are attached to the CCA Parties' Motion at Exhibit B.

above, SOC 4 provides for the utilities to prudently administer all contract and generation resources and dispatch the energy in a least-cost manner.

The CCA Parties argue that the requirement for a utility to “prudently administer and manage its own generation resources” should be construed very broadly and include any and all issues related to “generation resources,” without any limitation. Under this broad interpretation, the CCA Parties argue that they are entitled to examine every detail related to SDG&E’s efforts to sell excess RA, so that they can in turn, question and contest SDG&E’s conduct in making those sales. The CCA Parties are wrong for several reasons.

**1. The Language of Scoping Issue No. 1 Does Not Open the Door to Unlimited Inquiry into All Things Related to Generation Resources**

First and foremost, SDG&E strongly disagrees with the CCA Parties’ view that Scoping Issue No. 1 allows for inquiry into all areas related to a utility’s generation resources, such as its efforts to sell excess RA. Indeed, the CCA Parties’ interpretation constitutes a massive reinterpretation of what Scoping Issue No. 1 is intended to cover. As has been the case with previous ERRA Compliance proceedings, Scoping Issue No. 1 is intended to cover compliance issues with respect to SDG&E’s Utility Owned Generation (“UOG”) resources *planned and unplanned outages during the 2022 record period*. In other words, the question of whether SDG&E “prudently administered and managed its own generation resources” in Scoping Issue No. 1 centers on whether SDG&E physically operated and maintained its UOG resources (*i.e.*, Palomar Energy Center, Desert Star Energy Center, Miramar Energy Facility, and Cuyamaca Peak Energy Plant) in a reasonable and prudent manner consistent with “Good Utility Practice”

and the “reasonable manager standard” to maximize their availability and minimize the amount of times units are on forced outages.<sup>5</sup>

The Commission defined “Good Utility Practice” in D.02-12-069 as follows:<sup>6</sup>

[A]ny of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice does not require the optimum practice, method, or act to the exclusion of all others, but rather is intended to include acceptable practices, methods, or acts generally accepted in the Western Electric Coordinating Council region.

Consistent with “Good Utility Practice,” SDG&E submitted testimony in this year’s ERRA Compliance proceeding demonstrating that it followed an established maintenance program to maximize the availability of its generation units.<sup>7</sup> Specifically, SDG&E’s testimony shows that its maintenance program factors in a number of considerations, including manufacturer guidelines, appropriate power industry practices, safety considerations, and good engineering and technical judgment to allocate resources most effectively to maximize the availability of its UOG resources.<sup>8</sup> Additionally, the testimony demonstrates that SDG&E’s maintenance program incorporates practices that are generally accepted within the electric power generation industry and the Western Electricity Coordinating Council (“WECC”) and the North American Electric Reliability Corporation (“NERC”).<sup>9</sup>

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<sup>5</sup> SDG&E makes its showing that it complied with the applicable standards related to planned and unplanned outages in the Prepared Direct Testimony of Keven M. Counts (dated June 1, 2023).

<sup>6</sup> D.02-12-069, Attachment A-3 at 5.

<sup>7</sup> Direct Testimony of Kevin M. Counts, pp. 4-5.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

Similarly, the Commission has explained the “reasonable manager” standard in ERRA compliance cases, as follows: Under the “reasonable manager standard, utilities are held to a standard of reasonableness based on the facts that are known or should have been known at the time. The act of the utility should comport with what a reasonable manager of sufficient education, training, experience, and skills using the tools and knowledge at his or her disposal would do when faced with a need to make a decision and act.”<sup>10</sup> Again, the testimony of Mr. Counts demonstrates that SDG&E complied with the reasonable manager standard with respect to UOG resources’ planned and unplanned outages during the record year. Mr. Counts’s testimony includes an Appendix A and B, which identifies all UOG forced outages in 2022 and SDG&E’s efforts to minimize the outages. It is this area of testimony that Scoping Issue No. 1 was intended to cover.

The CCA Parties’ effort to expand these operational and maintenance standards to other areas of UOG activities – in particular the sale of excess RA – is entirely meritless and unsupported by any law or Commissions precedent. Indeed, the CCA Parties acknowledge that the reasonable manager standard is generally applied to evaluate the reasonableness of outages and contract administration.<sup>11</sup> However, they argue that nothing constrains the Commission to applying these standards solely within the prism of utility maintenance decisions.<sup>12</sup> SDG&E strongly disagrees and urges the Commission to decline the CCA Parties’ invitation to expand the application of these compliance standards to areas that they were never intended to govern. SDG&E has always understood and interpreted Scoping Issue No. 1 to apply to SDG&E’s

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<sup>10</sup> D.14-05-023, p. 15.

<sup>11</sup> Motion, pp. 10-11.

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

prudent management of its physical operation and maintenance of its UOG assets and that it was not intended to cover other areas such as RA sales or solicitations. There is no compelling reason for the Commission to depart from this well-established precedent in this year's proceeding.

Indeed, SDG&E notes that Scoping Issue No. 2 covers ERRA Compliance review issues pertaining to the administration and management of executed contracts and power purchase agreements:

2. Whether SDG&E administered and managed its Qualifying Facility ("QF") and non-QF contracts for generation and power purchase agreements in accordance with the contract provisions and otherwise followed Commission guidelines relating to those contracts and their amendments according to SOC 4.

Notably, Scoping Issue No. 2 says nothing about the review of excess RA sales or the solicitation process. That is because solicitations are fundamentally different than how SDG&E administers contracts. Contractual administration is properly reviewed in the ERRA Compliance proceeding pursuant to Pub. Util. Code Section 454.5(d)(2) because there is no real-time review or approval from the Commission or stakeholders. Therefore, Section 454.5(d)(2) expressly authorizes a regulatory process "to verify and ensure that each contract was administered in accordance with the terms of the contract, and contract disputes that may arise are reasonably resolved." (*see* discussion below on application of Section 454.5(d)(2)).

Contractual administration is fundamentally different than the RA solicitation process. For example, as set forth in SDG&E's Bundled Procurement Plan ("BPP"), when SDG&E launches a RA solicitation, it has an independent evaluator ("IE") involved in all aspects of the solicitation formation and review of bids, informs the procurement review group ("PRG") before launch, consults with PRG during evaluation and prior to short-list notification, and ultimately outlines any transactions, and necessary support in SDG&E's quarterly compliance report



(“QCR”). For bilateral sales of RA, outside of a RA solicitation, D.03-06-067 OP 3(d) requires utilities to provide strong showing justification in Attachment M of the QCR for bilateral transactions with terms longer than one calendar month. Contracts originating through the solicitation process, through brokers or bilaterally are all reported in the QCR. The QCR is filed via Advice Letter (“AL”) and reviewed and audited by the Utility Audits Branch of the CPUC. During that time SDG&E responds to data requests, outlines any corrective actions and in some cases files a supplemental advice letter before it is ultimately approved. Thus, unlike the contract administration issues covered under Scoping Issue No. 2, there is *already* a well-established mechanism in place to review SDG&E’s RA transactions. This is why SDG&E’s RA sale transactions have not been (and should not be) within scope of the ERRA Compliance proceeding. The CCA Parties’ proposal to expand the scope of the ERRA Compliance proceeding to conduct a redundant review process for RA transactions would impose a tremendous burden on both the Commission and SDG&E and could result in significant delays in the proceeding.

To be clear, nothing in Scoping Issue No. 2 allows for inquiry into excess RA sales or the solicitation process. As has been the case with previous ERRA Compliance proceedings, Scoping Issue No. 2 covers the administration and management of *executed* contracts and power purchase agreements, the clear distinction being the review of contract administration *after the contract has been executed* (as opposed to *prior to contract execution*). In other words, the question of whether SDG&E “administered and managed its Qualifying Facility (“QF”) and non-QF contracts...” in Scoping Issue No. 2 centers on whether each contract was administered in accordance with the terms of the contract *after* such contract was executed. The management of excess RA sales or solicitation processes that may result in the execution of these contracts

is reviewed and scrutinized through other means discussed above (*i.e.*, the IE, PRG and QCR process).

**2. SDG&E's RA Solicitations are Governed by its Bundled Procurement Plan and are Not Subject to an After-the-Fact Reasonableness Review Pursuant to Pub. Util. Code Section 454.5**

As the CCA Parties correctly note, SDG&E's procurement process (including RA sales and solicitations) are governed by its Bundled Procurement Plan ("BPP").<sup>13</sup> Section II.A of the BPP sets forth SDG&E's procurement organizational structure and process, describes procurement products and energy market products utilized by SDG&E, and discusses the role of the Procurement Review Group ("PRG") in SDG&E's procurement activity. With respect to excess RA sales SDG&E's BPP states in pertinent part:

**SDG&E may make excess local, system, or flexible RA supply (i.e., RA in excess of what SDG&E requires to meet its own RA obligations) available to the market.** SDG&E may procure excess capacity from resources to enhance local area reliability in order to reduce the chance of the backstop by the ISO as part of the ISO's capacity procurement mechanism Tariff authorization. SDG&E may offer such excess RA products to the market through an RFO process, through the CAISO's Competitive Solicitation Process where the offers are submitted to the CAISO and CAISO optimizes to procure backstop capacity to meet deficiencies or significant events, through a response to a counter-party RFO or through bilateral negotiations with counterparties. Such transactions would be for capacity or rights to capacity, and the related cost would be fully recoverable through SDG&E's Energy Resource Recovery Account (ERRA). Current Commission rules permit SDG&E to buy and/or sell products bilaterally when (1) SDG&E is approached by an outside non-affiliated third party seeking to sell or purchase short-term RA of one year or less in duration; or (2) SDG&E has a need to purchase or sell short term system, local, or flexible RA capacity. **SDG&E will periodically brief its PRG on its RA positions. SDG&E may choose to retain all or some portion of excess RA in order to retain surplus RA for use**

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<sup>13</sup> SDG&E's Commission approved SDG&E 2014 Bundled Procurement Plan ("BPP") implemented by Advice Letter 2850-E (including subsequent updates thereto such as AL 3738-E approved by Resolution No. E-5196).

**in management of scheduled outage replacement or lowering the CAISO's RA product charges.<sup>14</sup>**

Pursuant to Pub. Util. Code Section 454.5(d)(2), transactions in compliance with an approved BPP are not subject to an after-the-fact reasonableness review. Specifically, this section states:

(d) A procurement plan approved by the commission shall accomplish each of the following objectives:

**(2) Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved procurement plan, including resulting electricity procurement contracts, practices, and related expenses.** However, the commission may establish a regulatory process to verify and ensure that each contract was administered in accordance with the terms of the contract, and contract disputes that may arise are reasonably resolved.

By allowing the CCA Parties to obtain the detailed, underlying information about SDG&E's excess RA sale activities and allowing them to contest whether those activities were appropriate, the Commission would be authorizing an "after-the-fact reasonableness review," which Section 454.5 expressly prohibits. As section 454.5(d)(2) notes, the extent of the Commission's compliance review of BPP activities is limited to verification "that each contract was administered in accordance with the terms of the contract, and contract disputes that may arise are reasonably resolved." SDG&E has already produced the necessary information for the Commission and intervening parties to conduct this compliance review.<sup>15</sup> Any additional inquiry regarding the reasonableness of SDG&E's procurement and sale activities prior to the contracts being executed – *i.e., why* were certain contracts executed, *why* were certain bids awarded or rejected – constitutes an after-the-fact reasonableness review

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<sup>14</sup> BPP, Section II.A.4.g. *Resource Adequacy Products*, at Original Sheet Nos. 31-32 (emphasis added). For purposes of this response, SDG&E is citing to the updated version of the BPP set forth in AL 3738-E which was approved by Resolution No. E-5196.

<sup>15</sup> See Prepared Direct Testimony of Michelle Menvielle (dated June 1, 2023).

that is not only prohibited by statute, but outside the scope of the ERRA Compliance proceeding. Again, as noted above, there already exists a well-established mechanism in place to review SDG&E's RA transactions.

With respect to the ERRA Compliance proceeding, while intervening parties may make a threshold inquiry as to whether SDG&E sold excess RA in the record year, they are not allowed to review or examine the specifics of those activities for the purpose of contesting their reasonableness. To that end, SDG&E already provides the Commission and parties with a summary of procurement-related resource solicitations in the record year.<sup>16</sup> However, additional inquiry into issues such as “*Why did SDG&E reject a specific bid and award another?*” or “*Why did SDG&E sell excess RA at price X instead of price Y?*” are all outside the scope of the ERRA Compliance proceeding as they would be tantamount to an after-the fact reasonableness inquiry which is not permitted. In fact, there is no existing compliance standard or objective “test” by which the Commission could evaluate whether SDG&E's RA underlying solicitation activities for a record period should be deemed sufficient. For example, how would the Commission evaluate whether SDG&E's decision to sell excess RA to Party A instead of Party B was reasonable? Similarly, how would the Commission evaluate whether SDG&E's decision to sell excess RA at price X instead of price Y was appropriate? Yet, that is exactly what the CCA Parties will be asking the Commission to do if this Motion is granted. Such a determination would need to be done retroactively without a clear and objective standard in place – which again is contrary to the role of the ERRA Compliance proceeding.

