

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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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.

Rulemaking 20-11-003

**PUBLIC ADVOCATES OFFICE  
COMMENTS ON THE E-MAIL RULING  
REGARDING EMERGENCY CAPACITY PROCUREMENT  
BY THE SUMMER OF 2021**

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## I. INTRODUCTION

Pursuant to the *E-mail ALJ [Administrative Law Judge] Ruling Directing Parties to Serve and File Responses to Proposals and Questions Regarding Emergency Capacity Procurement by the Summer of 2021* (ALJ Ruling), issued by email on December 11, 2020, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits the following comments. The ALJ Ruling propounds four proposals and twelve questions for parties' consideration in the *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* (OIR), filed November 19, 2020.

The California Public Utilities Commission (Commission) issued the OIR "to identify and execute all actions within its statutory authority to ensure reliable electric service in the event that an extreme heat storm occurs in the summer of 2021."<sup>1</sup> The ALJ Ruling proposes consideration of four resource types for procurement:<sup>2</sup>

- Incremental efficiency upgrades to existing power plants;
- Re-contracting for generation that is at-risk of retirement;
- Incremental energy storage capacity; and
- Firm forward imported energy contracts.

## II. SUMMARY OF RECOMMENDATIONS

Cal Advocates offers the following recommendations in response to the questions posed in the ALJ Ruling. While Cal Advocates remains concerned that to date the record does not support the need for incremental procurement, Cal Advocates nonetheless offers these alternative recommendations for the Commission's consideration, should it proceed with an expedited procurement order.

- The Commission should focus on short-term contracting to meet tight conditions in September 2021;
- The Commission should use the California Independent System Operator's (CAISO) Capacity Procurement Mechanism (CPM) soft offer cap as a pricing benchmark;
- The Commission should limit the volume of any procurement order to the range of 0 to 550 megawatts (MW);

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<sup>1</sup> OIR, p. 2.

<sup>2</sup> ALJ Ruling (email of December 11, 2020).

- The Commission should utilize the Procurement Review Group (PRG) and independent evaluator (IE) reporting process;
- The Commission should require any investor-owned utility (IOU) procurement to include detailed valuation workpapers, including a net present value metric in dollars per kilowatt-month; and
- The Commission should adopt the Tier 3 advice letter review process for any contract approvals.

### III. DISCUSSION

Cal Advocates appreciates that the four resource types that the ALJ Ruling addresses represent a more limited approach than the original preliminary scope of supply-side procurement issues. Cal Advocates previously recommended that the Commission reconsider scoping supply-side procurement issues into this OIR.<sup>3</sup> Our concerns regarding incremental procurement remain, even if attenuated to some degree.

The record of this OIR remains unclear with respect to the need for even the narrower range of supply-side resources that are now under consideration for procurement. Parties' comments on the OIR included data suggesting there may be little or no procurement need. Southern California Edison Company's (SCE) reliability testing concluded that the summer 2021 resource mix would meet the longstanding Loss of Load Expectation (LOLE) standard of 0.1 if the procurement ordered in Decision (D.) 19-11-016 comes to fruition on schedule.<sup>4</sup> That is, SCE found that the LOLE standard would be met without additional procurement.

The CAISO provided a simplified stack analysis, which indicated that an effective Planning Reserve Margin (PRM) of 15% could be met with average import levels in all but a single hour in September 2021.<sup>5</sup> The CAISO's analysis indicates that the stack of available resources in September 2021 could reach the 15% PRM if RA imports were ultimately 1,100 MW higher than CAISO's assumed average. Recent experience suggests that the Commission should not discount LSEs' ability to achieve higher levels of imports. September 2020 RA imports were approximately 2,600 MW higher than CAISO's assumed average.<sup>6</sup> The CAISO's analysis does not logically support the contention that more supply-side resources are needed.

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<sup>3</sup> Cal Advocates Opening Comments, November 30, 2020, pp. 4-6.

<sup>4</sup> SCE Opening Comments, November 30, 2020, p. 2 and pp. 16-17.

<sup>5</sup> CAISO Opening Comments, Attachment B, Tab "Peak-Profile," November 30, 2020.

<sup>6</sup> See CAISO Reply Comments, December 10, 2020, p. 5, for a discussion of import levels.

