

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



**FILED**

11/18/24

03:02 PM

R2310011

Order Instituting Rulemaking to Oversee the Resource  
Adequacy Program, Consider Program Reforms and  
Refinements, and Establish Forward Resource  
Adequacy Procurement Obligations

Rulemaking 23-10-011  
(Filed October 12, 2023)

**MIDDLE RIVER POWER LLC OPENING COMMENTS ON PROPOSED DECISION**

John McKinsey  
McKinsey Law Office  
1121 L Street, Suite 700  
Sacramento, California 95814  
Phone: (707) 316-9494  
Email: [john@jmckinseylaw.com](mailto:john@jmckinseylaw.com)

*Counsel to Middle River Power LLC*

Brian Theaker  
Vice President, Western Regulatory and  
Market Affairs  
Middle River Power LLC  
4350 Executive Drive, Suite 320  
San Diego, California 92121  
Phone: (530) 295-3305 (office)  
Email: [btheaker@mrpgenco.com](mailto:btheaker@mrpgenco.com)

Dated: November 18, 2024

## **TABLE OF CONTENTS**

|   |            |
|---|------------|
| <b>I. INTRODUCTION</b>  | <b>1</b>   |
| <b>II. SUMMARY OF OPENING COMMENTS</b>  | <b>2</b>   |
| <b>III. OPENING COMMENTS</b>  | <b>3</b>   |
| a. The PD Should be Revised to Include a More Complete and Detailed Process and Schedule for Setting the PRM          | 3          |
| b. The PD Should be Revised to Formally Adopt a 0.1 Loss of Load Expectation Target for the Resource Adequacy Program | 6          |
| c. The PD Should be Revised to Clarify Potential Changes to the QC Methodology For Wind And Solar Resources           | 7          |
| d. The PD Erred in Adopting a Proposal to Lock in Central Procurement Entity Procurement Two Years in Advance         | 8          |
| e. The PD Erred in Rejecting MRP's Proposal   | 9          |
| <b>IV. CONCLUSION</b>   | <b>10</b>  |
| <b>V. PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS</b>                                       | <b>A-1</b> |

## TABLE OF AUTHORITIES

### **Statutes**

|                                       |   |
|---------------------------------------|---|
| Cal. Pub. Util. Code § 380(h)(4)..... | 6 |
| Cal. Pub. Util. Code § 380(h)(7)..... | 8 |

### **Commission Decisions**

|                   |   |
|-------------------|---|
| D.23-04-010 ..... | 7 |
| D.24-06-004 ..... | 5 |

### **Commission Rules of Practice and Procedure**

|                 |   |
|-----------------|---|
| Rule 14.3 ..... | 1 |
|-----------------|---|

## **RECOMMENDED CHANGES**

- The PD should be revised to include a complete and detailed process and schedule for setting and updating the Planning Reserve Margin.
- The PD should be revised to direct that Energy Division simultaneously update Planning Reserve Margin and Qualifying Capacity values every two years.
- The PD should be revised to clarify and support potential changes to the Qualifying Capacity methodology for wind and solar resources.
- The PD should be revised to either adopt 0.1 Loss of Load Expectation as the reliability metric for the Resource Adequacy program or direct a process for adopting a different metric.
- The PD should be revised to not adopt the proposal to modify the Central Procurement Entity timeline now, but instead direct further consideration of the effects that proposal will have on backstop procurement.
- The PD should be revised to adopt MRP's proposal to authorize the Central Procurement Entities to release capacity to Load Serving Entities to allow them to put capacity under a longer-term contract.

**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

Rulemaking 23-10-011  
(Filed October 12, 2023)

**MIDDLE RIVER POWER LLC OPENING COMMENTS ON PROPOSED DECISION**

In accordance with Rule 14.3 of the Commission’s Rules of Practice and Procedure Middle River Power LLC (“MRP”) hereby submits these opening comments on Administrative Law Judge Debbie Chiv’s October 29, 2024 proposed *Decision on Track 2 Issues* (“Proposed Decision”, or “PD”).