In addition, it is important to note that the Commission recently confirmed that SDG&E's methodology for determining how much of its power charge indifference adjustment (“PCIA”)-

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<sup>16</sup> Prepared Direct Testimony of Michelle Menvielle, pp. 18-19.

eligible RA is reserved in its BPP is reasonable.<sup>17</sup> As SDG&E understands it, the amount of PCIA-eligible RA reserved and/or available for sale, is central to the issues the CCA Parties would like to contest in the ERRA Compliance proceeding.<sup>18</sup> In Advice Letter 3836-E and 3836-E-A, SDG&E justified its methodology for determining how much of its PCIA-eligible RA is reserved in its BPP, and includes a discussion of its RA Reservation Methodology, Excess RA Determination, Availability of Excess RA, and Sales Volume Reporting.<sup>19</sup> With respect to making excess RA available, AL 3836-E states that “SDG&E will issue at least one Request for Offers (“RFO”) prior the deadline for LSEs’ annual RA filing. SDG&E may issue additional RFOs during the compliance year if additional Excess RA becomes available due to changes in RA requirements and/or resource availability. SDG&E may also utilize brokers and bilateral negotiations to sell RA outside of the RFO process.”<sup>20</sup> With respect to Sales Voume Reporting, AL 3836-E states that: “SDG&E reports the amount of Excess RA determined to be available for sale through competitive solicitation in Attachment E of its Quarterly Compliance Report (“QCR”). SDG&E also discusses the volume and pricing for its Excess RA solicitations with its Independent Evaluator (“IE”) and its Procurement Review Group (“PRG”).<sup>21</sup>

Based on this submission, the Commission confirmed that SDG&E’s methodology for reserving PCIA RA in its BPP was appropriate:

The Commission requires the IOUs to manage their portfolios reliably and safely; the Energy Division has not seen evidence that SDG&E’s methodology and

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<sup>17</sup> SDG&E AL 3836-E and 3836-E-A were approved by disposition letter on May 10, 2022.

<sup>18</sup> CCA Parties Motion, p. 4-5.

<sup>19</sup> SDG&E AL 3836-E, pp. 2-3.

<sup>20</sup> *Id.* at p. 3.

<sup>21</sup> *Id.*

justification, detailed in AL 3836-E and AL 3836-E-A, is unreasonable for doing so or prevents other LSEs from managing their portfolios reliably and safely.

The Energy Division has reviewed AL 3836-E and AL 3836-E-A. The Energy Division finds that AL 3836-E and AL 3836-E-A meet the requirements of D.21-05-030. **Based on what SDG&E has provided, its methodology for reserving PCIA-eligible RA capacity is reasonable to manage its portfolio risks and uncertainties.**<sup>22</sup>

SDG&E provides this information to emphasize that the Commission has already considered the types of issues and concerns raised by the CCA Parties and has already found that the process and methodology set forth in the BPP are reasonable. The Commission should not accept the CCA Parties' invitation to litigate these types of procurement related issues in the context of the ERRA Compliance proceeding.

#### **B. The Information Requested Implicates Confidentiality Concerns**

In its objections to the data requests at issue, SDG&E raised confidentially concerns with respect to the disclosure of highly sensitive information to the CCA Parties given their role as market participants. Specifically, SDCP and CEA regularly participate in solicitations, and therefore, it seemed improper for SDG&E to disclose confidential and commercially sensitive information regarding SDG&E's sales strategy and other solicitors' bidding strategies. Providing this commercially sensitive information could provide an undue competitive advantage. Moreover, specific quantitative analysis involved in scoring and evaluation of participating bids is confidential pursuant to D.06-06-066.

SDG&E acknowledges that the CCA Parties should have the ability to meaningfully participate in the ERRA proceeding and SDG&E does not question the CCA Parties' intent to comply with the confidentiality practices established in D.06-06-066. SDG&E appreciates the

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<sup>22</sup> May 10, 2022 CPUC disposition letter approving AL 3836-E and AL 3836-E-A, p. 5.

CCA Parties’ affirmation that “[n]o CCA market participant will have any access to SDG&E’s market-sensitive information.”<sup>23</sup>

However, SDG&E raises its confidentially concerns in light of the fact that the commercially sensitive information being requested is not at all relevant to the issues in scope of the ERRA Compliance proceeding. Since the information is not relevant to any issue in dispute, SDG&E has concerns about being compelled to provide this confidential information in the first place. SDG&E appreciates that ruling on these types of discovery motions is challenging, and that sometimes, the simplest solution is to grant discovery and take a “wait and see approach” on relevancy-based objections. But given the highly confidential nature of the information being requested, it is imperative that the Commission take a close look at the arguments being presented to determine whether it is even necessary to disclose this confidential information as a threshold matter.

#### **IV. CONCLUSION**

For all the foregoing reasons, SDG&E respectfully submits that the CCA Parties’ Motion to Compel Discovery be denied in its entirety.

Respectfully submitted,

/s/ Roger A. Cerda

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SAN DIEGO GAS & ELECTRIC COMPANY

December 1, 2023

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<sup>23</sup> Motion, p. 16.

## **Exhibit F**

### **SDG&E Ruling**





ALJ/RM3/fzs 12/4/2023

**FILED**

12/04/23

04:59 PM

A2306002

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

Application of San Diego Gas & Electric Company (U 902-E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022.

Application 23-06-002

**EMAIL RULING GRANTING SAN DIEGO COMMUNITY POWER AND CLEAN ENERGY ALLIANCE MOTION TO COMPEL SAN DIEGO GAS & ELECTRIC COMPANY TO FULLY RESPOND TO SAN DIEGO COMMUNITY POWER AND CLEAN ENERGY ALLIANCE DATA REQUESTS  
BY 5 P.M. ON DECEMBER 8, 2023**

Dated December 4, 2023, at San Francisco, California.

/s/ RAJAN MUTIALU

Rajan Mutialu  
Administrative Law Judge

**From:** Mutialu, Rajan <[rajan.mutialu@cpuc.ca.gov](mailto:rajan.mutialu@cpuc.ca.gov)>  
**Sent:** Monday, December 4, 2023 10:51 AM  
**To:** [JSchlesinger@KeyesFox.com](mailto:JSchlesinger@KeyesFox.com); [RCerda@sdge.com](mailto:RCerda@sdge.com); Huber, Patrick <[Patrick.Huber@cpuc.ca.gov](mailto:Patrick.Huber@cpuc.ca.gov)>; [alu@sdcommunitypower.org](mailto:alu@sdcommunitypower.org); [mrw@mrwassoc.com](mailto:mrw@mrwassoc.com); [CPUCdockets@eq-research.com](mailto:CPUCdockets@eq-research.com); [BDickman@NewgenStrategies.net](mailto:BDickman@NewgenStrategies.net); [CBencomoJasso@NewGenStrategies.net](mailto:CBencomoJasso@NewGenStrategies.net); [Douglass@EnergyAttorney.com](mailto:Douglass@EnergyAttorney.com); [ZHughes@sdge.com](mailto:ZHughes@sdge.com); [CentralFiles@SemptraUtilities.com](mailto:CentralFiles@SemptraUtilities.com); Oh, Frances <[Frances.Oh@cpuc.ca.gov](mailto:Frances.Oh@cpuc.ca.gov)>; Stellrecht, Karl <[Karl.Stellrecht@cpuc.ca.gov](mailto:Karl.Stellrecht@cpuc.ca.gov)>; Ammermuller, Michael <[Michael.Ammermuller@cpuc.ca.gov](mailto:Michael.Ammermuller@cpuc.ca.gov)>; Mutialu, Rajan <[rajan.mutialu@cpuc.ca.gov](mailto:rajan.mutialu@cpuc.ca.gov)>; Saraie, Ryan <[Ryan.Saraie@cpuc.ca.gov](mailto:Ryan.Saraie@cpuc.ca.gov)>; Buckley, Theresa <[Theresa.Buckley@cpuc.ca.gov](mailto:Theresa.Buckley@cpuc.ca.gov)>; [TLindl@KeyesFox.com](mailto:TLindl@KeyesFox.com); [regulatory@braunlegal.com](mailto:regulatory@braunlegal.com); [Blaising@BraunLegal.com](mailto:Blaising@BraunLegal.com)  
**Cc:** ALJ\_Support ID <[alj\\_supportid@cpuc.ca.gov](mailto:alj_supportid@cpuc.ca.gov)>; ALJ Docket Office <[ALJ\\_Docket\\_Office@cpuc.ca.gov](mailto:ALJ_Docket_Office@cpuc.ca.gov)>  
**Subject:** A.23-06-002 Ruling Granting Joint CCAs' Motion to Compel SDG&E to Fully Respond to Joint CCAs' Data Requests by 5 p.m. on December 8, 2023

To the Service List in Application 23-06-002:

On November 22, 2023, San Diego Community Power and Clean Energy Alliance (Joint CCAs) filed a motion to compel San Diego Gas & Electric Company (SDG&E) to fully respond to Joint CCA Data Requests 1.09, 1.10, 2.02, 2.03, and 2.05 (Data Requests) related to SDG&E's 2022 Resource Adequacy (RA) solicitations where SDG&E sought to sell excess RA. The motion requested that SDG&E provide a response by 5 p.m. on December 8, 2023.

Pursuant to Rule 11.3, a motion to compel discovery must show that parties previously met and conferred in a good faith effort to informally resolve the dispute, state facts showing a good faith attempt at an informal resolution of the discovery dispute, and include a proposed ruling that clearly indicates the requested relief. Based on documentation provided in the motion, Joint CCAs demonstrated compliance with Rule 11.3 and showed that SDG&E's responses to

Joint CCAs' Data Requests are relevant to the scope of this proceeding. Accordingly, this ruling orders SDG&E to fully respond to Joint CCAs' Data Requests by 5 p.m. on December 8, 2023.

IT IS SO ORDERED.

The Docket Office shall formally file this ruling.

**Rajan Mutialu (he/him)**  
Administrative Law Judge  
California Public Utilities Commission  
[rajan.mutialu@cpuc.ca.gov](mailto:rajan.mutialu@cpuc.ca.gov)  
(415) 703-2039

# California Community Choice Association

SUBMITTED 02/29/2024, 01:41 PM

## Contact

Shawn-Dai Linderman (shawndai@cal-cca.org)

### 1. Provide your organization's comments on the proposed generic timeline proposed in Section 2.1 - The Zonal Approach: Data Accessibility:

The California Community Choice Association (CalCCA) appreciates the opportunity to comment on the California Independent System Operator's (CAISO) Interconnection Process Enhancements (IPE) Draft Final Proposal. The Draft Final Proposal reflects the CAISO's ongoing collaboration with stakeholders to improve the interconnection queuing and study processes to align them with transmission planning, resource planning, and resource procurement. It further solidifies important improvements to the interconnection process that will enable it to keep pace with the need for new capacity on the system to support reliability and greenhouse gas (GHG) emissions reduction goals.

CalCCA supports the CAISO's commitment to providing data to stakeholders to support the zonal approach. The data will be critical for developers, who must plan their proposed projects in locations where transmission capacity exists or is planned. It will also be critical for load-serving entities (LSE), who will evaluate and procure proposed projects based on their ability to meet system reliability and GHG-reduction targets, their compliance obligations, and their customers' needs and preferences. Data transparency before the submittal of interconnection requests and before LSE interest scoring should result in a zonal approach to interconnection that is aligned with transmission planning, resource planning, and resource procurement.

### 2. Provide you organization's comments on new section 2.2.3 – Treatment of Full Capacity Deliverability Status and Energy Only Resources:

CalCCA has no comments on this element of the Draft Final Proposal at this time.