Rather, the analysis suggests that LSEs are likely to finish their (month-ahead) RA procurement, and cure any year-ahead deficiencies, with additional import contracts – as was the case in September 2020.<sup>7</sup>

Overall, Cal Advocates remains concerned that the record does not support a need for additional supply-side procurement. Nevertheless, Cal Advocates offers these responses to the ALJ's questions, with alternative recommendations in the event the Commission proceeds with ordering additional supply-side procurement. If the Commission does so, at a minimum it should ensure new resources are cost-effective for ratepayers.

#### **IV. RESPONSES TO ALJ RULING QUESTIONS**

##### **A. Question 1: In considering incremental authorization for procurement, what parameters should the Commission place on contracts regarding pricing, contract term, and operational characteristics?**

Cal Advocates' response to this question focuses on imported resources and resources that are at risk of retirement. The continued development of resources under the D.19-11-016 procurement and other Commission procurement programs will increase the supply of RA resources and thereby loosen market conditions over the medium term. As a result, it may be more cost-effective for ratepayers if any incremental procurement resulting from this OIR is short-term, because the tightest market conditions are only expected for a limited duration in summer 2021. In fact, imports and resources at risk of retirement may be easier to contract on a short-term basis. In contrast, energy storage or efficiency upgrades may require the certainty of a longer contract term.

The Commission should include ratepayer protections to recognize that incremental capacity in excess of load-serving entities' (LSEs) RA showings is likely to be more expensive and/or less effective than resources that LSEs have already procured to meet their RA obligations. Because the total cost to which ratepayers may be exposed is a function of both price and contract term, the Commission should carefully balance these parameters. If the Commission orders procurement through a decision in this OIR, it should seek to minimize costs

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<sup>7</sup> Cal Advocates recognizes that other resources may remain uncontracted at this time. For purposes of this discussion, Cal Advocates focuses on the potential role of imports in order to align with the CAISO's analysis. That stack analysis is agnostic to contract status. CAISO aggregated its resource types based on the total net qualifying capacity (NQC), rather than the NQC covered by LSE contracts in their integrated resource plans or other data source.

incurred for months in which there is no indication of any resource shortage. The CAISO’s simplified stack analysis shows that for each representative hour ending 20 in June, July, August, and October 2021, the combination of CAISO resources and average import levels range from an effective PRM of 18% in July to 28% in October.<sup>8</sup> These data indicate no resource insufficiency in those months. Therefore, the Commission should prioritize contracts with a monthly delivery period for September, when tighter market conditions may arise.

With respect to pricing, the Commission should ensure that any contracts compare favorably against procurement under the CAISO’s Capacity Procurement Mechanism (CPM). The CPM is a reasonable counterfactual because the CAISO may use its CPM authority to address any capacity needs that could result from a heat storm in summer 2021.<sup>9</sup> The Commission can use the CPM soft offer cap of \$6.31 per kilowatt-month<sup>10</sup> as a benchmark. As actual contract pricing will vary by contract type,<sup>11</sup> Cal Advocates recommends this as a benchmark rather than a hard cap. Finally, should the Commission permit contract terms longer than the month of September, it should consider that a contract with a price below the CPM soft offer cap may nonetheless be less favorable for ratepayers than CPM procurement, depending on the length of the contract term.

**B. Question 2: Should the Commission limit the total volume of incremental procurement authorized?**

Yes. The record does not support a need for incremental procurement. Rather, as discussed above, the record includes an LOLE study from SCE showing that the currently expected 2021 resource mix meets the LOLE target of 0.1 for 2021, with no further procurement.<sup>12</sup> The record also includes CAISO’s analysis showing that even the tightest conditions – those in September 2021 – need not preclude achieving the 15% PRM if LSEs procure imports above

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<sup>8</sup> CAISO Opening Comments, Attachment B, Tab “Peak-Profile,” November 30, 2020.

<sup>9</sup> CAISO Reply Comments, December 10, 2020, p. 3.

<sup>10</sup> The CPM soft offer cap is calculated using the California Energy Commission (CEC)-determined going-forward fixed costs of a new 550 MW gas fired combined cycle resource plus 20%. See CAISO Tariff Section 43A.4.1.1, Section 43A.4.1.2, and Federal Energy Regulatory Commission (FERC) Order 153 FERC ¶ 61,001, p. 7.

<sup>11</sup> The ALJ Ruling contemplates “RA only contracts or contracts that include tolling agreements.” The CPM soft offer cap could benchmark the capacity component of a bid but would not capture the additional components of tolling agreements.