**I. INTRODUCTION**

The PD:

- Declined to adopt the proposed 26.5% (for January-May) and 23.5% (for June-December) Planning Reserve Margins (“PRMs”) that Energy Division (“ED”) recommended for the 2026 Resource Adequacy (“RA”) compliance year and instead directed further study;
- Authorized ED to conduct a Loss of Load Expectation (“LOLE”) study to set the PRM every two years;
- Authorized ED to compare exceedance profiles for wind and solar resources against Strategic Energy Risk Valuation Model (“SERVM”) weather profiles in Phase 3 of this rulemaking;
- Declined to adopt a proposed Unforced Capacity (“UCAP”) framework;

- Eliminated the non-compensated Central Procurement Entity (“CPE”) self-showing process and directed a process by which ED will collect information on Load Serving Entity (“LSE”) procurement and share that information with the CPE;
- Declined to formally adopt a 0.1 LOLE target for the Commission’s RA program;
- Rejected a proposal for setting a soft-offer cap that would precisely identify when a CPE could defer procurement;
- Rejected MRP’s proposal to authorize the CPEs to release capacity they have under contract to LSEs to allow those LSE to enter longer-term contracts with that capacity; and
- Modified the Load Impact Protocol process.

## **II. SUMMARY OF OPENING COMMENTS**

In these opening comments, MRP:

- Recommends the PD be modified to include a more complete and detailed process for updating the PRM.
- Recommends the PD be modified to synchronize the processes for updating PRM and Qualifying Capacity (“QC”) values.
- Recommends the PD be modified to clarify the Commission’s intent, which is inconsistent with past direction, regarding the use of synthetic data for setting wind and solar QC values.
- Recommends the PD be modified to either (1) formally adopt 0.1 LOLE as the reliability target for the RA program or (2) set forth a process for determining and adopting a different reliability target.
- Notes the PD erred by adopting a revised CPE timeline that locks in procurement two years in advance, which could increase CAISO backstop procurement if the CPE fails to procure capacity to meet the local capacity requirement, and recommends the PD be revised to provide for further consideration of this proposal before it is adopted.

- Notes the PD erred by misrepresenting and rejecting MRP’s proposal to authorize CPEs to release capacity they have under contract to LSEs to facilitate that capacity being put under a longer-term contract.

### III. OPENING COMMENTS

#### a. The PD Should be Revised to Include a More Complete and Detailed Process and Schedule for Setting the PRM

The PD authorized ED to further revise the 2026 PRM analysis and distribute that revised analysis to parties in early December 2024. ED will then conduct additional workshop to explain the analysis and supporting data and may solicit informal comments on those things. The Commission will consider the 2026 PRM in Track 3 of this rulemaking.<sup>1</sup>

Noting the time-consuming process needed to gather data for a LOLE study, the PD also authorized ED to conduct a LOLE analysis every two years rather than every year, as some parties had proposed.<sup>2</sup> The PD also encouraged ED to develop and distribute a schedule for updating the LOLE data, publishing inputs and assumptions, processing those inputs and assumptions in the Strategic Energy Risk Valuation Model (“SERVM”), completing the LOLE study and offering an opportunity for party comments prior to its biannual LOLE study.<sup>3</sup> The PD, however, declined to direct ED to implement a standard process or schedule for regularly updating the PRM, as several parties had proposed.

MRP proposed and continues to support the Commission establishing a standard process and schedule for performing LOLE analysis to update the PRM. The current process for updating the LOLE analysis is inadequate because it does not provide ED sufficient time to address issues with the analysis. For example, ED stated that it needed more time to study loss

---

<sup>1</sup> PD at p. 11, Ordering Paragraph 1.

<sup>2</sup> *Id.* at p. 17.

<sup>3</sup> *Id.* at p. 18.

of load in February that the LOLE analysis surfaced.<sup>4</sup> The LOLE Study, however, provided no information as to how and when this issue would be addressed. Neither the current routine of the annual RA proceedings, in which parties and ED staff submit proposals in January, hold a single day workshop in February, submit comments and reply comments in March and await a proposed decision in May, nor the generic schedule set forth in the recent Track 3 scoping ruling, adequately address the need to establish the rigorous and detailed process that should be used to develop the PRM. The Commission needs to set a more rigorous and detailed schedule to allow parties and ED to better vet and understand the results of the analysis, and perform additional studies as necessary, without waiting for a Commission decision directing additional analysis. The PD is deficient in that it only encourages, rather than directs, ED to set forth such a schedule. While MRP understands the challenges in gathering data to prepare for the LOLE analysis, such hurdles should not stand in the way of a regularized process that would give parties and the Commission confidence in ED's work.