### 3. Provide your organization's comments on modifications to Section 2.4 Scoring Criteria for Prioritization to the Study Process:

#### LSE Interest Scoring Criteria

CalCCA supports most elements of the Draft Final Proposal as it relates to the scoring criteria for prioritization in the study process. The CAISO's proposal recognizes the importance LSE interest will play when narrowing down the pool of interconnection study requests. LSEs, as procuring entities, conduct long-term planning activities in their individual integrated resource plans, where they start to identify the technologies, locations, and magnitudes of projects they will pursue to support the communities they serve. This information is factored into the California Public Utilities Commission's (CPUC) preferred system plan, which then informs the CAISO's transmission planning process. Without an LSE interest scoring criteria, the CAISO would risk having an interconnection queue that is not aligned with resource and transmission planning processes taking place in these forums. Under a zonal approach that does not study all interconnection requests submitted, the CAISO must ensure that the requests that do get studied result in an interconnection queue that offers a diverse set of resources. Scoring criteria that reflect LSE interest can drive a balanced interconnection queue because LSEs must procure a range of technologies to meet reliability and GHG-reduction targets in a cost-effective manner that meets their customers' needs and, for some LSEs like community choice aggregators, directives from their boards. Indeed, the need to have balanced resources to meet load profiles throughout the day is important not only for Integrated Resource Plan (IRP) but are increasingly important to meet RA obligations as hourly needs for capacity are increasing.

The result of CAISO's project scoring should be an interconnection queue that reflects LSEs' desired resource mix planned for in resource planning processes like the CPUC's IRP proceeding. A 30 percent weighting for LSE interest balances the need for LSEs to help drive interconnection studies without making LSE interest a

determining factor that impinges on the ability for other interconnection requests to move forward. For these reasons, the CAISO should adopt its proposal to allow LSEs to score projects based on their interest to inform the interconnection study requests the CAISO studies.

The CAISO must, however, reconsider its proposal to require LSEs to submit their interest scores at the same time interconnection customers submit their interconnection requests. The CAISO should modify the draft final proposal to (1) have the CAISO issue a simple report with project name, technology, point of interconnection, developer name, and megawatts (MW) for each interconnection request received, and (2) allow LSEs to use this report to finalize their interest scores and submit them one month after the issuance of the report. These proposed modifications would allow LSEs to review interconnection requests and finalize their interest scores in parallel with other work the ISO will be doing to validate interconnection request information before starting the cluster study.

This process is superior to requiring LSEs to submit their interest scores based solely upon requests for information (RFI) because it allows LSEs to review interconnection requests, compare the requests to the results of their RFIs to ensure consistency, and submit interest scores that correctly reflect projects they are interested in as communicated in the interconnection request. Requiring LSEs to submit their interest scores before seeing the interconnection requests submitted seems prone to errors that could require more work for the CAISO to validate.

Based on the proposed schedule posted on the CAISO's website,<sup>[1]</sup> this would result in LSEs conducting RFIs in advance of interconnection customers submitting their interconnection requests by July 31, reviewing interconnection requests in August, and finalizing and submitting their interest scores by late August or early September. When finalizing the timeline, the CAISO should clarify when it will allocate capacity/points to LSEs. Such information should be provided well before LSEs submit their interest scores to the CAISO.

### **Self-Built Projects**

The CAISO proposes to only allow LSEs to submit points to one self-built project per cycle. The intent of this proposal is to prevent LSEs from giving preferential treatment to their own projects. The CAISO should remove this limitation due to its potential unfair impacts on different LSEs. A single project could be 1 MW or 1,000 MW. Basing a limitation on number of projects would benefit LSEs who can self-build one large project over those who can self-build multiple small projects. It also makes the possibility of assigning points to projects that are jointly built by multiple LSEs more difficult. If the CAISO determines some sort of limitation on assigning points to self-built projects is needed, it should create a limit based upon a share of the LSEs' allocated points rather than number of projects (e.g., an LSE can only allocate half its points to self-built projects). This would avoid over-preference on self-built projects without eliminating the possibility of building more than one project.

### **Auction**

The CAISO proposes to conduct a market-clearing, sealed-bid auction for the right to be studied if excess proposed capacity exists after applying the viability criteria and projects are deemed equal in viability rating. For the reasons described in previous comments,<sup>[2]</sup> the CAISO should, instead of developing an auction, focus on scoring criteria robust enough to rank projects' viability and minimize occurrences of equal viability scores among projects. If projects do receive the same viability score, the CAISO should study all tied projects.

### **Non-LSE Points**

The CAISO proposes to allow non-LSEs, like commercial entities, to assign up to 25 points to projects if the commercial entities can provide signed affidavits indicating and affirming commercial interest from its procurement division. Prior to this addition, the proposed scoring criteria only allowed for scoring by entities that have a tariff-defined relationship with the CAISO (i.e., LSEs). The CAISO now proposes to allow a non-LSE commercial entity to apply points. The CAISO notes concerns that without a tariff-based relationship, the CAISO will need to carefully evaluate the legitimacy of such requests. The CAISO notes that it is "is reluctant to provide a definition or criteria" to further define how the CAISO will implement this feature. This represents a significant departure from how entities with a relationship to the CAISO interact with the CAISO. For those entities, the tariff and business practice manuals clearly define expectations and are transparent to all market participants. In the Final Proposal, the CAISO should better define the process that will be used to allow non-LSEs to assign points so that the process is transparent and subject to a tariff. Not only will this ensure that points are only assigned by legitimate entities but the process will be transparent and have a process through FERC to resolve any disputes of the application of the tariff.

Additionally, if the CAISO allows non-LSEs to assign points to interconnection requests, it should ensure it maintains a prioritization process in the deliverability allocation process that prioritizes non-LSE projects that have Resource Adequacy (RA) contracts with LSEs over those that do not have RA contracts with LSEs. This will ensure deliverability is assigned to projects that will actually be used as RA.

### Long-Lead Time (LLT) Resource Category

The CAISO proposes to give points to interconnection requests that will address system needs, including the need for LLT resources. CalCCA supports the LLT resource category. This category, along with the LSE interest category, appears to be the mechanism that will be relied upon to ensure resource diversity among the portfolio of projects selected for study. While the Draft Final Proposal indicates resources required to meet the CPUC resource portfolio are eligible, the CAISO should update the Final Proposal to provide more clarity around how it will categorize LLT resource for the purpose of assigning points. It appears the Draft Final Proposal adopts some of CalCCA's recommendations on the process for defining LLT in its January 9, 2024 comments.<sup>[3]</sup> additional clarity would be helpful to ensure the definition (1) reflects actually needing a long period of time, such as five years or more, to construct from the initial proposal, not inclusive of the period spent in the CAISO interconnection queue, (2) includes priority for resource types that are needed, as defined by the CPUC in its IRP process, but underrepresented in the CAISO queue, and (3) assigns LLT resource points to interconnection requests that fit the definition regardless of the type of LSE procuring, (e.g., central procurement entity, groups of LSEs, or single LSE).

### Ensuring Competition Among Developers Contracting with LSEs

If the CAISO implements a transmission zone-based approach that limits the amount of interconnection requests based on existing and planned transmission capacity, the CAISO must ensure sufficient interconnection capacity is studied to maintain competition among developers contracting with LSEs to meet LSE procurement obligations. Studying capacity up to 150 percent of the available and planned transmission capacity is too limiting, especially in light of the fact that the CAISO decided to forego its proposal to put a cap on the number of interconnection requests it would study from a single developer. The ISO plans the transmission system based on resource portfolios the CPUC projects will be needed to support reliability and policy goals. LSEs will ultimately need to procure capacity consistent with those plans. If the ISO only studies 150 percent of the amount of capacity needed to support reliability and policy goals, LSEs may experience significantly reduced bids in their request for offers (RFO) relative to their procurement needs. Past experience also shows that many projects do not ultimately proceed in the development process and may drop out after submitting their interconnection request but before the contracting process. While some projects may offer to multiple LSEs, multiple LSEs may have interest in the same project, too. Using 150 percent as the overall ratio of total capacity to total need is likely too low to ensure competition among developers competing for contracts with LSEs. The CAISO should study as much capacity as maintains the usefulness of the study results, but at least 200 percent of the available and planned transmission capacity.

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[1] <https://www.caiso.com/InitiativeDocuments/ProposedSchedule-InformationAvailability-InterconnectionStudyProcess.pdf>.

[2] <https://stakeholdercenter.caiso.com/Comments/AllComments/db2a7c50-3962-46ad-b217-59749bef1704#org-cefa3c17-c05a-494f-8e8e-9d8e1c470eeb>.

[3] <https://stakeholdercenter.caiso.com/Comments/AllComments/db2a7c50-3962-46ad-b217-59749bef1704#org-cefa3c17-c05a-494f-8e8e-9d8e1c470eeb>

## 4. Provide your organization's comments to additional modifications to the merchant deliverability option:

The CAISO proposes that only projects interconnecting in areas with no available or planned transmission deliverability capacity would be eligible to use the merchant deliverability option. The merchant deliverability option would not be available for projects that did not score enough to be studied in the transmission zones with planned or available capacity. The CAISO should modify this proposal to allow projects within transmission zones to elect to move forward using the merchant deliverability option. If the CAISO anticipates an influx of merchant deliverability projects after the implementation of IPE 2023, the CAISO could consider additional

requirements to ensure the merchant deliverability projects do not overwhelm the interconnection queue, like requiring interconnection customers to select the merchant deliverability option up front or limit the amount of merchant deliverability projects that can move forward through the same scoring criteria used by projects electing not to use the merchant deliverability option.

**5. Provide your organization's comments on new section 2.7.1 – TPD Allocation Process Modifications:**

The Draft Final Proposal indicates that the scoring process for allocating transmission plan deliverability (TPD) will be determined once the scoring process for interconnection intake is completed. When defining the scoring process for allocating TPD, the CAISO should aim to align it with the scoring criteria for interconnection intake as much as possible, so that the projects deemed most ready are first to receive TPD allocations.

**6. Provide your organization's comments on updates made to Section 3.6 - Viability Criteria and Time in Queue:**

The CAISO should adopt its proposal to require all projects in the queue to demonstrate commercial viability to remain in queue beyond seven years, regardless of deliverability status. The CAISO should also adopt its proposal to require each project to meet commercial viability criteria by an unavoidable time-in-queue requirement. These changes should prevent the stagnation of projects in the interconnection queue without a clear process for moving them forward or removing them from the queue.

**7. Provide your organization's comments on updates made to Section 3.8 – Earlier Financial Security Postings for Projects with Shared Upgrades:**

CalCCA has no comments on this element of the Draft Final Proposal at this time.

**8. Provide your organization's comments on updates made to Section 3.9 – Revise Timing of GIA Amendments to Incorporate Modification Results:**

CalCCA has no comments on this element of the Draft Final Proposal at this time.

**9. Additional comments:**

CalCCA has no additional comments on the Draft Final Proposal at this time.

# **MARCH FILINGS**



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

Order Instituting Rulemaking to Continue	)	
Implementation and Administration, and Consider	)	Rulemaking 24-01-017
Further Development, of California Renewables	)	(Issued February 1, 2024)
Portfolio Standard Program.	)	
	)	

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**OPENING COMMENTS OF THE  
JOINT BIOMAT COMMUNITY CHOICE AGGREGATORS  
ON THE ORDER INSTITUTING RULEMAKING**

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March 1, 2024

Attorney for the  
Joint BioMAT Community Choice Aggregators

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

Order Instituting Rulemaking to Continue  
Implementation and Administration, and Consider  
Further Development, of California Renewables  
Portfolio Standard Program.

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)  
)  
) Rulemaking 24-01-017  
) (Issued February 1, 2024)  
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)

**OPENING COMMENTS OF THE  
JOINT BIOMAT COMMUNITY CHOICE AGGREGATORS  
ON THE ORDER INSTITUTING RULEMAKING**

Pursuant to Rule 6.2 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”) and in accordance with Ordering Paragraph (“OP”) 6 of the *Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program*, issued on February 1, 2024 (“RPS OIR”), Central Coast Community Energy, Marin Clean Energy, Orange County Power Authority, Pioneer Community Energy, Redwood Coast Energy Authority, and Valley Clean Energy (collectively, the “Joint BioMAT CCAs”) hereby file these opening comments for the principal purpose of requesting that the end date for the Bioenergy Market Adjusting Tariff (“BioMAT”) program be included as a distinct issue to be addressed in this proceeding.<sup>1</sup> The Joint BioMAT CCAs also request that the Commission’s Energy Division initiate another review of the BioMAT program for the purpose of assessing and recommending programmatic changes in light of performance to date and recent participation by Community

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<sup>1</sup> As it stands now, the RPS OIR includes the following issue in the Preliminary Scoping Memo: “Ongoing monitoring, reviewing *and revising*, as needed, all RPS procurement methods and tariffs, such as...the Bioenergy Market Adjusting Tariff (BioMAT).” (RPS OIR at 7; *emphasis* added.) As further described below, the Joint BioMAT CCAs request that the final Scoping Memo expressly include as a distinct issue the consideration of whether to extend the BioMAT program end date, which is currently set to expire on December 31, 2025.

Choice Aggregators (“CCAs”) in the BioMAT program.

