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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements.	Rulemaking 16-02-007

CALIFORNIA COMMUNITY CHOICE ASSOCIATION PETITION FOR MODIFICATION OF DECISION 19-11-016

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SUMMARY OF RECOMMENDATIONS

1. The Commission should clarify that, in assessing compliance with D.19-11-016, it will determine the qualifying capacity value of hybrid generation and storage resources using the counting methodology adopted in Track 2 of R.19-11-019.

2. The Commission should modify the cost recovery mechanism adopted in D.19-11-016 by requiring an investor-owned utility that provides system resource adequacy backstop procurement to a load-serving entity to bill that entity directly for all costs associated with the procurement. At a minimum, the Commission should modify the decision to *permit* adoption of such a mechanism, through the pending implementation process, by eliminating the language limiting the mechanism to a customer-billed nonbypassable charge.

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Pursuant to Rule 16.4 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the California Community Choice Association ("CalCCA")[1] hereby submits this Petition for Modification of Decision ("D.") 19-11-016. The Petition is timely filed under Rule 16.4(d).

I. SUMMARY OF RECOMMENDED CHANGES

CalCCA seeks two modifications of D.19-11-016 ("Decision") to ensure a more reasonable, effective implementation of D.19-11-016:

1. The Commission should clarify that, in assessing compliance with D.19-11-016, it will determine the qualifying capacity value of hybrid generation and storage resources using the counting methodology adopted in Track 2 of R.19-11-019.

2. The Commission should modify the cost recovery mechanism adopted in D.19-11-016 by requiring an investor-owned utility that provides system resource adequacy backstop procurement to a load-serving entity to bill that entity directly for all costs associated with the procurement. At a minimum, the Commission should modify the decision to *permit* adoption of such a mechanism, through the pending implementation process, by eliminating the language limiting the mechanism to a customer-billed nonbypassable charge.

[1] California Community Choice Association represents the interests of 20 community choice electricity providers in California: Apple Valley Choice Energy, CleanPowerSF, Clean Power Alliance, Desert Community Energy, East Bay Community Energy, Lancaster Choice Energy, Marin Clean Energy, Monterey Bay Community Power, Peninsula Clean Energy, Pioneer Community Energy, Pico Rivera Innovative Municipal Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Jacinto Power, San Jose Clean Energy, Silicon Valley Clean Energy, Solana Energy Alliance, Sonoma Clean Power, Valley Clean Energy and Western Community Energy.

Proposed Conclusions of Law and Ordering Paragraphs to effect these changes are provided in Appendix A.

II. INTRODUCTION

The Commission has asked load-serving entities ("LSEs") to procure incremental system resource adequacy ("RA") capacity[2] during a time of significant change in its RA program. Among other changes, the Commission intends to modify the qualifying capacity ("QC") counting methodology for hybrid generation and storage projects. Consequently, despite the Commission's urging that hybrid projects should be "strongly considered" in an LSE's compliance strategy,[3] their QC value remains in limbo.

Hybrid QC is determined today by the "interim" methodology adopted in D.20-01-004. It will be replaced with a more permanent methodology, however, in a Track 2 decision in R.19-11-019, which is scheduled for June 2020. Presumably, the permanent methodology will be used to measure compliance with annual RA requirements, including the compliance value of resources procured to meet the incremental system RA requirement. While this approach seems logical, the Energy Division Staff contemplate that the interim methodology, rather than the more permanent methodology, will determine compliance with D.19-11-016. These circumstances not only create confusion for LSEs and project developers but could result in unnecessary overprocurement and unnecessary costs to energy consumers.

CalCCA requests in this Petition that the Commission clarify that the QC value of an LSE's incremental procurement of hybrid resources will be determined using the most accurate and current methodology available. Specifically, hybrid resource QC should be determined using the more permanent calculation methodology that will be adopted in R.19-11-009.

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2 *See generally* D.19-11-016.

3 *Id.* at 44.

