FILED
04/21/26
04:59 PM
R2506019

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Oversight of Electric Integrated Resource Planning and Procurement Processes.	R.25-06-019

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S RESPONSE TO THE APPLICATION FOR REHEARING OF DECISION 26-02-057 BY THE ALLIANCE FOR RETAIL ENERGY MARKETS, CALIFORNIA COALITION OF LARGE ENERGY USERS, THE REGENTS OF THE UNIVERSITY OF CALIFORNIA AND SHELL ENERGY NORTH AMERICA (US), L.P.

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April 21, 2026

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SUMMARY OF RECOMMENDATIONS[1]

The Commission should reject the Application for Rehearing because:

- The Rehearing Parties' allegation of legal error based on the Commission's allocation of procurement responsibility to ESPs should be dismissed given the Commission required allocation to all LSEs (including ESPs) as a result of system reliability needs;
- IRP procurement obligation allocation issues should be addressed in the IRP procurement track or RCPPP given the compressed timeline for LSEs to meet ordered procurement and time necessary to develop a fair allocation methodology for all LSEs; and
- The Rehearing Parties improperly seek to use rehearing of an IRP procurement decision as a vehicle to advance a separate policy objective – expansion or reevaluation of DA – that was neither within scope of the proceeding nor material to the Decision.

[1] Acronyms used herein are defined in the body of this document.

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Pursuant to Rule 16.1(d) of the California Public Utilities Commission (Commission) Rules of Practice and Procedure,[2] the California Community Choice Association[3] (CalCCA) submits this Response to the *Application for Rehearing of Decision 26-02-057 by The Alliance for Retail Energy Markets, California Coalition of Large Energy Users, the Regents of the University of California and Shell Energy North America (US), L.P.*[4] (Application for Rehearing or AFR), dated April 6, 2026. For the reasons set forth herein, the AFR should be denied.

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2 *State of California Public Utilities Commission, Rules of Practice and Procedure, California Code of Regulations Title 20, Division 1, Chapter 1* (May 2021), https://webproda.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/rules-of-practice-and-procedure-may-2021.pdf.

3 California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Ava Community Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance of Southern California, CleanPowerSF, Desert Community Energy, Energy For Palmdale's Independent Choice, Lancaster Energy, Marin Clean Energy, Orange County Power Authority, Peninsula Clean Energy, Pico Rivera Innovative Municipal Energy, Pioneer Community Energy, Pomona Choice Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Diego Community Power, San Jacinto Power, San José Clean Energy, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

4 *Application for Rehearing of Decision 26-02-057 by The Alliance for Retail Energy Markets, California Coalition of Large Energy Users, The Regents of the University of California and Shell Energy North America (Us), L.P.*, Rulemaking (R.) 25-06-019 (Apr. 6, 2026), https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M604/K023/604023865.PDF.

I. INTRODUCTION

The Alliance for Retail Energy Markets, California Coalition of Large Energy Users, the Regents of the University of California, and Shell Energy North America (US), L.P. (Shell) (Rehearing Parties) seek rehearing of the Decision in this proceeding ordering 6,000 megawatts (MW) of procurement for reliability needs in 2029-2032.[5] The Decision allocates the ordered procurement to community choice aggregators (CCA), electric service providers (ESP), and investor-owned utilities (IOU) based on each load serving entity's (LSE) share of the managed peak as of resource adequacy (RA) year 2026.[6]

The Rehearing Parties allege that the allocation of procurement obligations to ESPs constitutes legal error given ESPs are barred by the cap on direct access (DA) from serving new load, and therefore the allocation will result in an unlawful shift of procurement costs to ESPs for load they cannot serve.[7] In addition, the Rehearing Parties assert that the Decision is unsupported by findings or evidence that ESPs can service the new load, and as a result the Decision results in harm to ESPs from the cost shifts.[8] To remedy these errors, the Rehearing Parties first request that the Commission "expeditiously reconsider" its Decision 21-06-033 in the Direct Access proceeding that rejected reopening DA,[9] and issue a new positive recommendation to the Legislature for the reopening. The Rehearing Parties state that if the Legislature then reopens DA within the 2026 legislative session allowing ESPs to compete for the new load, the Decision's cost allocation to ESPs

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5 D.26-02-057, *Decision Requiring 2029-2032 Electric Resource Procurement and Transmitting Portfolios for 2026-2027 Transmission Planning Process,* R.25-06-019 (Feb. 26, 2026) (Decision), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M601/K777/601777006.PDF.