The Joint BioMAT CCAs are listed as respondents in this proceeding and look forward to participating in this proceeding.<sup>2</sup>

## **I. INTRODUCTION**

Participation by CCAs in the BioMAT program is a relatively recent occurrence. Following the Commission’s rejection of a staff proposal in 2020 that, if approved by the Commission, would have allowed CCAs to enter into BioMAT contracts and recover costs,<sup>3</sup> CCAs sponsored legislation to expressly authorize participation by CCAs in the BioMAT program. In 2021, the Legislature passed Assembly Bill (“AB”) 843 to accomplish this purpose. Following the passage of AB 843, the Commission instituted Rulemaking (“R.”).22-10-010 to examine CCA participation in the BioMAT program, noting that “AB 843 amended Public Utilities Code Section 399.20 to extend to CCAs within an [investor-owned utility’s (“IOU”)] service territory the existing renewable feed-in tariff for qualifying bioenergy electric generation facilities.”<sup>4</sup>

CCA participation in the BioMAT program was extensively reviewed and addressed in R.22-10-010. Following a year-long process, the Commission issued D.23-11-084, which set rules to enable CCAs to participate in the BioMAT program. Consistent with guidance provided in D.23-11-084, on January 29, 2024, the California Community Choice Association (“CalCCA”) submitted a Tier 2 joint advice letter seeking Commission approval of various BioMAT program documents on behalf of four initial CCA participants: Central Coast

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<sup>2</sup> See RPS OIR at 17; Ordering Paragraph 7 (Appendix B).

<sup>3</sup> See D.20-08-043 at 16-18.

<sup>4</sup> OIR (R.22-10-010) at 1.

Community Energy, Orange County Power Authority, Pioneer Community Energy, and Redwood Coast Energy Authority. Subsequently, on February 1, 2024, each of these participating CCAs submitted a Tier 3 advice letter seeking Commission approval of program year 2024 and 2025 forecast BioMAT revenue requirements. As further described below, initial action taken to date by CCAs to investigate and participate in the BioMAT program has been extensive, and reflects a material changed circumstance in the BioMAT program.

Since its original adoption in 2014,<sup>5</sup> the BioMAT program has undergone review, revisions, and updates. With limited exception, the Commission has used the Renewables Portfolio Standard (“RPS”) program rulemaking to review the BioMAT program and to address BioMAT-related issues. R.11-05-005 was the original venue for consideration of BioMAT-related issues.<sup>6</sup> Subsequent review of and revisions to the BioMAT program occurred within the context of successor RPS rulemakings (R.15-02-020 and R.18-07-003), including the most recent revision to the end date for the BioMAT program<sup>7</sup> and adoption of numerous “changes to program rules, contract terms, and processes.”<sup>8</sup>

The BioMAT program was initially authorized for 60 months from program start date (or, until February 2021).<sup>9</sup> Following a staff proposal and stakeholder input, the end date for the program was subsequently extended to December 31, 2025.<sup>10</sup> In scoping issues for the Commission’s implementation of AB 843 relating to participation by CCAs, the assigned

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<sup>5</sup> See Decision (“D.”)14-12-081.

<sup>6</sup> See D.14-12-081.

<sup>7</sup> See D.20-08-043 at 11.

<sup>8</sup> See D.20-08-043 at 3-4 (summarizing an extensive list of program-related changes prompted by the *Bioenergy Market Adjusting Tariff (BioMAT) Staff Proposal*, dated March 5, 2020 (“BioMAT Staff Proposal”)).

<sup>9</sup> See D.14-12-081 at 71; see also D.16-10-025 at 4.

<sup>10</sup> D.20-08-043 at 10.

Commissioner made clear that the Commission would not be using R.22-10-010 to consider “amendments to the sunset date.”<sup>11</sup> This determination was made because of the belief that an RPS rulemaking is “the appropriate place to consider programmatic changes to BioMAT not explicitly required by AB 843” and because consideration in an RPS rulemaking “would enable participation of all BioMAT stakeholders.”<sup>12</sup>

The Commission recently considered and renewed this determination. In D.24-01-033, the Commission addressed a long-pending petition for modification that sought, among other things, to extend the end date for the BioMAT program. The Commission denied the request but reaffirmed its position that “[t]he BioMAT program will continue to be monitored, reviewed, and revised, as necessary, in R.18-07-003 or its successor [RPS] proceeding.”<sup>13</sup>

Purposeful review of the BioMAT program in this proceeding is warranted. Participation by CCAs in the BioMAT program represents a material changed circumstance that merits further review of the program. Moreover, current market and regulatory factors, and their impact on the BioMAT program, should also be reviewed. While the Joint BioMAT CCAs believe that the end date for the BioMAT program should be examined and revised as soon as possible, other changes to the program should also be considered in due order, as briefly described below.

## **II. OPENING COMMENTS**

The RPS OIR expressly invites parties “to comment on the Preliminary Scoping Memo

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<sup>11</sup> *Assigned Commissioner’s Scoping Memo and Ruling*, issued on April 6, 2023 in R.22-10-010 (“CCA BioMAT Scoping Memo”), at 2.

<sup>12</sup> CCA BioMAT Scoping Memo at 2.

<sup>13</sup> D.24-01-033 at 5. A pending proposed decision in R.11-05-005 would also, if approved by the Commission, deny a request for an extension to the end date on procedural grounds. *See Proposed Decision of Administrative Law Judge Atamturk*, dated January 24, 2024, at 6 (Conclusion of Law 1).

and schedule established in th[e] OIR.”<sup>14</sup> As noted above, the Preliminary Scoping Memo includes the following as an issue within the preliminary scope of this proceeding:

“Ongoing monitoring, reviewing *and revising*, as needed, all RPS procurement methods and tariffs, such as...the Bioenergy Market Adjusting Tariff (BioMAT).”<sup>15</sup>

For comments “directed to the issues identified within the preliminary scope of this proceeding,” the RPS OIR directs parties to “include whether to revise the issues; how to prioritize the issues to be resolved; how procedurally to address these issues; and the proposed timeline for resolving the issues identified.”<sup>16</sup> Set forth below, the Joint BioMAT CCAs address these matters with an initial focus on revising the BioMAT program by extending the end date from December 31, 2025 to mid-2029.

An extension of the end date should be considered on an expedited basis to provide reasonable assurance to participating CCAs that their timely efforts to launch their respective BioMAT programs will be duly recognized and accommodated, and to incentivize additional CCA participation. As it is now, notwithstanding expending significant cost and time to develop BioMAT program documents and to initiate implementation efforts, the current end date would unnecessarily truncate the contracting period for CCAs, particularly when compared to the contracting period for the IOUs when they launched their respective BioMAT programs.

Other changes to the BioMAT program should also be considered in this proceeding in due course. Consideration of other changes to the BioMAT program is reasonable in light of the recent emergence of CCAs as participants in the program, but also because key market and regulatory issues have arisen in the intervening years since the Commission’s last review of the

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<sup>14</sup> RPS OIR at 11.

<sup>15</sup> OIR at 7; *emphasis* added.

<sup>16</sup> OIR at 7.

BioMAT program. While still time sensitive, these other changes to the BioMAT program will likely require more time to consider than a simple extension to the program's end date.

**A. The Preliminary Scoping Memo Should Be Revised to Expressly Include the Issue of Extending the BioMAT Program End Date**

As noted above, the Preliminary Scoping Memo provides generically for consideration of revisions to the BioMAT program.<sup>17</sup> The Joint BioMAT CCAs request that the final Scoping Memo *expressly* include, as *a distinct issue*, the question of whether to extend the BioMAT program's end date. Consideration of extending the end date is warranted in light of the recent emergence of CCAs as new participants in the program. By expressly identifying this issue, parties and stakeholders will be on notice that the Commission plans to address and consider whether to extend the end date.

**B. The Schedule for this Proceeding Should Prioritize Consideration of the BioMAT Program's End Date**

Expedited consideration of whether to extend the BioMAT program's end date is needed to address the uncertainty and unfair treatment currently facing CCAs. As evidenced by the extensive work put forth in recently submitted BioMAT-related documents, materials and tariffs, the participating CCAs are committed to successfully implementing the BioMAT program. The joint advice letter submitted on January 29, 2024 is over 300 pages, and contains a variety of detailed implementation-related documents and material. The participating CCAs made this commitment in the face of uncertainty associated with the program's end date. The Joint BioMAT CCAs request that the Commission work diligently to acknowledge the participating CCAs' commitment to date and to address the disadvantage embedded in the currently restricted participation window.

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<sup>17</sup> See note 15, above.

As it stands now, the Joint BioMAT CCAs face a program duration that differs markedly from what the IOUs experienced when they first launched their respective BioMAT programs. For the IOUs, the Commission determined in D.14-12-081 that it is “reasonable to set the ending date for the bioenergy [feed-in tariff] as being 60 months from the program starting date.”<sup>18</sup> As the original end date (February 2021) was approaching, the Commission considered and extended the end date by another five years for the IOUs.<sup>19</sup> The staff proposal supporting this extension stated that “[e]xtending the end date by five years will provide more time to fulfill the SB 1122 requirement of 250 MW of procurement from small bioenergy projects.”<sup>20</sup> The staff proposal also stated that “[a] five-year program extension should provide more long-term programmatic certainty and allow more time for additional project development, while maintaining the Commission’s direction to establish a clear program end date.”<sup>21</sup>

As such, the IOUs have received the benefit of successive five-year terms to contract for BioMAT projects. In contrast, as it stands now, the Joint BioMAT CCAs will have less than two years to contract for BioMAT projects. To be consistent with Commission goals, more “long-term programmatic certainty” is needed for participating CCAs.

### **C. The Commission Should Address the Issue of Extending the BioMAT Program’s End Date Through Written Comments**

The issue of the BioMAT program end date was addressed in the original BioMAT program decision (D.14-12-081) and again in D.20-08-043 (after being vetted in the BioMAT Staff Proposal). Moreover, this issue was also addressed in the context of a petition for

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<sup>18</sup> D.14-08-021 at 71.

<sup>19</sup> D.20-08-043 at 10.

<sup>20</sup> BioMAT Staff Proposal at 2.

<sup>21</sup> BioMAT Staff Proposal at 2.



modification.<sup>22</sup> As such, while certain aspects of the issue are unique (namely, recent participation by CCAs), the general issue has been examined previously. This should allow for expedited consideration without having to produce an extensive procedural record.

While the Joint BioMAT CCAs are not necessarily opposed to having a workshop at which CCAs and other parties could discuss the issue of extending the program end date, the Joint BioMAT CCAs do not believe that a workshop is necessary. In light of time constraints and the approaching end date, the Joint BioMAT CCAs believe that it would be best to address this issue through an administrative law judge ruling describing the issue (possibly coupled with a staff proposal) and requesting opening and reply comments on the issue.

**D. The Commission Should Issue a Final Decision By September 2024 to Extend the BioMAT Program's End Date**

As noted above, participating CCAs are currently facing unfair treatment vis-à-vis the IOUs with respect to program duration. Instead of having five years to implement the BioMAT program, participating CCAs have less than two years. In recognition of the significant commitment made by participating CCAs, the Joint BioMAT CCAs request that the Commission issue a final decision on an extended program end date by September 2024. If the scoping memo is issued in the first quarter, as contemplated in the OIR,<sup>23</sup> the proposed schedule in the OIR should allow for the orderly consideration of this issue in the second quarter, and issuance of a final decision in the third quarter.

For comparability, the Joint BioMAT CCAs recommend that CCAs be given five years to implement the BioMAT program. Given a program start date in mid-2024, this would mean that

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<sup>22</sup> See D.24-01-033 (addressing a petition for modification filed by the Bioenergy Association of California).

<sup>23</sup> See RPS OIR at 8.

the BioMAT program end date should be extended through mid-2029.

**E. Other Changes to the BioMAT Program Should be Considered in the Context of the RPS Proceeding, and Addressed in the Early Stages of the Proceeding**

In D.14-12-081, the Commission expressly set forth its expectation that various factors could and eventually would justify a review process for the BioMAT program – both with respect to pricing factors<sup>24</sup> and to the other factors influencing the BioMAT program.<sup>25</sup> In furtherance of this expectation, the Commission launched a major review process in 2017 that lasted roughly three years, culminating in the issuance of D.20-08-043.<sup>26</sup> While D.20-08-043 addressed many changes, the Commission declined to make a determination on “additional actions that the Commission should take to address program cost, program barriers, expanding program participation, safety, and/or equity.”<sup>27</sup> Instead, the Commission stated that it would continue to monitor and revise the BioMAT program, as necessary.<sup>28</sup>

The Joint BioMAT CCAs believe that it is now appropriate for the Commission to initiate a second review of the BioMAT program. Two principal factors warrant this review. First, the emergence of CCAs as participants in the BioMAT program creates a material change to the program. As noted in the legislative analysis supporting final adoption of AB 843:

When the BioMAT program was first established in 2012, there was only one CCA serving customers. There are now 23 CCAs that serve more than 11 million customers in the state. If enacted, this bill will allow a growing portion of the state's energy sector to participate in BioMAT.<sup>29</sup>

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<sup>24</sup> See D.14-12-081 at 62.

