

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



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

Rulemaking 17-09-020
(Filed September 28, 2017)

**OPENING COMMENTS OF MARIN CLEAN ENERGY
AND SONOMA CLEAN POWER AUTHORITY
ON THE TRACK 3 PROPOSED DECISION**

C.C. Song
Policy Manager
MARIN CLEAN ENERGY
1125 Tamalpais Avenue
San Rafael, CA 94901
Telephone: (415) 464-6018
csong@mcecleanenergy.org

Deb Emerson
Director of Power Services
SONOMA CLEAN POWER AUTHORITY
50 Santa Rosa Avenue, Fifth Floor
Santa Rose, CA 95404
Telephone: (707) 978-3469
demerson@sonomacleanpower.org

June 13, 2019

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In accordance with Rule 14.6(c)(2) of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California (“Commission”) and the cover letter from Chief Administrative Law Judge Anne E. Simon, dated May 24, 2019, Marin Clean Energy (“MCE”) and Sonoma Clean Power Authority (“SCP”) (collectively, the “Joint CCAs”) submit the following opening comments on the *Proposed Decision of Administrative Law Judge Chiv* (“Track 3 PD”).¹

I. INTRODUCTION

MCE is California’s first operational Community Choice Aggregation (“CCA”) program that began providing retail electricity service to customers in 2010. Since that time, MCE has expanded its CCA program to provide electricity generation services to over 470,000 customer accounts within Pacific Gas and Electric Company’s (“PG&E”) service territory. These communities include the counties of Marin, Napa, Contra Costa, and Solano, including the cities of Richmond, San Pablo, El Cerrito, Benicia, Walnut Creek, Lafayette, Concord, Martinez, Oakley, Pinole, Pittsburg, and San Ramon, and the towns of Danville and Moraga. Recently, MCE filed an Implementation Plan with the Commission to certify expansion into

¹ Pursuant to Rule 1.8(d), MCE has given SCP permission to sign this document on its behalf.

unincorporated Solano County. SCP began providing retail electricity service in 2014. SCP operates a CCA program known as Sonoma Clean Power in Sonoma and Mendocino Counties. Of relevance to these comments, MCE's and SCP's relative longevity as operational Community Choice Aggregators and their experience with challenges associated with certain load forecasting conditions (particularly conditions associated with wildfires and other events that cannot reasonably be predicted), give MCE and SCP a unique vantage point from which to offer comments on the Track 3 PD.

The Joint CCAs are members of the California Community Choice Association ("CalCCA"). The Joint CCAs understand that CalCCA will be filing opening comments on the Track 3 PD. The Joint CCAs fully support CalCCA's comments on the Track 3 PD, and incorporate by reference the comments made by CalCCA. The Joint CCAs are submitting opening comments in addition to CalCCA due to the Joint CCAs' extensive experience with load migration issues, including fluctuations in load caused by weather, successful energy reduction policies, load migration, and significant load impacts from wildfires.

II. COMMENTS

A. The Proposed Definition of Load Migration Must Be Harmonized and Clarified.

The Track 3 PD defines the term "load migration" to address differences in load-serving entity's ("LSE") assumptions and definitions that may affect load forecasts.² While developing common definitions is laudable and may provide more certainty regarding load forecasts, this should not be done at the expense of the accuracy of evolving forecasts addressing previously unpredictable conditions.

² See Track 3 PD at 27.

The Track 3 PD indicates that “‘load migration’ should be the only allowable reason for differences between initial and final year ahead load forecasts.”³ For purposes of the resource adequacy program, the definition of load migration would mean both:

“(1) Load effects resulting from one or more customers’ retail electric service transferring directly from one LSE to another LSE in the same Transmission Access Charge (TAC) area, and

(2) Load effects that an LSE cannot reasonably predict and include in an implementation plan or in an initial year ahead load forecast.”⁴

The definition, however, specifically excludes (but exclusions are not necessarily limited to) the following:

- changes to approved implementation plans,
- changes to customer class load profiles,
- changes to weather assumptions,
- changes resulting from the receipt of new or updated customer meter data,
- new service requests,
- losses due to disconnects or *force majeure* events,
- transfers of load out of the TAC area, or
- forecasting errors.⁵

Again, while the effort to clarify and define may be helpful in some circumstances, oversimplification of definitions, and resulting ambiguity, can also create additional and unappreciated problems. Most notably, the proposed definition will create confusion for LSEs when the definition and exclusions are in tension. This is the case with the proposed definition, particularly the tension that exists between “load effects that an LSE cannot reasonably predict,” which is included within the definition, and “*force majeure* events,” which are excluded from the definition. A prime example of a *force majeure* event are the recent wildfires. This example has

³ Track 3 PD at 26.

⁴ Track 3 PD at 27.