In addition, CalCCA requests modification of D.19-11-016 to refine the cost recovery mechanism employed to compensate investor-owned utilities ("IOUs") for backstop system RA procurement on behalf of LSEs who choose *not* to self-procure their incremental requirements ("backstopped LSEs"). The Commission should require IOUs to bill the backstopped LSE directly – rather than the LSE's customers – for procurement caused by the LSE's default to IOU backstop service. In addition, the LSE should be subject to commercially reasonable credit and collateral requirements, and the costs billed to the backstopped LSE must include all related costs, including administrative and financing costs. This approach most closely follows cost causation principles, protects customers in their efforts to compare rates among LSEs, and prevents cost shifts from customers of backstopped LSEs to customers of LSEs who self-procure their requirements – in other words, this framework creates a level playing field among LSEs.

III. THE PERMANENT HYBRID QC COUNTING METHODOLOGY SHOULD REPLACE THE INTERIM METHODOLOGY IN DETERMINING COMPLIANCE WITH SYSTEM RA PROCUREMENT REQUIREMENTS

A. D.19-11-016 Strongly Suggests an Intent to Determine Compliance with the IRP Procurement Track Requirements Using the Methodology Adopted in R.19-11-019

In D.19-11-016, the Commission required 3,300 MW of incremental system resource adequacy ("RA") procurement by all LSEs in proportion to their load shares.[4] The requirement for on-line availability of the resources is phased: 50 percent by August 1, 2021, 75 percent by August 1, 2022, and 100 percent by August 1, 2023. A resource's MW will be counted using its September net qualifying capacity ("NQC") value.[5] While the NQC counting methodologies for most resources have been established in R.17-09-020, the Commission called out uniquely the counting methodology for hybrid resources in response to a joint motion filed in both the RA and

[4] D.19-11-016 at 3.

[5] *Id.* at 61.

integrated resource planning ("IRP") proceedings.[6] The Commission concluded that the hybrid counting methodology "should continue to be addressed in R.17-09-020."[7]

Energy Division Staff interprets this conclusion to mean "compliance for hybrid resources will be based on the QC methodology adopted in D.20-01-004."[8] While Staff's interpretation is plausible, D.19-11-016 read in its entirety suggests a more flexible view on which hybrid methodology would apply. In that decision, the Commission found that hybrid QC counting would be "taken up substantively in R.17-09-020."[9] It further concluded that "counting rules for hybrid resources [] should continue to be addressed in R.17-09-020."[10] Finally, it concluded that hybrid resources should be counted toward the procurement requirements "as determined by counting protocols to be considered in R.17-09-020." Concluding that the hybrid counting methodology would be "taken up", "addressed" or "considered" in R.17-09-020, the Commission did not necessarily conclude that the methodology had to be *adopted* in that rulemaking. Indeed, the only clear decision in R.17-09-020 regarding the hybrid methodology was to defer a permanent methodology to the new RA docket, R.19-11-009.[11]

Relying on the interim methodology, rather than the methodology to be adopted in R.19-11-019, would reduce the accuracy of QC counting for these valuable resources. In D.20-01-004, the Commission addressed hybrid resources on an interim basis, adopting a "conservative approach to determining the QF value."[12] Importantly, it noted that it did not "expect that

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6 *Joint Motion of Enel X North America, Inc., Tesla, Inc., Sunrun Inc., Center for Energy Efficiency and Renewable Technologies, California Energy Storage Alliance, and Vote Solar to Establish a Schedule and Process for Determining the Capacity Value of Hybrid Resources*, Sept. 27, 2019.

7 D.19-11-016, Conclusion of Law 2, at 72.

8 Energy Division, *IRP Procurement Track Frequently Asked Questions* at 1, Question 2.

9 D.19-11-016 at 45.

10 *Id.,* Conclusion of Law 2, at 72.

11 D.20-01-004 at 10. Note that the new rulemaking was issued on the same date as D.19-11-016, making coordination of the two virtually impossible.