<sup>25</sup> See D.14-12-081 at 73-74.

<sup>26</sup> See D.20-08-043 at 6 (providing a description of the review process).

<sup>27</sup> D.20-08-043 at 53.

<sup>28</sup> See D.20-08-043 at 53.

<sup>29</sup> *Assembly Concurrence in Senate Amendments*, dated July 5, 2021, at 2.

The significant expansion of CCA programs over the last seven years and the commitment made recently by CCAs to the BioMAT program underscore the changing dynamic and the need to consider the BioMAT program in light of these changed circumstances.

Second, pricing trends suggest that a review is appropriate. In D.14-12-081, the Commission generally described the tension surrounding prices under the BioMAT program.<sup>30</sup> On the one hand, the Commission recognized concerns about “the costs to ratepayers of implementing [the BioMAT program].”<sup>31</sup> On the other hand, the Commission adopted the view expressed by a party that “in order to successfully implement [the legislatively mandated BioMAT program], the utilities will almost surely have to procure some very expensive power...”<sup>32</sup> To hold this tension in balance, the Commission established points and parameters “at which a review of the program pricing is appropriate.”<sup>33</sup> Given current pricing and cost-related factors, the Joint BioMAT CCAs believe that a review of program pricing is necessary and appropriate.

### **III. CONCLUSION**

The Joint BioMAT CCAs respectfully request that the issue of extending the BioMAT program’s end date be set forth as a distinct issue in the final scoping memo, and that the schedule for this proceeding be established to provide for accelerated consideration of this issue based on written comments. The Joint BioMAT CCAs also request that other changes to the BioMAT program be included as a separate issue to be considered in this proceeding, ideally in the early stages of the proceeding.

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<sup>30</sup> See generally D.14-12-081 at 60-63

<sup>31</sup> D.14-12-081 at 61.

<sup>32</sup> D.14-12-081 at 61 (citing Green Power Institute).

<sup>33</sup> D.14-12-081 at 62.

The Joint BioMAT CCAs thank the Commission for its consideration of these requests.

Dated: March 1, 2024

Respectfully submitted,

/s/ Scott Blaising

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**BEFORE THE PUBLIC UTILITIES COMMISSION  
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Order Instituting Rulemaking to Continue  
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Rulemaking 24-01-017

**COMMENTS OF THE JOINT PARTIES ON  
ORDER INSTITUTING RULEMAKING TO CONTINUE IMPLEMENTATION AND  
ADMINISTRATION, AND CONSIDER FURTHER DEVELOPMENT, OF  
CALIFORNIA RENEWABLES PORTFOLIO STANDARD PROGRAM**

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Rivera, San Jacinto, and Rancho Mirage

Dated: March 4, 2024

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

Order Instituting Rulemaking to Continue  
Implementation and Administration, and  
Consider Further Development, of  
California Renewables Portfolio Standard  
Program.

Rulemaking 24-01-017

**COMMENTS OF THE JOINT PARTIES ON  
ORDER INSTITUTING RULEMAKING TO CONTINUE IMPLEMENTATION AND  
ADMINISTRATION, AND CONSIDER FURTHER DEVELOPMENT, OF  
CALIFORNIA RENEWABLES PORTFOLIO STANDARD PROGRAM**

In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”) and the *Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program* (“OIR”), issued on February 1, 2024, Apple Valley Choice Energy, City of Lancaster, City of Pico Rivera, City of Rancho Mirage, City of Pomona, City of San Jacinto, City of San José, Administrator of San José Clean Energy, City of Santa Barbara, Marin Clean Energy, Peninsula Clean Energy Authority, Silicon Valley Clean Energy Authority, Sonoma Clean Power, and the Regents of the University of California (“Joint Parties”) respectfully submit these comments.<sup>1</sup>

The Joint Parties generally support the preliminary scoping memo as set forth in the OIR, but provide two recommended additions:

- The Scoping Memo should expressly include consideration of fully or partially combining the renewables portfolio standard (“RPS”) Procurement Plan filing with the

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<sup>1</sup> Pursuant to Rule 1.8(d), Apple Valley Choice Energy, City of Pomona, City of San José, Administrator of San José Clean Energy, City of Santa Barbara, Marin Clean Energy, Peninsula Clean Energy Authority, Silicon Valley Clean Energy Authority, Sonoma Clean Power, and the Regents of the University of California have authorized the undersigned counsel to sign and file these comments on their behalf.

integrated resource planning (“IRP”) filings, consistent with the direction of Decision (“D.”) 19-12-042; and

- The Scoping Memo should include consideration of a modification to the confidentiality rules for Final RPS Procurement Plans to ensure that the confidential information of retail suppliers is provided with three years of protection, consistent with D.21-11-029.

## I. COMMENTS ON THE OIR

### A. **The Scoping Memo Should Include Consideration of Fully or Partially Combining the RPS Procurement Plan Filing with the IRP Filings.**

The preliminary scoping memo in the OIR appropriately includes “[c]oordinating with the integrated resource planning proceeding,” as a remaining issue from Rulemaking (“R.”) 18-07-003.<sup>2</sup> One of the key unresolved issues regarding this coordination is the proposal to consider the full or partial combination of the RPS Procurement Plan filing with the IRP filings. The *Assigned Commissioner and Assigned Administrative Law Judge’s Ruling Identifying Issues and Schedule of Review for 2019 Renewables Portfolio Standard Procurement Plans* (“2019 ACR”), issued on April 19, 2019, included a Commission staff proposal to combine the RPS Procurement Plan filings with the IRP filings in years where IRP Plans are required.<sup>3</sup> In response, the large investor owned utilities (“IOUs”) filed comments providing a detailed framework to accomplish combining these RPS and IRP filings.<sup>4</sup> Informed by the IOU proposal and other party comments, the Commission included the following direction in the decision adopting 2019 RPS Procurement Plans (D.19-12-042):

It is always our goal to avoid duplicative filings and reduce the burden on small parties or new market entrants. We therefore direct Energy Division to develop a comprehensive and practicable plan to combine IRP and RPS filings without jeopardizing the current timelines, allocation of Commission resources, or procedural efficiencies currently in place for IRP and RPS. The plan must include

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<sup>2</sup> OIR at 7.

<sup>3</sup> 2019 ACR at 23-27.

<sup>4</sup> Joint Opening Comments of Southern California Edison Company (U 338-E), San Diego Gas & Electric Company (U 902-E), and Pacific Gas and Electric Company (U-39 E) on Coordination of RPS Procurement Plan With Integrated Resource Plan Proceeding, July 19, 2019.

implementation details and identify the ways in which the combined IRP and RPS filing will meet the objectives identified in party comments (as listed above). To this end, Energy Division is authorized to hold workshops, establish working groups, prepare a white paper or staff proposal, and take such other actions as the Director of Energy Division may deem necessary. The Director of Energy Division shall issue progress reports on a quarterly basis and shall complete a staff proposal based on the foregoing process no later than August 2020.<sup>5</sup>

The Joint Parties agree with D.19-12-042 that the potential to avoid duplicative filings and reduce administrative burdens merits the consideration of a full or partial combination of the RPS and IRP filings. Therefore, the Joint Parties recommend that the Commission include in the Scoping Memo a process consistent with the direction of D.19-12-042. At a minimum, this should include an Energy Division-led process involving significant opportunities for input from parties to this proceeding. Given the complexity of this task and the importance of these filings, the proposed schedule for this process should provide adequate time for a thorough vetting of the ultimate proposal in order to ensure that the goals of reduced administrative burdens are actually achieved.

**B. The Scoping Memo Should Include Consideration of a Modification of the Confidentiality Rules to Ensure Retail Sellers Receive Three Full Years of Confidentiality Protection.**

D.21-11-029 revised the Commission's rules regarding confidentiality for certain RPS information. Specifically, D.21-11-029 shortened the confidentiality protection period for energy and capacity forecast data from a total of four years to three years, specifically limiting confidentiality to two future years and the "current year or year of filing."<sup>6</sup> Throughout D.21-11-029, the Commission reiterated its intent to provide retail sellers with a total of *three years* of confidentiality protection.<sup>7</sup> The *Administrative Law Judge's Ruling Regarding the Motions for*

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<sup>5</sup> Decision on 2019 Renewables Portfolio Standard Procurement Plans, December 30, 2019, at 74.

<sup>6</sup> D.21-11-029 at 2; *see also* D.21-11-029, Attachment 2, Appendix 2 at I(A) and I(B).

<sup>7</sup> *See id.* at 2, 34, 38, and 67.



*Leave to File Confidential Material Under Seal* (“2023 ALJ Confidentiality Ruling”), issued on June 12, 2023, provided further guidance on this direction from D.21-11-029 for Final RPS

Procurement Plans as follows:

the “current year (year of filing)” should be the year the document is filed. As a result, retail sellers’ 2022 data in their final RPS procurement plans, filed in 2023, should not be redacted.<sup>8</sup>

In practice, the interpretation provided in the 2023 ALJ Confidentiality Ruling results in less than the full three years of confidentiality protection for retail seller energy and capacity data. This is due to the normal filing schedule where Draft RPS Procurement Plans are filed between May and August of the initial year and Final RPS Procurement Plans are typically due in January or February of the following year. For example, in the 2023 Draft RPS Procurement Plans (due July 17, 2023), retail sellers were entitled to confidentiality protection for data covering the years of 2023, 2024, and 2025. Final 2023 RPS Procurement Plans were due on January 22, 2024, and retail sellers filing on that date would lose the ability to redact 2023 data because the “year of filing” is now 2024. However, those retail sellers are presumably unable to redact 2026 data because this data was already made public in the Draft 2023 RPS Procurement Plans. As a result, these retail sellers are only able to redact 2024 and 2025 data in their Final 2023 RPS Procurement Plans. As 2023 data was only protected for approximately six months, the result is that retail sellers are only entitled to 2.5 years of confidentiality protection, rather than the full three years specified by D.21-11-029.

The Joint Parties request that the Commission include in the Scoping Memo the consideration of a modification to the confidentiality rules to address this misalignment.

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<sup>8</sup> 2023 ALJ Confidentiality Ruling at 3.

## II. CONCLUSION

The Joint Parties appreciate the opportunity to provide these comments on the OIR.

March 4, 2024,

Respectfully submitted,

/s/ Justin Wynne

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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 Reforms and Refinements, and  
Establish Forward Resource Adequacy  
Procurement Obligations.

R.23-10-011

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S OPENING COMMENTS  
ON ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING**

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March 8, 2024

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## SUMMARY OF RECOMMENDATIONS

- California Community Choice Association’s (CalCCA) hourly load transaction proposal can be implemented with no California Independent System Operator (CAISO) impacts in the near term, and improved with minor CAISO impacts in the long-term;
  - CalCCA’s hourly load transaction proposal addresses concerns around hourly transactability of resources for the resource adequacy (RA) requirement and storage charging requirement;
  - CalCCA’s cure period extension proposal can be implemented with no CAISO impacts;
  - The Commission should adopt CalCCA’s temporary system and flexible RA waiver proposal with the clarifications described in section II.D.;
  - The Commission should adopt CalCCA’s proposal on maximum energy bid prices for unspecified import RA resources with the additional details described in section II.E.;
  - The Commission should delay slice-of-day (SOD) until 2026, forego the Alliance for Retail Energy Market’s (AReM) other options for SOD delay, and refrain from making changes to the framework too close to the first binding compliance showing;
  - The Commission should retain the 17 percent planning reserve margin (PRM) for 2025, calibrated to 15.43 percent if the Commission implements SOD in 2025;
  - The Commission should coordinate with the CAISO to adopt a resource-specific unforced capacity methodology consistent with many of the principles outlined in Pacific Gas and Electric Company and Southern California Edison Company’s proposals;
  - The Commission should adopt AReM’s proposal to allow effective PRM resources to count on load-serving entities’ plans to prevent backstop cost exposure resulting from accrediting discrepancies between the CAISO and the Commission; and
  - The Public Advocates Office at the California Public Utilities Commission should clarify several elements of its Residual Capacity Auction proposal to allow parties to better explore its merits.
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Order Instituting Rulemaking to Oversee the  
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R.23-10-011

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S OPENING COMMENTS  
ON ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING**

California Community Choice Association<sup>1</sup> (CalCCA) submits these opening comments pursuant to the *Assigned Commissioner's Scoping Memo and Ruling*<sup>2</sup> (Ruling), dated December 18, 2023. The Ruling seeks opening comments on all proposals filed in Track 1 (excluding FCR and LCR issues).