With regards to the development of the 2026 PRM and adequately satisfying the Commission's concerns, MRP is concerned that a June 2025 decision<sup>5</sup> provides little time for LSEs to procure necessary capacity to show they have met year-ahead RA requirements. Pushing the adoption of the 2026 PRM to June sets the stage either for parties to argue that they did not have sufficient time to procure needed capacity or for a last-minute scramble for capacity that could push up near-term RA prices. A Commission decision on the 2026 PRM issued in March 2025 following LOLE workshops in January would be more appropriate. While the Scoping Ruling includes the 2026 PRM within the scope for Track 3, neither the PD nor the

---

<sup>4</sup> July 19, 2024 *Loss of Load Expectation Study for 2026 Including Slice of Day Tool Analysis – Recommendation for Slice of Day Planning Reserve Margin* ("LOLE Study") at p. 34.

<sup>5</sup> PD at p. 11.



Scoping Ruling lays out a definitive schedule for the engagement needed to finalize the 2026 PRM. MRP respectfully requests that the PD be revised to include that schedule, or that the Commission issue another Track 3 Scoping Ruling laying out that schedule. To date, the process for setting the 2026 PRM has suffered from a lack of specificity, a shortcoming the PD now should take the opportunity to correct.

Finally, the PD proposed adopting a two-year cycle for updating the LOLE and PRM analysis.<sup>6</sup> MRP does not oppose the two-year cycle for refreshing the LOLE analysis. Because the Commission updates the QC values for variable energy resources every three years,<sup>7</sup> however, there will be years in which the QC values of the resource portfolio used in the LOLE analysis do not match that of the QC values updated that year. This mismatch can create underlying reliability issues because the adopted PRM does not correspond with the updated QC values of that particular year. As MRP noted, capacity for variable energy resources (“VERs”) in the summer months of June through September increased by a range of 2,000 MW to over 8,000 MWs due to a change in the methodology used to set those values.<sup>8</sup> Such updates to QC values without appropriate accompanying PRM updates can significantly impact reliability if the PRM, which is a function of resource capacity values, does not incorporate the refreshed QC data. The LOLE analysis may not need to be refreshed, but the new QC values of the portfolio must be reflected to set the proper LSE procurement targets. MRP therefore recommends synchronizing the LOLE and QC updates on a biannual basis.

---

<sup>6</sup> *Id.* at p. 17, Ordering Paragraph 2.

<sup>7</sup> Decision (“D.”) 24-06-004 at Ordering Paragraph 8.

<sup>8</sup> September 16, 2024 *Middle River Power LLC Reply Comments on Revised Slice-of-Day Planning Reserve Margin Analysis* at p. 6.

**b. The PD Should be Revised to Formally Adopt a 0.1 Loss of Load Expectation Target for the Resource Adequacy Program**

WPTF proposed the Commission formally adopt 0.1 LOLE as the reliability standard for the RA program.<sup>9</sup> The PD did not expressly accept or reject WPTF’s proposal, instead agreeing that 0.1 LOLE is the “general industry standard” and observing that ED is currently using that 0.1 LOLE standard in RA LOLE modeling and plans to do so going forward.<sup>10</sup>

The PD’s discussion of this issue comes across as an effort to convey the perception that the 0.1 LOLE reliability standard underlies the Commission’s RA program without ever expressly establishing that fact. The PD observes that recently-chaptered AB 2368 (Petrie-Norris, 2024) directed the Commission to “...ensure[ ] that the resource adequacy program can reasonably maintain *a standard measure of reliability*, such as a one-day-in-10-year loss of load expectation or a similarly robust metric adopted by the [C]ommission...”<sup>11</sup> While Public Utilities Code Section 380(h)(4) does not require the Commission to adopt 0.1 LOLE as the reliability metric – it offers this metric as an example, not a prescription – this language unambiguously requires the Commission to ensure the RA program maintains reliability to “...a similarly robust reliability metric *adopted by the [C]ommission...*”<sup>12</sup> While the PD discusses the Commission’s ongoing use of 0.1 LOLE in its RA program,<sup>13</sup> the PD does not adopt that metric, or any other metric, as the reliability standard for the RA program. In doing so, the PD not only

---

<sup>9</sup> PD at p. 12.