<sup>12</sup> SCE Opening Comments, November 30, 2020, p. 2 and pp. 16-17.

the historical average, as they did in September 2020.<sup>13</sup> CAISO's analysis shows that LSEs will need to make up a gap of approximately 1,100 MW between the 15% PRM and the combination of CAISO resources plus average import levels. For clarification, that 1,100 MW gap will only manifest if LSEs ultimately procure no more than the average level of imports. If LSEs procure higher-than-average imports to meet their month-ahead RA showings for September 2021, this gap will decrease proportionally.<sup>14</sup> The Commission should also consider if this gap may be more cost-effectively met through demand-side options, such as out-of-market programs and behind-the-meter program modifications.<sup>15</sup>

Cal Advocates recommends a procurement range of 0 to 550 MW. The larger the procurement, the more the Commission will risk undermining LSEs' remaining summer 2021 RA procurement activities by shuffling the more effective and/or lower-cost resources of the remaining pool into the new procurement program. As Cal Advocates has previously explained, this may trigger LSEs to scramble for the steepest portion of the supply curve, or face penalties for RA insufficiencies.<sup>16</sup> Given that LSEs met their September 2020 RA obligations with import levels that were 2,600 MW above average, the Commission should not presume that LSEs will be unable to procure the much smaller 1,100 MW of above-average imports through their remaining RA procurement. Thus, Cal Advocates recommends a procurement range of 0 to 550 MW.

**C. Question 3: Should procurement that cannot achieve a commercial operation date by June 1, 2021 also be considered in this procurement authorization?**

Yes. As discussed above, the CAISO's simplified stack analysis shows an effective PRM range of 18% to 28% for each representative hour ending 20 in June, July, August, and October 2021.<sup>17</sup> These effective PRM levels during net demand hours significantly exceed the actual

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<sup>13</sup> CAISO Opening Comments, Attachment B, Tab "Peak-Profile," November 30, 2020.

<sup>14</sup> The Commission should also consider if the CAISO's announced Reliability Must-Run (RMR) procurement of the Midway Sunset cogeneration facility should reduce any procurement level that this OIR may consider. That RMR designation, issued December 17, 2020, remains subject to Federal Energy Regulatory Commission approval. See <http://www.caiso.com/Documents/ISO-Board-Issues-RMR-Designation-Preserve-Grid-Reliability-2021.pdf>.

<sup>15</sup> OIR, November 19, 2020, pp. 12-15.

<sup>16</sup> Cal Advocates Opening Comments, November 30, 2020, pp. 7-8.

<sup>17</sup> CAISO Opening Comments, Attachment B, Tab "Peak-Profile," November 30, 2020.

15% PRM requirement that the Commission uses to plan for monthly peak resource needs. These effective PRM levels do not support any incremental procurement need for those months. Instead, the Commission should focus on the potential for tighter market conditions to occur in September 2021.

**D. Question 4: Are there any additional considerations regarding the procurement type that the Commission should consider in issuing a procurement authorization?**

Cal Advocates previously explained that procuring efficiency upgrades may pose risks to reliability.<sup>18</sup> If an existing resource must be shut down for the installation of upgrades, the Commission should only consider procuring such upgrades if the risk is minimal that the resource may fail to return to service when needed in summer 2021. The Commission should gather additional information to determine the feasibility and timeline of such upgrades before issuing a decision ordering such procurement.

**E. Question 5: Are there additional specific issues the Commission should consider in authorizing procurement to ensure that the procurement is cost-effective under the existing circumstances, would [address] system needs, and be in the public interest?**

Cal Advocates has no comment at this time.

**F. Question 6: Are there other expedited processes besides bilateral negotiations or revisiting offers from recent IRP RFO bid stacks that could be used to ensure cost-competitive resources are procured to be online for Summer 2021?**

The Commission and parties should not assume that “revisiting offers from recent IRP RFO bid stack” will “ensure cost-competitive resources.” With respect to the investor-owned utilities’ solicitation results, these bid stacks may have associated valuations that could be used to inform the OIR on this issue. Bids with the highest valuations are more likely to have been selected to meet LSEs’ original IRP procurement obligations. The remnant pool of unselected bids will have lower valuations, which may even be negative. If the remnant bids from the IRP bid stacks have negative valuations, the Commission should consider forgoing procurement of such resources due to the lack of net ratepayer benefit.