**I. INTRODUCTION**

The California Public Utilities Commission's (Commission) resource adequacy (RA) program is in the midst of a significant transition to ensure it remains capable of securing a fleet of resources that can reliably serve load in all hours. The Commission must prioritize customer affordability as this transition occurs, especially in light of the current RA market scarcity that

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

has driven prices to all-time highs and hindered the ability of load serving entities (LSE) to procure enough capacity to meet their compliance obligations despite their best efforts.

CalCCA continues to advocate for Commission adoption of its Track 1 proposals submitted on January 19, 2024,<sup>3</sup> and February 23, 2024.<sup>4</sup> In these comments, CalCCA offers clarifications to its Track 1 proposals in response to the helpful comments and questions it received from parties at the February 14, 2024, and February 28, 2024, workshops. CalCCA also offers comments on other parties' Track 1 proposals with a focus on ensuring the RA program preserves customer affordability during this period of transition and market scarcity. These comments can be summarized as follows:

- CalCCA's hourly load transaction proposal can be implemented with no California Independent System Operator (CAISO) impacts in the near term, and improved with minor CAISO impacts in the long-term;
- CalCCA's hourly load transaction proposal addresses concerns around hourly transactability of resources for the RA requirement and storage charging requirement;
- CalCCA's cure period extension proposal can be implemented with no CAISO impacts;
- The Commission should adopt CalCCA's temporary system and flexible RA waiver proposal with the clarifications described in section II.D.;
- The Commission should adopt CalCCA's proposal on maximum energy bid prices for unspecified import RA resources with the additional details described in section II.E.;
- The Commission should delay slice-of-day (SOD) until 2026, forego the Alliance for Retail Energy Market's (AREM) other options for SOD delay, and refrain from making changes to the framework too close to the first binding compliance showing;
- The Commission should retain the 17 percent planning reserve margin (PRM) for 2025, calibrated to 15.43 percent if the Commission implements SOD in 2025;

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<sup>3</sup> *Public Version California Community Choice Association's Comments on Assigned Commissioner's Scoping Memo and Ruling*, R.23-10-011 (Jan. 19, 2024) (CalCCA Track 1 Proposals) at 25-26: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M524/K571/524571013.PDF>.

<sup>4</sup> *California Community Choice Association's Track 1 Revised Slice-Of-Day (SOD) Proposals*, R.23-10-011 (Feb. 23, 2024) (CalCCA Track 1 Revised SOD Proposals) at 5: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M526/K147/526147188.PDF>.



- The Commission should coordinate with the CAISO to adopt a resource-specific unforced capacity (UCAP) counting methodology consistent with many of the principles outlined in Pacific Gas and Electric Company (PG&E) and Southern California Edison Company's (SCE) proposals;
- The Commission should adopt AReM's proposal to allow effective PRM resources to count on LSE plans to prevent backstop cost exposure resulting from accrediting discrepancies between the CAISO and the Commission; and
- The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) should clarify several elements of its Residual Capacity Auction proposal to allow parties to better explore its merits.

These recommendations seek to ensure that the RA program results in reliable electric service without excessive cost to customers.

## **II. COMMENTS ON CALCCA'S PROPOSALS**

### **A. CalCCA's Hourly Load Transaction Proposal can be Implemented with No CAISO Impacts in the Near-Term, and Improved with Minor CAISO Impacts in the Long-Term**

CalCCA's hourly load obligation trading proposal would allow one LSE to pay another LSE to take on portions of its RA obligations on an hourly basis. This proposal garnered significant discussion in the February 14, 2024, workshop around how it would impact the CAISO's RA showing and validation process. Following the workshop, CalCCA consulted with the CAISO and determined that the Commission can implement hourly load obligation trading with no CAISO impacts.

To do so, the Commission would accept and validate hourly load transactions consistent with the process documented in CalCCA's January 19, 2024, proposal<sup>5</sup> and February 23, 2024 proposal update.<sup>6</sup> The LSEs would submit their contracted resources in their RA plans to the

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<sup>5</sup> CalCCA Track 1 Proposals at 25-26.

<sup>6</sup> CalCCA Track 1 Revised SOD Proposals at 5.

CAISO, including all resources shown to the Commission in its SOD showing tool, consistent with the CAISO's showing process under SOD and the CAISO's February 23, 2024 proposal.<sup>7</sup>

Because the CAISO will validate Commission-jurisdictional LSE plans by validating the gross peak hour under SOD, only hourly load transactions that occur during the gross peak hour would have impacts under CAISO RA processes. These impacts can be isolated to the LSEs conducting load transactions and avoid the CAISO entirely. The CAISO validates LSE RA plans against the LSE's load, as communicated through the CEC's load forecast process, plus a PRM. As such, there is no way for the LSE to communicate an hourly load obligation trade directly to the CAISO. This would result in a Capacity Procurement Mechanism (CPM) cost allocation risk for the LSE paying another to take on its obligation in the gross peak hour in the narrow instances when a deficiency not related to hourly load transactions occurs.<sup>8</sup>

To improve the hourly load obligation trading proposal in the long term, the Commission and the CAISO could update their processes such that the CAISO allocates CPM costs to the Commission and have the Commission allocate those costs to LSEs after taking into account hourly trades. Such an update should not be seen as a requirement to implement hourly load obligation trading. Instead, it should be viewed as a potential improvement that could be explored at the CAISO in a future stakeholder initiative.

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<sup>7</sup> *Revised Slice of Day Proposal of the California Independent System Operator Corporation*, R.23-10-011 (Feb. 23, 2024): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M526/K147/526147302.PDF>.

<sup>8</sup> An LSE appearing deficient from a CAISO perspective due to an hourly load obligation trade that the CAISO cannot see should not trigger backstop because the LSE on the other side of the hourly load obligation trade would be required to show to CAISO the resources it is using to cover the additional load that it was paid to take on. In other words, the hourly load obligation trade would keep the system "whole" and should not trigger the need for backstop all else equal. Other deficiencies unrelated to the hourly load trade (e.g., another LSE having an individual deficiency) could trigger backstop, in which case the LSE paying another to take on its obligation would be exposed to backstop cost allocation.

**B. CalCCA’s Hourly Load Transaction Proposal Addresses Concerns Around the Need for Hourly Transactability to Meet the RA Requirement and the Storage Charging Requirement**

In its revised Track 1 proposals, California Energy Storage Alliance (CESA) notes that the existing SOD framework has “serious transactability and inefficiency issues.”<sup>9</sup> CalCCA strongly agrees with this statement and presented data from LSEs’ Year Ahead RA (YARA) test year filings in its January 19, 2024,<sup>10</sup> and February 23, 2024,<sup>11</sup> proposals demonstrating such. Individual LSEs did not meet SOD test year requirements in many hours of their YARA test year showing even though long positions show that trading between LSEs could eliminate nearly all deficiencies, and potentially all deficiencies if storage was reoptimized to reflect hourly trading. The existing SOD framework, which does not allow transactions in the same granularity as the requirement, creates artificial barriers to meeting obligations when obligations could in fact be met with the capacity on the system.

To remedy the transactability and inefficiency issues inherent in the existing SOD framework, CESA proposes to institute an initial system-wide storage charging sufficiency test prior to requiring sufficiency to be determined at the LSE level.<sup>12</sup> CESA’s proposal focuses on one of the requirements LSEs must meet under SOD, the storage charging sufficiency requirement. LSEs will be required to meet other requirements, however, that are also hampered by the inability to transact efficiently. That is, LSEs will be required to show enough capacity in each hour to cover their own load plus a PRM to meet its hourly RA requirements without being able to transact for resources or load obligations in an hourly fashion.

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<sup>9</sup> *Revised Track 1 Proposals of the California Energy Storage Alliance*, R.23-10-011 (Feb. 23, 2024) (CESA Track 1 Revised Proposals) at 11-12:

<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M526/K147/526147527.PDF>.

<sup>10</sup> CalCCA Track 1 Proposals at 22-24.

<sup>11</sup> CalCCA Track 1 Revised SOD Proposals at 3.

<sup>12</sup> CESA Track 1 Revised Proposals at 13-15.

While the CESA proposal could offer some relief for LSEs, it would by no means take care of all transactability concerns. Of the examples where LSEs were deficient in the SOD filings, but not deficient in the conventional YARA filing, only about half appeared to have insufficient charging energy. The remainder were deficient in the SOD filing yet had excess charging energy available for storage. Even with CESA's storage charging sufficiency proposal in place, some LSEs may still be short of meeting their requirement while another LSE finds themselves long in exactly those hours. While the CESA proposal may help with hourly transactability, it by no means is sufficient to allow LSEs to transact in a cost-effective manner for their customers in meeting reliability needs.

CalCCA's hourly load transaction proposal addresses transactability issues that exist in both the RA requirement and the storage charging sufficiency requirement by allowing LSEs to pay other LSEs to take on portions of their obligation that long LSEs can meet with their existing portfolios. In doing so, it ensures that the LSE trading away its obligation pays for the RA it is effectively receiving from other LSEs. The Commission should adopt CalCCA's hourly load transaction proposal for the initial SOD compliance year to address the transactability and inefficiency issues flagged in CESA and CalCCA's proposals.

### **C. CalCCA's Cure Period Extension Proposal Can be Implemented with No CAISO Impacts**

In its January 19, 2024, proposals, CalCCA submitted a proposal that would extend the cure period through the RA month so that the Commission allows more time for LSEs to cure RA deficiencies before assessing penalties.<sup>13</sup> This proposal would allow LSEs to access new and

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<sup>13</sup> Such penalties include non-financial penalties, such as points accumulation and expansion limitations, and the financial penalties LSEs pay for deficiencies cured after five business days of notification by Energy Division. This proposal does not propose any changes to the \$5,000 or \$10,000 penalty for deficiencies cured within five business days of notification by Energy Division.

existing capacity that becomes available between the showing deadlines and the end of the RA month. As demonstrated in CESA's February 23, 2024, revised proposal, allowing LSEs to cure with capacity that becomes available after the showing deadline could increase the available supply by hundreds of megawatts (MW).<sup>14</sup>

CalCCA's proposal is intended to modify the timing of the Commission's assessment of penalties. It is *not* intended to modify the timing of the CAISO RA processes. This means that if an LSE cures after the RA showings deadline and after the time the CAISO performs its assessment of the need for backstop procurement, it may result in the LSE receiving a CAISO backstop cost allocation. Although this outcome is possible, there is no downside to system reliability if it occurs.

CalCCA recognizes that by missing the standard showing and cure period, the resource will not have a supply plan and subsequent must offer obligation with the CAISO. If the Commission feels that it is necessary, it could require any purchasing LSE that cures an RA deficiency after the current cure period to demonstrate a must offer obligation in its contract with the resource. Relying on contractual obligations is similar to the non-specified RA import obligation to bid no higher than \$0 in the CAISO market which can only be effectuated by contract.

**D. The Commission Should Adopt CalCCA's Temporary System and Flexible RA Waiver Proposal with the Following Clarifications**

CalCCA proposed a temporary system and flexible RA waiver process that would allow the Commission to grant partial or full waivers to LSEs that demonstrate efforts to procure consistent with a high standard. This proposal would provide relief to LSEs in recognition of current RA market supply constraints, as well as the regulatory uncertainty associated with transitioning to a

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<sup>14</sup> CESA Track 1 Revised Proposals at 6.

new RA framework. The sections that follow address comments and questions received in the February 28, 2024, workshop to enhance and clarify elements of CalCCA’s proposal.

**1. Community Choice Aggregator (CCA), Investor-Owned Utility (IOU), Ratepayer Advocates, and Generator Representatives Agree Current System Conditions Warrant a System and Flexible RA Waiver Process**

CalCCA has proposed on multiple occasions that the Commission should adopt a system and flexible RA waiver to address RA market tightness and high prices and has been met with Commission rejection on each occasion. Since then, RA market conditions have worsened, highlighting the continued need for an RA waiver. In fact, conditions have become so dire that CCA,<sup>15</sup> IOU,<sup>16</sup> customer advocates,<sup>17</sup> and generator representatives<sup>18</sup> have all recognized the need to revisit an RA waiver.

