

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



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Oversee the Resource Adequacy
Program, Consider Program Reforms
and Refinements, and Establish
Forward Resource Adequacy
Procurement Obligations.

Rulemaking 23-10-011

OPENING COMMENTS ON PROPOSED DECISION ON TRACK 2 ISSUES

Scott Murtishaw
Executive Director

CALIFORNIA ENERGY STORAGE ALLIANCE
808 R Street, #209
Sacramento, California 95811
Telephone: 510-205-7774
Email: scott@storagealliance.org

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The California Energy Storage Alliance (“CESA”) hereby submits these Comments on the Assigned Commissioner’s Proposed Decision on Track 2 Issues filed October 29, 2024 (“Proposed Decision”).

I. Introduction

CESA respectfully submits these opening comments on the Proposed Decision.

- In **Section II**, the Proposed Decision’s description of the CESA and Western Power Trading Forum (“WPTF”) soft-offer price cap proposals exclude key details that resolve stated concerns with the proposals;
- In **Section III**, the rationale for rejecting to adopt a soft-offer price cap within the Central Procurement Entity (“CPE”) framework contradicts prior Commission determinations in establishing transparent price triggers for local waivers still applicable to some Load Serving Entities (“LSEs”);

- In **Section IV**, the Proposed Decision appropriately recognizes that only forced outages due to equipment failures, not state-of-charge, should be used to derive Unforced Capacity (“UCAP”) values for energy storage resources;

II. The Proposed Decision’s Description Of The CESA And WPTF Soft-Offer Price Cap Proposals Exclude Key Details That Resolve Stated Concerns With The Proposals

The Proposed Decision summarizes the CESA and WPTF soft-offer price cap proposals, but the descriptions do not include the proposals’ provisions allowing procurement deferment at prices less than the soft-offer price cap.¹ This provision resolves the Proposed Decision’s stated concerns regarding market power and CPEs’ ability to use a least-cost, best fit evaluation methodology.

In its Track 2 proposal, WPTF explains “[i]n the event that a generator attempts to exercise market power, the Commission could, after providing notice and opportunity to be heard to interested parties, reasonably and lawfully excuse the CPE from complying with the ‘soft offer price’ rule with respect to the offending bid. The CPE would, however, be obligated to make the case in its annual compliance report for why it deemed the bid to be priced ‘unreasonably high’ (i.e., due to an attempted exercise of market power).”² WPTF further clarified in its opening comments on Track 2 proposals “[i]n the event that the CPE rejects a bid priced at or below the soft price cap and has a procurement deficiency that could otherwise be met by the subject resource(s), the CPE would be required to make the case in its annual compliance report for why it deemed the bid(s) in question to be priced ‘unreasonably high’ (i.e., due to an attempted exercise

¹ Proposed Decision, pg. 27

² WPTF Track 2 Proposals, pgs. 9-10

of market power)—i.e., the CPE would bear the burden of proof with respect to such claims. The Commission could then, after providing notice and opportunity to be heard to interested parties, reasonably and lawfully excuse the CPE from complying with the ‘soft offer price’ rule with respect to the offending bid.”

CESA supported the addition of this element to its own soft-offer price cap proposal in its joint presentation with WPTF at the July 26, 2024, Track 2 Workshop. The CESA/WPTF presentation provided that the soft-offer price cap would be “[o]nly ‘binding’ in sense that CPE would need to justify rejection of bids priced at or below Soft Offer Price Cap” and “[a]ttempted exercise of market power would justify bid rejection.”³

The purpose of this element of the proposal is to resolve any market power issues. As WPTF proposed, allowing a waiver at prices less than the soft-offer price cap, subject to the independent evaluator review of the market power concern, addresses the Proposed Decision’s concerns regarding market power in locations where generation is controlled by a few suppliers.⁴

The Proposed Decision’s concern that the proposal would not allow for the CPEs’ ability to procure local resources using least cost, best fit and other qualitative metrics, as the CPEs have been directed to do by the Commission in D.20-06-002 is unfounded. Nothing in the proposal prevents CPEs from using least cost, best fit and other qualitative metrics in their evaluation of offers. SCE stated that it was concerned that the soft-offer price cap proposal would interfere with the incentives associated with a least cost, best fit evaluation framework, but only offered unsubstantiated support for its statement that “[b]idders will simply bid to the cap.”⁵ As discussed

³ CESA/WPTF Joint Presentation at Track 2 Workshops titled “Track 2 Proposal for CPE Soft-Offer Price Cap,” July 26, 2024, slide 5.

⁴ Proposed Decision, pg. 29.

⁵ SCE Opening Comments on Track 2 Proposals, pg. 9

above, the proposal addresses this concern by allowing for rejection of bids priced at or below the soft offer price cap in the presence of the exercise of market power.