12 D.20-01-004 at 8, 11, and Finding of Fact 4 at 14.

resources that provide system reliability benefits during the Availability Assessment Hours will be further 'derated' under a permanent methodology."[13] It further found that "the interim methodology adopted in this decision is sufficient at this time for procurement of hybrid resources to meet IRP requirements."[14] It did not, however, conclude that a methodology for guiding near-term solicitations must be the same as the settled methodology used to verify compliance. The Commission stated its intent to develop a more permanent methodology in R.19-11-009. Parties await a proposed decision adopting a more permanent hybrid QC counting methodology in R.19-11-019, which is scheduled to be issued in June.[15]

The Commission did not unambiguously conclude that the interim hybrid methodology adopted in R.17-09-020 should determine compliance in the IRP procurement track in perpetuity. It concluded only that the interim methodology would displace the then-existing methodology. In fact, reading the relevant decisions together suggests more strongly that the Commission anticipated simply that R.17-09-020 would address the *process* for developing the hybrid counting methodology, not necessarily that the methodology would be adopted in that proceeding.

B. The Commission Should Clarify that the Hybrid QC Methodology Adopted in R.19-11-009 Will Supersede the Interim Methodology

The methodology for counting the QC value of hybrid resources will influence LSEs' procurement in response to D.19-11-016. As the Commission concluded in that decision: "we anticipate that hybrid generation and storage projects will fare well in competitive solicitations for system reliability resources and should be strongly considered." Given the likely prominence

13 *Id.* at 10.
14 *Id.*; *see also id.* at 7.
15 R.19-11-009, *Assigned Commissioner's Scoping Memo and Ruling*, at 10.

of these resources in responding to the IRP procurement track directives, it is particularly important to accurately value their contribution to reliability.

Nearly all proposals offered in R.19-11-019 point to a hybrid QC counting methodology that will be less conservative and more accurate than the interim methodology, consistent with the Commission's observations in D.20-01-004.[16] Maintaining the interim methodology for IRP procurement track purposes despite the availability of a more reasonable approach would undervalue hybrid resources and could affect the procurement choices LSEs pursue. The Commission thus should clarify that the interim hybrid resource QC counting methodology will be replaced by the more permanent methodology adopted in Track 2 of R.19-11-016. A proposed ordering paragraph to clarify this point is provided in Appendix A.

IV. THE COMMISSION SHOULD PREVENT COST SHIFTS, ADVANCE CONSUMER PROTECTION, AND ENSURE A LEVEL PLAYING FIELD AMONG LSES BY REQUIRING IOUS TO DIRECTLY BILL LSES FOR ALL COSTS OF BACKSTOP PROCUREMENT ON THEIR BEHALF

The Commission preserved the right of all LSEs to self-procure their shares of the 3,300 MW system RA requirement[17] noting some stakeholders' dissatisfaction with the existing Cost Allocation Mechanism ("CAM"),[18] which does not differentiate among customers depending upon their LSEs. It also allowed an LSE to choose not to self-procure its share, requiring the IOU in whose service territory the LSE operates to provide backstop procurement.[19] While providing these elections is a reasonable approach, unnecessary constraints on the design of the cost recovery mechanism will produce unintended consequences. Billing a backstopped LSE's customers, instead of the LSE itself, departs from the principles adopted in D.19-11-016 and

16 *Id.* at 10.
17 D.19-11-0916, Ordering Paragraph 5 at 81-82.
18 *Id.* at 37.
19 *Id.* at 82.

shifts costs and risk to IOU bundled customers. In shifting costs, backstopped LSEs will also gain an advantage over LSEs that self-procure and wear their own costs and risks. The Commission thus should modify D.19-11-016 to require IOUs to recover all costs associated with system RA backstop procurement directly from the backstopped LSEs. At a minimum, it should clarify that such mechanisms are not precluded by D.19-11-016, leaving the opportunity to adopt direct LSE billing as the cost recovery mechanism is finalized in this proceeding.[20]

The Commission directed that the costs of IOU backstop procurement will be "allocated to the customers of the CCA or ESP on a non-bypassable basis based on the cost allocation mechanism…."[21] Allocating the costs directly to customers using a non-bypassable charge ("NBC") is not, however, consistent with the foundational principle guiding the backstop procurement. D.19-11-016 is crystal clear that each LSE should bear the responsibility for procurement for its customers:

> Our preference is that a cost allocation framework where IOUs procure on behalf of other LSEs in their territories be used as a backup plan, in the event that the LSEs with the primary responsibility fail to fulfill their obligations. We may need to utilize the CAM or a similar mechanism, as TURN and other parties suggest, but for the primary procurement responsibility, <u>we prefer to assign responsibility where we believe it should be, with the LSEs directly</u>.[22]