As SCE stated in its proposal, “circumstances have changed since 2019 and 2020 to such a degree that the penalty waiver issue warrants Commission reconsideration...Customers should not be subject to a comply at all cost framework, and LSEs should not be subject to penalties when compliance is impossible.”<sup>19</sup>

ACP-C concurs with the need for a waiver, stating:

“Strict enforcement of RA program rules without any consideration of mitigating factors risks unnecessarily increasing ratepayer costs. This is particularly true in instances where LSEs face shortfalls in capacity despite exercising best efforts to procure capacity or bring new capacity online. Penalizing LSEs in these instances does not further incentivize compliance and instead increases costs of

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<sup>15</sup> CalCCA Track 1 Proposals at 9-11.

<sup>16</sup> *Track 1 Proposals of Southern California Edison Company (U 338-E)*, R.23-10-011 (Jan. 19, 2024) (SCE Track 1 Proposals) at 2-5: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M524/K484/524484642.PDF>.

<sup>17</sup> *Residual Capacity Auction Proposal of the Public Advocates Office (Public Version)*, R.23-10-011 (Jan.19, 2024) (Cal Advocates Track 1 Proposal): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M525/K128/525128819.PDF>.

<sup>18</sup> *American Clean Power – California Track 1 Proposals*, R.23-10-011 (Jan 19, 2024) at 9-12: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M524/K571/524571042.PDF>.

<sup>19</sup> SCE Track 1 Proposals at 4.

capacity procurement and creates risk for new project development at a time when the State is not on track to meet longer term capacity goals.”<sup>20</sup>

A waiver is also a “key element” of Cal Advocates’ residual capacity auction proposal, “because it will enable LSEs to decline RA bids at elevated prices that have no connection to real costs.”<sup>21</sup>

The broad range of entities supporting a waiver point to the need for the Commission to reassess its merits. While the Commission’s RA penalty and compliance program plays a key role in ensuring LSEs bring enough RA capacity to support system reliability, it does nothing to strengthen compliance when there is market scarcity. Instead, it increases costs of procurement by putting upward pressure on capacity prices and by adding costs to LSEs who cannot comply despite their best efforts.

## **2. CalCCA’s Proposed Waiver Mechanism Prevents Leaning to the Greatest Possible Extent Under Current Compliance Framework**

During the February 28, 2024, workshop, Energy Division expressed concerns that LSEs who receive a waiver would effectively avoid paying for RA and therefore avoid providing reliability, while LSEs that did procure enough RA to meet their obligations would have done so at high market prices. CalCCA understands this concern, and intentionally structured its proposal in a way that would prevent such leaning concerns to the greatest extent possible under the existing RA compliance framework. That is, to obtain a waiver, LSEs would have to meet procurement efforts consistent with high standards or demonstrate contributing factors outside of their control, such as Power Purchase Agreement (PPA) delays or SOD implementation issues. After demonstrating such efforts and contributing factors, Energy Division would need to

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<sup>20</sup> *American Clean Power – California Track 1 Revised Proposals*, R.23-10-011 (Feb. 23, 2024) at 9: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M526/K148/526148079.PDF>.

<sup>21</sup> Cal Advocates Track 1 Proposal at 13.

evaluate the LSE's waiver request, with some discretion left to Energy Division as to whether they would approve the request. This leaves LSEs unable to know for certain whether they would receive a waiver in advance of Energy Division's assessment. This uncertainty maintains the incentive for LSEs to do their best to comply and only apply for a waiver when it is not possible for them to meet their requirements after exhausting all reasonable procurement efforts.

In addition, LSEs that receive a waiver would still be subject to payments for actions taken to resolve their deficiencies. First, should the CAISO engage in backstop procurement, backstop costs would be allocated to LSEs that were deficient in their RA showings even if those LSEs received waivers. Second, LSEs that receive waivers would also be subject to capacity payments associated with the Electric Supply Strategic Reliability Reserve procurement as adopted in Assembly Bill 1373 (Stats. 2023, ch. 367).<sup>22</sup> Both of these mechanisms will ensure that if RA deficiencies trigger additional procurement to meet reliability needs, those LSEs that are deficient receive allocation of the costs of that procurement regardless of whether or not they receive a waiver.

### **3. The Commission Should Have Discretion to Grant or Deny Waivers Based Upon Each LSE's Unique Circumstances**

At the February 28, 2024, workshop, Energy Division expressed concern with the amount of discretion left to Energy Division under CalCCA's waiver proposal. Under the proposal, Energy Division would have discretion to grant waivers based on a number of factors, including the LSE's participation in the RA market, price, PPA delays, and SOD implementation issues. These factors would not have strict standards (e.g., an LSE must participate in X number of requests for offer (RFO) Energy Division would use to determine whether it would grant a waiver.

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<sup>22</sup> Assembly Bill 1373, Stats. 2023, Ch. 367 (Oct. 7, 2023):  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB1373](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1373).



Allowing Energy Division some discretion over when to grant waivers is preferred to a “check-the-box” type of exercise where Energy Division must grant a waiver if an LSE meets certain defined standards. First, uncertainty around whether a waiver will be granted creates an incentive for LSEs to do all they can to procure to meet their obligations because Energy Division granting a waiver is not guaranteed. Strictly defined standards could result in LSEs stopping their procurement efforts once they meet the defined standards because they would know that they would receive a waiver. The uncertainty also incents generators to negotiate on price because they also do not know whether an LSE will receive a waiver. Second, it would be difficult for the Commission and parties to define and agree upon strict standards for this purpose. Such standards would need to include number of RFOs held and participated in, number and timing of bi-lateral outreach, offer prices accepted and declined, diligent practices in broker markets including the timing of reviewing and accepting prices offered, acceptability of other terms and conditions including credit terms, duration of contract, outage substitution provisions, etc., reasonableness of identifying short positions in a timely manner given resource uncertainty (e.g. hydro output), among potentially numerous other conditions that could rise unexpectedly. There are likely too many variables involved to practically develop strict criteria. For these reasons, the Commission should adopt a temporary RA waiver process that provides a minimal amount of discretion to Energy Division as provided in CalCCA’s proposal.

#### **4. The Commission Should Consider Offers Above \$40 Per Kw-Month as One Justification for Granting Waivers**

CalCCA’s January 19, 2024, proposal indicates that LSEs who take all commercially reasonable efforts to procure but were unable to meet their obligations would be eligible to request a waiver if they:

- Received no bids aligned with reasonable prices, or

- Received bids that included unreasonable terms and/or conditions.

At the February 28, 2024, workshop, CalCCA defined reasonable prices as the CPM soft offer cap plus the 3<sup>rd</sup> tier penalty price rounded up to the nearest ten, resulting in a price of \$40 per kilowatt (kW) -month. CalCCA proposed this number less because of how it was calculated and more because of just how high RA prices have gotten in recent years.

The price at which an LSE can use price to justify its requests for a waiver should be one factor the Commission uses to assess whether granting a waiver is warranted. This price should not set precedent as to reasonable capacity prices. Instead, it should only be used for the temporary waiver to ensure prices do not rise any higher than they already have in recent years.

Economic theory would suggest a reasonable capacity price is something more like the net cost of new entry (CONE), which CalCCA has calculated as roughly \$15 per kW-month. Given how far prices have gotten away from net CONE, it is prudent for the Commission to adopt a price at which LSEs can request a waiver. This would enable LSEs to only use price to justify their requested waivers when they cannot find capacity at prices aligned with current market levels which are already exceedingly high.

The Commission should ensure that any price criteria it adopts is coupled with an unreasonable term and condition criterion so that the price criteria is not used by generators to charge an unreasonable amount. To accomplish this, the Commission should clarify that an unreasonable term and condition would include offers at high prices for an unacceptable amount of time. For example, under CalCCA's proposal, offers at the \$40 per kW-month price that exceed at term of a quarter strip (e.g., \$40 per kW-month for a year-long RA strip) should be eligible justification an LSE could provide as justification for a waiver.

## **5. The Commission Should Implement a System and Flexible RA Waiver as Soon as Possible**

CalCCA's January 19, 2024, proposal included a temporary system and flexible RA waiver to be in place from 2025 through 2027. This timeframe was intended to cover both the immediate periods of RA market scarcity and the first three SOD compliance years. SCE also proposed a temporary waiver process. Its proposal would have waivers in place beginning in summer 2024 through summer 2025 with the option to revisit its extension for 2026.<sup>23</sup> CalCCA supports the Commission adopting a system and flexible RA waiver for summer 2024.

CalCCA's analysis of the RA supply and demand balance shows that RA market scarcity concerns are immediate and present under the existing framework and under a SOD framework.<sup>24</sup> Adopting a system and flexible RA waiver as soon as possible is in the best interest of customers who are faced with significant RA cost increases and, without a waiver, "an automatic penalty structure that may be impossible for an LSE to comply with."<sup>25</sup> For these reasons, the Commission should adopt a temporary waiver in place from summer 2024 through 2027.

## **6. The Number of Buyers in the RA Market is not a Reason to Intervene in the Market**

Twice during the workshops, parties raised questions regarding the buying side of the RA market. The first instance was in the presentation from Cal Advocates where Cal Advocates suggested that the increase in the number of buyers has increased competition on the buyer side and has played a role in RA price increases. This statement was made as an introduction to a single purchaser backstop role for system RA. The second instance was a statement by an Energy Division representative that some sellers may not want to sell to some LSEs, noting instances of

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<sup>23</sup> SCE Track 1 Proposals at 3.

<sup>24</sup> CalCCA Track 1 Proposals at 3-6.

<sup>25</sup> SCE Track 1 Proposals at 3.

bankruptcy as a cause for sellers not offering supply. The Energy Division representative made this statement in response to CalCCA's presentation on its system and flexible RA waiver proposal in which a part of the justification for the waiver would be a lack of supply offers to meet the LSE's obligation. These statements incorrectly imply an issue with the demand side of the RA market (i.e., number of buyers) when it is really an issue with the supply side (i.e., not enough supply) that is creating RA price increases and lack of supply offers.

Despite high loads, high energy prices, and capacity prices at their highest historical levels, not a single CCA or electric service provider has declared bankruptcy since Western Community Energy (WCE), which occurred in 2021. In 2021, the Commission's RA report showed the weighted average price of RA at \$6.50.<sup>26</sup> The current Commission market price benchmark is 134 percent higher than that level at \$15.23.<sup>27</sup> Even under these challenging circumstances in February 2023, an eighth CCA announced it had received an investment grade credit rating of A- by S&P Global.

At the same time that concern is being expressed that decentralization of load service is causing high RA prices or concerns that sellers will not sell to non-IOU LSEs, the Commission published information regarding progress on meeting Mid-Term Reliability (MTR) procurement mandates. A February 2023 progress report from the Commission shows that CCA procurement does not appear to be lagging that of the IOUs and in some cases is superior to the IOUs. Take

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<sup>26</sup> [https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/2021\\_ra\\_report.pdf](https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/2021_ra_report.pdf) at Table 6.

<sup>27</sup> <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/community-choice-aggregation-and-direct-access/calculation-of-mpb-2023-2024-final.pdf> at Table 2.

aways in the report include noting that CCAs are collectively over-procured by 220 MW for MTR while the IOUs are under-procured by 2,600 MW.<sup>28</sup>

Given that the same CCAs have been successful in obtaining investment grade credit ratings and that they have been successful at procuring new generation, the real question is not the number of buyers. CalCCA has demonstrated that tight capacity conditions will make it difficult for all LSEs to meet compliance obligations. It seems logical then that it is not the growth in the number of LSEs but rather a lack of capacity that is the cause of high prices.

The Commission should consider the mechanisms it puts in place that may exacerbate the imbalance in the market. For example, an excess PRM target by the IOUs procuring at the same time as all other LSEs places increased competition in the market due to the volume of capacity needed and not the number of buyers. At the same time, *if* sellers prefer IOUs as counterparties, this action by the Commission will play into that bias. Acting on these issues now will enable a competitive market to occur regardless of the number of buyers and allow reliability needs to be met cost-effectively.

**E. The Commission Should Adopt CalCCA’s Proposal on Maximum Energy Bid Prices for Unspecified Import RA Resources with the Following Additional Details**

In CalCCA’s January 19, 2024, proposal to establish a maximum energy bid price for non-specified import RA resources,<sup>29</sup> the description of how the Commission should calculate a maximum bid price provided specificity of how to value green-house gas (GHG) and Variable Operation and Maintenance (O&M) in the calculation. While CalCCA provided general information about what resources the Commission could use to calculate the cost of natural gas,

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<sup>28</sup> <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltpp/public-report-d19mtr-compliance-summaries-feb-2023-vintage1.pdf> at 46.