⁵ See Track 3 PD at 27.

unique applicability to the Joint CCAs given wildfires that have recently ravaged portions of their respective service areas. These events, as Californians know too well, can have devastating consequences and lasting impacts on communities. The Track 3 PD could be read as excluding catastrophic (*force majeure*) events from the definition of “load migration” and, thus, would implicitly require communities impacted by these disasters to overpay for resources that are unnecessary. Depending on the recovery timeline, a wildfire could have a significant effect on peak demand, and the community would be forced to pay to serve a need that no longer exists for a year or more. As noted in the Track 3 PD, the California Independent System Operator (“CAISO”) relies on year-ahead forecasts for backstop procurement.⁶ However, if new information becomes available that indicates that peak demand will be significantly reduced for the relevant year(s), especially due to a catastrophic event entirely outside of an LSE’s control, there should be greater certainty with respect to incorporating this information. To do otherwise is to put predictability above practicality and reality.

The Joint CCAs appreciate that the definition of load migration broadly includes “load effects that an LSE cannot reasonably predict.” However, by then expressly excluding from that definition events, such as a *force majeure* event, that cannot reasonably be predicted, a conflict exists. To resolve this conflict, the Joint CCAs request that the final decision be modified as described in CalCCA’s comments.

Other practical examples may further illustrate other possible conflict and tensions. In April 2021, MCE will file its 2022 year-ahead load forecast, which will include unincorporated Solano County. Since Solano County will begin receiving service in April 2021, MCE will only have historical data provided by Pacific Gas and Electric Company, which will make it

⁶ See Track 3 PD at 26.

extremely difficult to “reasonably predict” load effects in years 2022 and beyond. Thus, it is unclear from the proposed definition whether MCE could amend its initial and final forecasts to incorporate new information due to “load migration” or whether new information gleaned from other sources during the intervening period about Solano County customers would be considered “new or updated customer meter data,” specifically excluded from the definition of “load migration.” If this definition is implemented and rigidly applied, there will likely be other examples where an LSE’s realities do not fit neatly within the definitions of “load migration” or the enumerated exclusions, leading to more complicated and less accurate forecasting.

Another example gives additional color. If an LSE chooses to implement a new energy efficiency or time-of-use program, this may in fact lower the LSE’s peak demand, but may not have any effect under the proposed definition on their resource adequacy allocation. Regulatory staff from the Commission and CEC would not be able to consider this change between the initial and final forecasts, requiring customers to pay for more resource capacity than necessary.

The practical effect of an unduly restrictive or confusing definition is that it risks causing forced over-procurement compared to what is necessary and desirable for system reliability. Ultimately, load forecasting should not be narrowly limited to proving a shift from one LSE to another, but rather load forecasting should be given broader utility and meaning, particularly as it relates to material, unexpected decreases in an LSE’s peak demand, since the purpose of the resource adequacy programs is on covering these peak demand events.

The Joint CCAs understand the challenges of reconciling different data given the complexity of the market. However, given the recent occurrence of *force majeure* events in particular, such as wildfires (which cannot be reasonably predicted), it is crucial that load forecasting and resource adequacy procurement reflect actual demand as closely as possible. To do this, as discussed above, the Joint CCAs request that the final decision be modified to give

greater weight to the inclusion of “load effects that an LSE cannot reasonably predict” and avoid unnecessarily limiting this phrase by excluding force majeure and other events that cannot reasonably be predicted.

B. Joint CCAs Support the Elimination of the Path 26 Constraint and Development of the Meet and Confer Process.

The Joint CCAs support several positive changes effected by the Track 3 PD. First, the removal of the Path 26 constraint is appropriate and will allow for the availability of more resources to meet system, and potentially local, resource adequacy needs. Second, the Joint CCAs believe that the Energy Division’s meet and confer process, which requires meetings between specified LSEs and the CEC (and the Energy Division’s subsequent use of the meeting information), will aid in clarification and resolution of discrepancies in forecasting. However, in this regard, clarification is needed. While the Joint CCAs agree that an “unduly burdensome or prescriptive process” should be avoided,⁷ additional clarification is necessary to give the meet and confer process substance. Specifically, it is unclear from the Track 3 PD whether the CEC would be directly involved in and a participant to the meet and confer process. As noted in the Track 3 PD, information flowing from the meet and confer process is expected to “serve as useful context for the CEC....”⁸ Accordingly, the Joint CCAs request that the Track 3 PD be clarified to ensure that the CEC can be involved in the meet and confer process where requested in order to “identify discrepancies between forecasts”⁹ and to assist in resolving the discrepancies.

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⁷ Track 3 PD at 34.

⁸ Track 3 PD at 34.

⁹ Track 3 PD at 34.

III. PROPOSED CHANGES

In accordance with Rule 14.3(c) and in light of the discussion above, the Joint CCAs incorporate by reference the requested changes advanced by CalCCA in its opening comments.

IV. CONCLUSION

The Joint CCAs thank Commissioner Randolph and Administrative Law Judge Chiv for their consideration of these opening comments.

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Respectfully submitted,

/s/ Deb Emerson

Deb Emerson
Director of Power Services
SONOMA CLEAN POWER AUTHORITY
50 Santa Rosa Avenue, Fifth Floor
Santa Rose, CA 95404
Telephone: (707) 978-3469
demerson@sonomacleanpower.org

For the Joint CCAs