III. The Rationale For Rejecting To Adopt A Soft-Offer Price Cap Within The CPE Framework Contradicts Prior Commission Determinations In Establishing Transparent Price Triggers For Local Waivers Still Applicable To Some LSEs

The CPE framework's option for a CPE to defer procurement is analogous to the local RA waiver process. In its Track 2 Proposals, CESA observed that “[t]he CPE framework has only functioned as an extremely complicated local RA waiver for constituent LSEs, even in instances where there is enough Net Qualifying Capacity (“NQC”) to be procured in local capacity areas.”⁶ The Proposed Decision appropriately clarified that “[a] CPE’s decision to decline to procure is analogous to the local RA waiver process that allows for an LSE to receive a waiver if local RA prices were above a certain threshold, among other requirements.”⁷

The Commission established the local RA waiver process in 2006 as a market power mitigation measure.⁸ It established a transparent trigger price that could lead to the granting of a waiver from local RA compliance.⁹ It acknowledged that there may be circumstances where prices could be below the trigger price, but required LSEs to demonstrate why the terms and/or conditions are unreasonable.¹⁰ In 2019, recognizing a tightening of the local RA market with an increasing number of LSEs relying on local waivers, the Commission increased the local waiver trigger price from \$40/kW-year to an annualized value of the 85th percentile of the monthly South of Path 26

⁶ CESA Track 2 Proposals, pg. 6

⁷ Proposed Decision, pgs. 26-27

⁸ D.06-06-064, pg. 71

⁹ *Id.*, Section 3.3.12

¹⁰ *Id.*, waiver justification 2(c)

local RA value, or \$51/kW-year.¹¹ The Commission agreed that the local waiver trigger price should be updated to reflect current market conditions and reiterated that an offer at or above the trigger price is a necessary, but not sufficient, reason for the Commission to grant a local waiver.¹²

The record of this proceeding provides little, if any, substantiation of the claim that a transparent price cap or trigger *causes* uncompetitive behavior, and this rationale departs from nearly two decades of Commission decisions using a transparent price cap or trigger in the local RA waiver process. The Proposed Decision states that “[The Commission] concur[s] with parties that state that a public soft-offer price cap will quickly become a price floor as bidders are not incentivized to submit competitive bids below the price cap.”¹³ The key concern is whether setting a transparent price level below which a demonstration would be required to justify the waiver would cause bidders to bid uncompetitively. SCE stated that “[b]idders will simply bid to the cap.”¹⁴ PG&E stated that “price caps can often turn into price floors.”¹⁵ Cal Advocates offered that “[a] CPE soft price cap would harm competition in local areas where generation is controlled by a single or few entities and creates a situation that fails to incentivize competitive behavior unless significant offers beyond the CPE’s needs are received. In uncompetitive situations, there would be no incentive for capacity owners to make offers below the soft price cap.”¹⁶ Uncompetitive conditions may cause uncompetitive behavior, but transparent price caps or triggers do not. As discussed in Section II, the CESA and WPTF track 2 proposals include provisions resolving

¹¹ D.19-06-026, Section 3.4.1

¹² *Id.*, pg. 14

¹³ Proposed Decision, pg. 29

¹⁴ SCE Opening Comments on Track 2 Proposals, pg. 9

¹⁵ PG&E Opening Comments on Track 2 Proposals, pg. 4

¹⁶ Cal Advocates Opening Comments on Track 2 Proposals, pgs. 19-20

concerns related to uncompetitive behavior in a similar manner to the existing local RA waiver process.

At a minimum, instituting a transparent price cap or trigger in the CPE framework would ensure the CPE deferment rules are relatively equitable to the rules other jurisdictional LSEs must follow. Lack of a transparent price cap or trigger in the CPE framework could allow CPEs to defer local RA procurement at prices lower than LSEs serving load in the San Diego-Imperial Valley local capacity area. The Commission currently employs a transparent price cap or trigger in its local RA waiver process. While the CPEs are not bound by a transparent price cap or trigger, LSEs serving load in the San Diego-Imperial Valley local capacity area still must demonstrate why the terms and/or conditions of offers below the current transparent local RA waiver trigger price are unreasonable.¹⁷

IV. The Proposed Decision Appropriately Recognizes That Only Forced Outages Due To Equipment Failures, Not State-Of-Charge, Should Be Used To Derive UCAP Values For Energy Storage Resources

CESA supports the Proposed Decision’s determination that “[t]he UCAP methodology for battery storage should therefore incorporate forced outages due to equipment failures, but not state-of-charge.”¹⁸ The Proposed Decision recognizes “...that forced outage rates for storage resources should reflect plant failures but not state-of-charge, as the model used in SERVVM already accounts for state-of-charge when dispatching storage”¹⁹ and that “...state-of-charge is somewhat analogous to onsite fuel storage and somewhat analogous to resources with long start-up times,

¹⁷ D.06-06-064, Section 3.3.12, waiver justification 2(c)

¹⁸ Proposed Decision, pg. 22-23

¹⁹ Proposed Decision, pg. 22

neither of which are incorporated into UCAP for conventional resources”²⁰ This determination is a critical fundamental principle to guide further development of accurate UCAP values for energy storage resources.

V. Conclusion

CESA appreciates the opportunity to submit these opening comments on the Proposed Decision.

Respectfully submitted,

Scott Murtishaw

Scott Murtishaw
Executive Director
CALIFORNIA ENERGY STORAGE ALLIANCE

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²⁰ Proposed Decision, pg. 22