This principle, however, is not reflected in D.19-11-016's approach to cost recovery: backstop costs are recovered through a customer-billed nonbypassable charge.[23]

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[20] *Administrative Law Judge's Ruling Finalizing Load Forecasts and Greenhouse Gas Benchmarks for Individual 2020 Integrated Resource Plan Filings and Assigning Procurement Obligations Pursuant to Decision 19-11-016,* Apr. 15, 2020, at 9 ("The exact cost allocation provisions associated with payment for the associated procurement will be the subject of further deliberation in this or a successor proceeding.").

[21] *Id.,* Ordering Paragraph 5 at 82; *see also id*. at 37.

[22] *Id.* at 37 (emphasis supplied).

[23] D.19-11-016, Ordering Paragraph 5, at 62.

The Commission can align its clearly articulated principle of LSE responsibility with cost recovery through LSE billing. The IOU would bill the LSE to recover backstop costs, and the LSE would then recover the costs from its customers through its generation rate. This approach would mirror the current cost recovery mechanism for backstop procurement by the California Independent System Operator.[24]

Directly billing LSEs, rather than their customers, addresses two problems arising with a mechanism based on the CAM. First, the current CAM does not allocate costs based on the procurement caused by each LSE's load; instead, all customers within a class pay the same CAM charge regardless of which LSE who serves them. While D.19-11-016 appears to address this concern by recovering costs based on each LSE's election for procurement,[25] implementation may prove challenging a technical standpoint if the costs are recovered directly from customers. Instead of a single CAM charge, the IOU will be required to develop a CAM charge for each customer class particular to each LSE. This outcome will likely necessitate expensive changes to IOU billing software that are unnecessary if our alterative framework is chosen.

Second, directly billing LSEs eliminates the distortion CAM creates in bill presentation. Because of the CAM, not all "generation" charges today are reflected in the "generation charge" appearing on a customer's bill. CAM costs – which are also generation charges -- are detailed in the IOU's tariffs as a "New System Generation Charge,"[26] these generation costs are not separately identified on customer bills. As PG&E's tariff explains: "Distribution and New System Generation Charges are combined for presentation on customer bills."[27] Consequently,

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[24] *See* CAISO Tariff §43A.8.1.

[25] D.19-11-016 at 82 (The Commission will then require the relevant investor-owned utility to procure on behalf of the CCA or ESP and have the costs of any such procurement allocated to the customers *of the CCA or ESP*)(emphasis supplied).

[26] *See, e.g.,* PG&E Electric Schedule A-1, Sheet 5

[27] *Id.*, n.**.

when a customer looks at its bill, it will be unaware that embedded in its distribution charge is a generation rate component.

While this rate distortion remains a problem with the CAM today, inhibiting a reasonable understanding of customer bills, using a similar mechanism for the backstop costs would magnify the problem and create a competitive distortion. A self-procuring LSE will reflect its procurement of resources to meet D.19-11-016 requirements in its generation component, where the costs rightly belong. A backstopped LSE, however, can mask this generation cost by allowing the IOU to fold it into distribution charges for billing. Thus, if a customer were trying to compare generation costs, it could not. And LSEs choosing to self-procure will *appear* to have higher generation costs than backstopped LSEs, because the latter will mask their costs in distribution charges. Keeping backstopped costs as CAM charges thus both undermines consumer protection and tips the playing field in favor of backstopped LSEs, rather than the LSEs who shoulder their own procurement.

Billing customers through a CAM-like charge also shifts credit risk and other administrative costs from the backstopped LSE to IOU bundled customers. The costs of procurement go beyond the contract price for the resource, including, debt equivalence, credit risk and other administrative costs. If these costs are not fully internalized within the contract struck by the IOU or recovered through the backstop charge, then the IOU and its customers are subsidizing backstopped LSEs. In addition, because the costs are recovered from LSEs' customers, rather than the LSE itself, the LSE's exit from the market has no financial consequences. These benefits may be the reason backstop procurement has attracted interest from some of the largest non-IOUs in the market.[28]

[28] The April 15, 2020, ALJ Ruling in this proceeding shows that large market players, along with two very small CCAs, have opted out of conducting their own system RA requirements. ALJ Ruling at 8.