<sup>10</sup> *Id.* at p. 19. Assigned Commissioner Alice Reynolds’ November 1, 2024 *Assigned Commissioner’s Amended Scoping Memo and Ruling* (“Scoping Ruling”) in this rulemaking indicates (at p. 4) that Track 3 (except for Local Capacity Requirements and Flexible Capacity Requirements) will conclude with the Commission’s adoption of the Track 3 proposed decision.

<sup>11</sup> PD at p. 19 (citing Public Utilities Code Section 380(h)(4)).

<sup>12</sup> Public Utilities Code Section 380(h)(4) (emphasis added).

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

fails to definitively address WPTF's proposal, but also fails to meet the requirements of AB 2368 and Public Utilities Code Section 380 to adopt a standard reliability metric.

If 0.1 LOLE is the proper reliability metric for the RA program, the PD should be revised to formally adopt it by modifying the Findings of Fact to specify that 0.1 LOLE is the reliability metric for the RA program. If the Commission believes that 0.1 LOLE is not the proper metric, the PD should be revised to direct ED to establish, with party input, and adopt the proper RA reliability standard in Track 3 of the current RA rulemaking.

**c. The PD Should be Revised to Clarify Potential Changes to the QC Methodology For Wind And Solar Resources**

In D.23-04-010, the Commission declined to consider non-exceedance-based proposals that require synthetically-produced data for the SOD framework. The Commission continued:

The Commission does not agree with proposals to calibrate exceedance levels using monthly ELCC values to benchmark hourly profiles, as ACP-CA and SEIA recommend. As parties point out, these proposals misapply ELCC values that measure a resource's ability to serve demand over a continuous period (*i.e.*, a year or month) to the 24-hour SOD values, which are intended to ensure grid reliability in all hours.<sup>14</sup>

The PD, however, now observes that "...[t]he Commission sees merit in modifying the QC values for wind and solar resources using SERVIM weather profiles, rather than using exceedance profiles, as this would better align SOD RA values with how SERVIM stochastic datasets are used in the RA LOLE studies.<sup>15</sup> It's unclear how the PD contemplates modifying output-based exceedance values using SERVIM weather profiles. It's also unclear what has changed since D.23-04-010 was issued to cause the Commission to now see merit in the use of synthetic profiles. As MRP understands, ACP-CA's current proposal, which is the same as NRDC's prior proposal, uses SERVIM profiles during loss of load hours to establish benchmarks,

---

<sup>14</sup> D.23-04-010 at p. 31.

<sup>15</sup> PD at p. 18.

which are then used to establish exceedance threshold. In contrast, while it is not fully clear to MRP, the PD appears to use these SERVVM weather profiles to simply replace the exceedance profiles for purposes of QC setting. This section of the PD, while only authorizing ED to conduct further analysis, should be clarified so parties can understand how the Commission intends to consider and possibly apply ACP-CA's proposal.

**d. The PD Erred in Adopting a Proposal to Lock in Central Procurement Entity Procurement Two Years in Advance**

The PD adopted the California Community Choice Association's ("CalCCA's") proposal for the CPEs to "lock in" their procurement for a given RA compliance year two years in advance (at Y-2).<sup>16</sup> Under this proposal, the CPE could only procure in year Y-1 any incremental need brought about by a change in the local capacity requirement. The PD reasoned that, because the local capacity requirements do not change drastically from year to year, the CPEs would not have to procure much additional capacity in year Y-1 if their procurement was locked in in year Y-2.<sup>17</sup> While this may be true, it does not consider the consequences of insufficient local capacity being procured to meet the local obligations when that year arrives. Consider this example: the local CPE requirement for a given compliance year is 5,000 MW. Two years before, at Y-2, the CPE procures 3,000 MW. Following this, the local requirement for the given compliance year remains the same in Y-1 (5,000 MW). Under the adopted proposal, the CPE could not engage in any additional local procurement in Y-1. This would leave a 2,000 MW gap that may have to be filled by CAISO backstop procurement, in direct contradiction to the requirements of Public Utilities Code Section 380(h)(7) to minimize CAISO backstop procurement.

---

<sup>16</sup> *Id.* at p. 43, Ordering Paragraph 5.

<sup>17</sup> *Id.* at p. 44.

While MRP is sympathetic to the uncertainty created when the CPE fails to meet its procurement targets creates for LSEs, preventing the CPE from procuring additional capacity in Y-1 if it has failed to meet its procurement target in Y-2 and there is no increase in the local capacity requirement in Y-1 will unnecessarily put additional pressure on CAISO backstop procurement. Since LSEs in the SCE and PG&E local capacity areas do not have local capacity obligations, there is no incentive for LSEs to procure local capacity to ensure local reliability if the CPE fails to do so.