<sup>29</sup> CalCCA Track 1 Proposals at 17-20.

it did not provide a specific methodology. To provide more specificity of the natural gas price component of the calculation, CalCCA recommends that the Commission calculate an average monthly gas index as follows:

- 15 days prior to the operating month, the Commission should use the average of the prior 30 days' gas prices;
- Values for natural gas prices should include:
  - Inter-Continental Exchange (ICE) Physical Fixed Price Monthly values for Cheyenne, Malin, Waha, and Opal (contract symbol on ICE are XNT, XGT, XT7, and XXQ respectively);
  - Natural Gas Intelligence Daily Natural Gas Price for Sumas (Pointcode RMTSUMAS); and
  - ICE Fixed Price Future for El Paso Permian (contract symbol FQP).

The average of the 30 days for all six points would establish the gas price used to calculate the maximum non-resource specific RA import energy bid as Average Gas Price \* 12 Heat Rate to arrive at the cost of energy due to gas cost in dollars per megawatt-hour (MWh). This would then be added to the GHG costs and Variable O&M cost per MWh as described in CalCCA's January 19, 2024, proposal to arrive at the maximum energy bid from a non-specified RA import resource.

### **III. COMMENTS ON OTHER PARTIES' PROPOSALS**

#### **A. The Commission Should Fully Delay SOD Until 2026, Forego AReM's Other Options for SOD Delay, and Refrain from Making Changes to the Framework Too Close to the First Binding Compliance Showing**

Several parties put forth revised SOD proposals submitted on February 23, 2024, addressing paths forward for implementing SOD. AReM put forth three options: (1) delay SOD until 2026, (2) delay SOD until some point in 2025, or (3) allow LSEs to choose which RA

framework they would be compliant with in 2025.<sup>30</sup> The Commission should adopt AReM's first option, to delay SOD implementation until 2026, consistent with CalCCA's revised SOD proposal that includes exit criteria that should be used to determine if the SOD framework is ready to transition to its first binding compliance year.<sup>31</sup>

AReM's second option risks LSEs having to comply with two different sets of requirements, one for year-ahead and a different one for month-ahead, using resources with two different sets of counting rules. This puts uncertainty and potential excess costs on LSEs who would be required to comply with two different sets of RA programs. Its third option would place different standards on LSEs, complicating compliance and raising concerns around how to equitably allocate costs of backstop procurement, should backstop procurement be required. For these reasons, the Commission should delay SOD until 2026. This will ensure the 2025 RA program is consistent between the year-ahead and month-ahead and consistent across LSEs, while providing additional time for the Commission and stakeholders to continue their hard work on getting SOD implementation right.

The Commission should ensure that, regardless of the ultimate implementation date of SOD, it resolves all outstanding SOD issues as early as possible prior to the first binding SOD showing. It is important to provide enough time for LSEs to conduct procurement and make showings through the templates without experiencing errors. If the Commission adopts Middle River Power LLC's (MRP) proposal, for example, the Commission would need to accompany the proposal with a delay in SOD implementation. MRP proposes that the Commission (1) conduct analysis referred to in the SOD Report by August 1, 2024, and (2) hold a public workshop for

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<sup>30</sup> *Revised Slice-Of-Day Track 1 Proposals of the Alliance for Retail Energy Markets*, R.23-10-011 (Feb. 23, 2024): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M526/K147/526147303.PDF>.

<sup>31</sup> CalCCA Track 1 Revised SOD Proposals.

parties to consider and address necessary implementation changes to improve LSE compliance by October 1, 2024.<sup>32</sup> October 1, 2024, is far too late for any SOD changes to be finalized if the Commission were to maintain a 2025 SOD implementation date considering year-ahead showings would need to be submitted by the end of October. The Commission should ensure it makes any changes to the SOD framework with enough time for Energy Division and LSEs to adjust and follow the exit criteria outlined in CalCCA's February 23, 2024, revised SOD proposals.<sup>33</sup>

**B. The Commission Should Retain the 17 Percent PRM for 2025, Calibrated to 15.43 percent if the Commission Implements SOD in 2025**

During the February 14, 2024, and February 28, 2024, workshops, parties discussed various potential paths the Commission could take for updating the PRM for 2025. These included retaining the 17 percent PRM adopted in Decision (D.) 23-06-029,<sup>34</sup> adopting a 15.43 percent PRM, or performing an additional loss-of-load expectation study to inform the 2025 PRM. The Commission should make it a standard practice to base its PRM on loss of load expectation (LOLE) analysis. A PRM based on an LOLE study will ensure a reliable RA portfolio consistent with a 1-in-10 planning standard. The Commission should not, however, conduct another LOLE study for the 2025 PRM due to the timing constraints expressed by Energy Division in the February 28, 2024, workshop.

It is too late for the Commission to run a new LOLE study for the 2025 PRM. The Commission must make a decision on the PRM in June to allow LSEs enough time to conduct procurement prior to their year-ahead showings submitted at the end of October. LSEs need

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<sup>32</sup> *Middle River Power LLC Track 1 Slice-Of-Day Proposal*, R.23-10-001 (Feb. 23, 2024): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M526/K147/526147950.PDF>.

<sup>33</sup> CalCCA Track 1 Revised SOD Proposals at 6.

<sup>34</sup> D.23-06-029, *Decision Adopting Local Capacity Obligations For 2024 - 2026, Flexible Capacity Obligations for 2024, and Program Refinements*, R.21-10-002 (July 5, 2023): <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M513/K132/513132432.PDF>.



certainty as soon as possible about their requirements, and the existing timeline LSEs are under is already extremely tight. Pushing a Commission decision on the PRM any further than June would be untenable.

The Commission has provided enough direction in D.23-06-029 to adopt a PRM without performing a new LOLE study at such late stage.<sup>35</sup> Given this direction, the Commission should adopt a 17 percent PRM for 2025. This PRM should be calibrated to the SOD framework (i.e., the Commission should adopt a 15.43 percent PRM per Energy Division's SOD calibration) if SOD is implemented in 2025. The Commission should focus on conducting a LOLE study to set the PRM for 2026 and establish a cadence that allows for the adoption of PRMs in future years that are based on LOLE studies.

**C. The Commission Should Coordinate with the CAISO to Adopt a Resource-Specific UCAP Methodology Consistent with Many of the Principles Outlined in PG&E and SCE's Proposals**

In its January 19, 2024, proposals, Energy Division puts forth a proposal for incorporating class-average forced outage rates into resources' monthly SOD counting values. CalCCA has long supported the Commission and the CAISO transitioning to a UCAP counting methodology. However, Energy Division's proposal should be modified to produce unit-specific UCAP values. Unit-specific UCAP values are necessary because they provide incentives for units to be available to the CAISO market and take actions to minimize forced outages. Technology-specific values diminish these incentives by not directly rewarding resources that are reliable with higher UCAP values and failing to directly penalize resources that are not reliable with lower UCAP values.

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<sup>35</sup> D.23-06-029 at Ordering Paragraph 7.

To produce unit-specific UCAP values, the CAISO and the Commission should leverage Outage Management System (OMS) to develop publicly available UCAP values and give generators an opportunity to validate the values, as they do with net qualifying capacity today. OMS appears to be a superior data source given it tracks outages for all CAISO resources, while Generating Availability Data System (GADS) only tracks outages for a subset of resources.

In addition, the Commission's proposed methodology and the CAISO's previous UCAP proposal differ in a number of ways (technology-specific versus unit-specific UCAP values, monthly versus seasonal UCAP values, Effective Forced Outage Rate of Demand (EFORD) versus tightest supply cushion, etc.). As part of the CAISO's RA Modeling and Program Design stakeholder initiative and this RA proceeding, the CAISO and the Commission should seek to urgently resolve these differences and adopt a uniform UCAP counting framework.

A UCAP counting framework adopted by the Commission and CAISO should follow the following principles, many of which are consistent with the principles put forth in the proposals submitted by PG&E<sup>36</sup> and SCE<sup>37</sup>:

- Calculate resource specific UCAP values that incorporate existing resources' historical forced outage performance to maintain incentives for resources to be available and minimize forced outages;
- Calculate class average UCAP values for new resources only and blend with resource specific performance as data becomes available;
- Adopt and implement simultaneously and in conjunction with changes to the CAISO program necessary to support UCAP (e.g., modifications to must-offer obligations, substitution rules, Resource Adequacy Availability Incentive Mechanism, etc.);

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<sup>36</sup> *Pacific Gas and Electric Company (U 39 E) Track 1 Proposals to the Resource Adequacy Program*, R.23-10-011 (Jan. 19, 2024) at 5:  
<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M524/K511/524511423.PDF>.

<sup>37</sup> SCE Track 1 Proposals at 6.

- Adopt in tandem with an adjustment to the PRM to reflect the shift of forced outage impacts from the PRM to the qualifying capacity (QC) value while maintaining a 1-in-10 LOLE;
- Use public data so that resource owners can reasonably calculate their own QC values and so that LSEs can assess the reliability of resources when making contracting decisions;
- Differentiate UCAP values by season to capture any potential patterns in forced outages due to temperature or other seasonal factors;
- Assess forced outages during the tightest supply cushion hours or when generation is in demand; and
- Apply counting rules in a manner that puts all technology types on a level playing field and accurately reflects their capabilities in both the year-ahead and month-ahead timeframe – this should include a review of the counting methodologies for all resources (including those that would use UCAP, like thermal and storage, and those that would not, like hydro).

**D. The Commission Should Adopt AReM’s Proposal to Allow Effective PRM Resources to Count on LSEs’ Plans to Prevent Backstop Cost Exposure Resulting from Accrediting Discrepancies Between the CAISO and the Commission**

In its January 19, 2024 proposals, AReM describes an impact of the CAISO’s August 2023 CPM in which LSEs that were compliant with the Commission’s RA program were allocated backstop costs due to inconsistent resource accreditation for RA credits between the Commission and CAISO.<sup>38</sup> As AReM points out, the IOUs procure effective PRM capacity that they include on their RA plans that LSEs do not. The effective PRM can mitigate the risk of CPM cost responsibility associated with the RA credit accrediting inconsistency between the Commission and the CAISO. Because the IOUs are the only ones that put effective procurement resources on their RA plans, only the IOUs receive the benefit of protection against CPM cost allocation, even though all LSEs pay for effective PRM procurement.

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<sup>38</sup> *Track 1 Proposals of The Alliance For Retail Energy Markets*, R.23-10-011 (Jan. 19, 2024) at 3-4: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M524/K038/524038601.PDF>.

AReM proposes to resolve this inconsistency by allowing LSEs to report effective PRM supply in their CAISO RA showings consistent with the existing Cost Allocation Mechanism (CAM) in place today until the inconsistency is fully addressed within the CAISO's RA Modeling and Program Design Working Group.<sup>39</sup> The Commission should adopt AReM's proposal. Allowing only the IOUs to mitigate the risk of CPM costs associated with accrediting inconsistencies even though all LSEs pay for effective PRM resources results in a cost shift to unbundled customers. The Commission should remedy this cost shift should by allowing all LSEs to report effective PRM procurement to the CAISO.

**E. Cal Advocates Should Clarify Several Elements of Its Residual Capacity Auction Proposal to Allow Parties to Better Explore its Merits**

During the February 28, 2024, workshop, Cal Advocates presented its proposal that would couple a residual capacity auction with an RA waiver to promote RA program affordability. At many points in the presentation, Cal Advocates referenced workshops that would need to take place in order to resolve key open issues related to its proposal. In order for parties to take a position on the proposal, more information is needed on important questions, including but not limited to:

- Would the Residual Capacity Auction (RCA) be a temporary mechanism, and under what conditions would the RCA be deployed?
- How are good faith efforts defined? For example, how would the proposal treat circumstances outside the LSEs' control, like PPA delays?
- How would the proposal ensure the Operator of the Residual Capacity Auction (ORCA) does not have information about competitors that gives them an advantage over other LSEs?
- Is a debt equivalence adder necessary? Cal Advocates' January 19, 2024, proposal suggests yes, but debt equivalence adders address long-term debt on the IOU's

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<sup>39</sup> As AReM notes in its proposal, this would only impact the reporting of the supply to the CAISO. This would not result in an allocation of CAM credits for use in Commission RA compliance under this proposal.

balance sheet, and the ORCA's contracts for four months or less would not rise to this level of obligation.

- What is the process for determining if the ORCA needs to continue? Should ORCA be retired once tight market conditions are resolved?
- Could the RCA be used to limit interference by the IOUs' excess PRM procurement with other LSEs' efforts to meet compliance obligations?
- Would costs be allocated through a modified CAM, or would the LSE be billed directly?
- What administrative costs would arise, and how could these costs be controlled?

Cal Advocates should provide a workshop schedule that enables parties to develop answers

to these questions before the Commission and parties formulate their positions on the proposal.

#### **IV. CONCLUSION**

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

Respectfully submitted,



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March 8, 2024