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<sup>18</sup> Cal Advocates Opening Comments, November 30, 2020, p. 5.

**G. Question 7: Can or should actions be taken to expedite the permitting and interconnection processes associated with this procurement?**

Cal Advocates has no comment at this time.

**H. Question 8: What existing investor-owned electric utility procurement processes (For example, Procurement Review Group consultation[,], independent evaluator oversight, etc.) should be utilized for this procurement?**

Cal Advocates recommends that both the Procurement Review Group (PRG) and independent evaluator (IE) reporting process be included in any procurement. Given the limited opportunity for stakeholder participation, the PRG and IE processes do not provide for adequate due process on their own (see Cal Advocates' response to Question 12, below). The PRG and IE processes are nonetheless constructive contributions to parties' expedited review of solicitation results.

**I. Question 9: What information must be included in any filings seeking final approval from the Commission, including in any potential advice letter filings that might be evaluated and resolved by the Commission's Energy Division?**

Any investor-owned utility (IOU) procurement should include detailed valuation workpapers that quantify all benefits and costs, including any energy, ancillary services, or other benefits and costs, in addition to the base capacity benefits and costs. The IOU should explain how it forecasts and discounts the future streams of such benefits. The Commission-defined quantification should include a net present value metric, in dollars per RA kilowatt-month, that can enable the Commission and parties to compare the quantitative cost-effectiveness of different contracts using a single metric.

With respect to any utility-owned generation (UOG) assets, the Commission should require the IOU to detail and justify all proposed depreciation parameters that will be used for the plant account(s) to which the asset will be booked. The IOU should also provide illustrative rate and bill impacts, broken down by customer class, over the lifespan of the asset.

Finally, the IE report should be filed in conjunction with the advice letter, or sooner if available.



**J. Question 10: Are there any additional considerations regarding the procurement process that the Commission should consider in issuing a procurement authorization?**

Cal Advocates has no comment at this time.

**K. Question 11: Are there any additional considerations regarding cost recovery and ratemaking treatment the Commission should consider in issuing a procurement authorization?**

Cal Advocates has no comment at this time.

**L. Question 12: Are there any additional considerations regarding the process for [C]ommission review that the Commission should consider in issuing a procurement authorization[?]**

The ALJ Ruling states that “a Tier 1 Advice Letter approval process would ensure cost recovery certainty and allow for expedited procurement, except for proposed Utility Owned Generation contracts, which will require a Tier 2 Advice Letter approval process.”<sup>19</sup>

Cal Advocates recommends that any contract approvals be subject to the Tier 3 advice letter process. General Order 96-B provides for contract review under the Tier 3 process, unless the contract itself “conforms to a Commission order authorizing the Contract, and [the IOU] requests no deviation from the authorizing order.”<sup>20</sup> In contrast, the Tier 1 advice letter process, as detailed in Industry Rule 5.1(4), is a pro forma approval process for cases in which the contract has already been approved by a Commission decision.

Given the uncertainty that any procurement resulting from an expedited decision in this OIR will be conforming with the decision, the Tier 3 process under Industry Rule 5.3 is appropriate. Moreover, the Tier 3 process is itself a significant due process concession, in comparison to the practice of requiring applications for significant procurement. If an IOU believes that review should be expedited, it can request expedited treatment upon filing its Tier 3 advice letter.

The Commission may be faced with the prospect of issuing an expedited decision based on a limited record, with significant uncertainty. Under such conditions, the Tier 3 advice letter process plays an important role in providing the Commission and parties an opportunity to

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<sup>19</sup> ALJ Ruling (email of December 11, 2020).

<sup>20</sup> General Order 96-B, Industry Rule 5.1(4).

review any contracts for cost-effectiveness and incrementality. As the record currently does not support the need for procurement, it is critical that the Commission retain its ability to review any contracts and reject those found wanting for cost-effectiveness or other attributes. If costly or ineffective resources are procured and approved through a Tier 1 advice letter, then ratepayers may be burdened with suboptimal resources for the long-term, to the extent that contracts for energy storage resources or efficiency upgrades may require lengthy terms to be cost-effective.

**V. CONCLUSION**

Cal Advocates respectfully requests the Commission adopt the recommendations proposed herein.

Respectfully submitted,

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