The Final Report on the 2021-2023 CPE Framework observes that:

LSEs serving load in SCE and PG&E TACs no longer have zonal and local requirements, so they may fulfill their system RA needs with resources that serve load outside their TAC areas. This removes the incentive for LSEs to show their resources to a CPE, as it does not reduce local costs for their own customers.<sup>18</sup>

The conditions in which all or nearly all resources must be procured to meet system RA obligations will come to an end. When they do, LSEs will likely prioritize the procurement of their system RA capacity over local RA resources because, under the adopted CPE structure, they have no local RA obligations. For this reason, and because of the historical underperformance of the PG&E CPE, MRP respectfully requests the Commission not adopt this proposal now due to the potential for increasing CAISO backstop procurement. Instead, the Commission should further consider the potential impact of this proposal in Track 3.

#### **e. The PD Erred in Rejecting MRP's Proposal**

The PD rejected MRP's proposal to authorize CPEs to release capacity they have under contract to LSEs to allow LSEs to put that capacity under contract for a longer term. The PD cited, and agreed with, an argument advanced by CalCCA that MRP's proposal would allow generators to abandon lower-priced contracts with the CPE and instead force higher costs on

---

<sup>18</sup> May 31, Report on the 2021-2023 CPE Framework at p. 49.

LSEs that cannot defer backstop procurement if prices are too high.<sup>19</sup> CalCCA's assertion is speculative, unsupported and completely misrepresents MRP's proposal, and the PD erred by basing its decision on this improper assertion. MRP's proposal was never to allow generators to unilaterally back out of CPE contracts to force higher-priced contracts on other LSEs. MRP's proposal was intended to address the perception that once a CPE had capacity under contract, that capacity could never be released, even if mutually agreed-to by, and to the benefit of, an LSE and a generator. Because the PD misrepresented MRP's proposal and cited speculative and unsupported statements in reaching its decision on MRP's proposal, it erred in rejecting it.

#### **IV. CONCLUSION**

MRP respectfully submits these opening comments.

Respectfully submitted,

s/ Brian Theaker

Brian Theaker

VP, Western Regulatory and Market Affairs

Middle River Power LLC

4350 Executive Drive, Suite 320

San Diego, California 92121

Phone: (530) 295-3305

Email: [btheaker@mrpgenco.com](mailto:btheaker@mrpgenco.com)

Dated: November 18, 2024

---

<sup>19</sup> PD at p. 31.

## V. PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS

### **Findings of Fact:**

6. Locking in CPE allocations earlier will increase certainty for LSEs to understand how much system and flexible RA they may need to procure. **Under the hybrid structure, however, locking in CPE allocations, however, could increase the amount of CAISO backstop procurement required if the CPE fails to meet its procurement targets.**

**14. 0.1 Loss of Load Expectation is the proper reliability metric for the Resource Adequacy program.**

### **Conclusions of Law**

~~5. CalCCA's proposal to lock CPE allocations to LSEs one year in advance is reasonable and should be adopted, with modifications, on an interim basis to be reevaluated at the end of 2027.~~

### **Ordering Paragraphs:**

2. Energy Division is authorized to **simultaneously** update **both** the Resource Adequacy (RA) Loss of Load expectation study and **resource Qualifying Capacity values** every two years for consideration in the RA proceeding.

5. **The effects of** California Community Choice Association's proposal to lock central procurement entity (CPE) allocations to load-serving entities (LSE) one year earlier **shall be further evaluated** is adopted, on an interim basis. This will be effective in 2025 for the 2027 Resource Adequacy (RA) compliance year and will be reevaluated by the end of 2027. The following CPE procurement process is adopted (using Y to indicate the compliance year):

(a) ~~Local CPE procurement conducted by October 31 in Y-2 for compliance year Y will be considered "locked;" in Y-1, the CPEs will no longer procure for local requirements allocated in Y-2.~~

(b) ~~In Y-1, the CPEs will only conduct procurement for the incremental changes between what was provided in Y-2 and the California Independent System Operator's updated Local Capacity Technical study for compliance year Y. Any incremental procurement the CPE conducts for compliance year Y will be allocated to LSEs in accordance with the annual CPE and LSE allocation timelines in August and mid-September.~~