A partial solution to this issue is the posting of collateral sufficient enough to mitigate credit risk. An LSE's payment should be secured by an agreement between the LSE and IOU, based on creditworthiness and collateral protocols used by the IOU in its existing RA sales process. LSEs without sufficient creditworthiness could be required to post collateral to secure their procurement. If an LSE fails to pay, the obligation would first be satisfied by the LSE's collateral, and any remaining obligation would be recovered from the pool of LSEs participating in the backstop procurement. This approach is similar to the approach used by the CAISO for Scheduling Coordinators.

For all of these reasons, the Commission should modify D.19-11-016 to require IOUs to recover backstop procurement costs directly from the backstopped LSEs. Further, the Commission should clarify that the IOU must flow ***all*** costs through to the LSE - costs of employees, costs of contracting, financing and credit costs, and other implicit costs. Short of this approach, LSEs who default to the IOU for backstop procurement will be getting a free ride on the IOU's credit rating and administrative support and disadvantaging LSEs who step up to the plate for self-procurement relying on their own balance sheets.

If the Commission, despite these many concerns, elects not to direct an LSE-billing approach to backstop procurement, it should make certain that D.19-11-016 does not *preclude* this approach. Thus, at a minimum, the Commission should modify the Decision to remove the mandate for a non-bypassable charge[29] and permit further discussion of this issue in the context of the ongoing workshops on backstop procurement cost recovery.

[29] *See* D.19-11-016, Finding of Fact 21 at 71 and Ordering Paragraph 5 at 82.

V. CONCLUSION

For the foregoing reasons, CalCCA requests that the Commission modify D.19-11-016 (1) to specify that the hybrid QC counting methodology adopted in R.19-11-019 will govern the Commission's determination of an LSE's compliance with the system RA procurement requirements and (2) to direct implementation of a cost recovery mechanism for IOU backstop procurement of system RA resources that recovers *all* backstop procurement costs directly from the LSE, rather than its customers.

Respectfully submitted,

Evelyn Kahl
General Counsel to the
California Community Choice Association

May 14, 2020

APPENDIX A

Proposed Conclusions of Law and Ordering Paragraphs

Conclusions of Law

2. The issues of development of a central buyer mechanism for resource adequacy capacity and rules related to the counting of imported capacity for resource adequacy purposes, as well as resource adequacy counting rules for hybrid resources, should continue to be addressed in R.17-09-020 or its successor proceeding.

13. If an LSE notifies the Commission by May 1, 2020 that it will not procure the required incremental system resource adequacy and renewable integration capacity in this decision, the Commission should require the relevant IOU to conduct additional system resource adequacy procurement and allocate the all costs to ~~the customers of the~~ the LSE that has not procured on behalf of its customers. The associated benefits of this backstop procurement by the IOUs will be allocated to the LSEs of the customers paying the costs of the procurement. Commission staff should convene a workshop in January 2020 to work out the details of the cost allocation, which will be a modified version of the CAM and will not rely on the PCIA.

Ordering Paragraphs:

5. ….The Commission will then require the relevant investor-owned utility to procure on behalf of the CCA or ESP and have the costs of any such procurement allocated to and recovered from the ~~customers of the~~ CCA or ESP ~~on a non-bypassable basis based on the cost allocation mechanism and not the procurement charge indifference amount mechanism~~. These costs shall include both procurement costs and the administrative costs associated with procurement. Finally, LSEs defaulting to IOU backstop procurement shall be required to bear the full costs of financing projects and meet creditworthiness requirements or otherwise post collateral to support their commitment to cost responsibility. Commission staff shall convene a workshop or working group to discuss the particulars of the cost allocation mechanism in January 2020. The resulting cost allocation mechanism shall address both the instance where CCAs and ESPs elect not to self-provide the capacity at the front end, and the situation where CCAs and ESPs elect to self-provide capacity but fail to meet their obligations.

NEW. The permanent qualifying capacity counting methodology for hybrid resources adopted in R.19-11-009 shall be applied for purposes of determining an LSE's compliance with the procurement directives identified in this decision.