6 *Id.*, Conclusion of Law (COL) 15, at 139.

7 AFR, at 3.

8 *Ibid*.

9 *See* D.21-06-033, *Decision Recommending Against Further Direct Access Expansion*, R.19-03-009 (June 24, 2021), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M390/K215/390215673.PDF.

would be reasonable.[10] Alternatively, if the Commission is unwilling to reconsider D.21-06-033 and the Legislature does not expand DA, the Rehearing Parties request that the Decision's procurement obligations be reallocated away from ESPs to prevent the purported cost shifts.[11]

The AFR should be rejected. *First,* the Rehearing Parties' allegation of legal error based on the Commission's allocation of procurement responsibility to ESPs should be rejected given the Commission allocated the procurement obligations to all LSEs (including ESPs) as a result of *system reliability needs.* While CalCCA discusses below the need to reevaluate the allocation framework, the Commission's obligation to ensure system reliability is within the Commission's statutory mandate in Public Utilities Code section 454.52 to ensure reliable electric service. In addition, the Commission supported its findings with a staff analysis of reliability needs on the electric system between 2028 and 2032.[12]

Second, the Rehearing Parties' requested reallocation could negatively impact other LSEs who seek to procure under a compressed timeline resulting from the Decision. Allocation issues impact more than just ESPs, as the allocation to other LSEs would also need to be revised if the Commission were to allocate procurement obligations on a new principle. Allocation issues should be addressed holistically in the Integrated Resource Plan (IRP) proceeding's procurement track and/or the Reliable and Clean Power Procurement Program (RCPPP) given the necessity to develop a fair allocation methodology for all LSEs.

Third, through this AFR, the Rehearing Parties improperly seek to use rehearing of an IRP procurement decision as a vehicle to advance a separate policy objective – expansion or reevaluation

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10 AFR, at 4.

11 *Ibid.*

12 Decision, at 9.

of DA – that is neither within the scope of the proceeding nor material to the Decision.[13] While the issue of the DA cap was raised by parties and mentioned in the Decision in the context of ESP procurement responsibility for reliability, modifying policy regarding the cap was not considered. Indeed, the Rehearing Parties note that they concurrently filed a Petition for Modification of D.21-06-033, which is an appropriate venue for considering Commission policy on the DA cap. As a result, the Rehearing Parties' attempts to shoehorn policy changes on the DA cap into this IRP AFR should be rejected.

In summary:

- The Commission should reject the Rehearing Parties' allegation of legal error based on the Commission's allocation of procurement responsibility to ESPs because the Commission requires allocation to all LSEs (including ESPs) as a result of system reliability needs;
- IRP procurement obligation allocation issues should be addressed in the IRP procurement track or RCPPP given the compressed timeline for LSEs to meet ordered procurement and time necessary to develop a fair allocation methodology for all LSEs; and
- The Commission must reject the Rehearing Parties improper request to use rehearing of an IRP procurement decision to advance a separate policy objective – expansion or reevaluation of DA – that was neither within scope of the proceeding nor material to the Decision.

II. THE APPLICATION FOR REHEARING SHOULD BE DENIED

A. Legal Standard

Per Commission Rule 16.1(c) and Public Utilities Code Section 1732,[14] an AFR must set forth specifically the grounds on which a decision is "unlawful or erroneous," making "specific references to the record or law."[15] The purpose of an AFR is "to alert the Commission to a legal

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13 *See Assigned Commissioner's Scoping Memo and Ruling*, R.25-06-019 (Oct. 28, 2026) (Scoping Ruling), https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M585/K485/585485746.PDF.

14 All Section references hereafter are to the California Public Utilities Code, unless otherwise noted.

15 Commission Rule 16.1(c).

error, so that [it] may correct it expeditiously"[16] and to "provide[] the Commission with sufficient notice to respond to [the] claims."[17]

The Rehearing Parties seek rehearing pursuant to section 1757(a)(1) and (2), alleging that the Commission has "acted without, or in excess of, its powers or jurisdiction" and "has not proceeded in the manner required by law" because the Decision will result in cost shifting counter to several Public Utilities Code sections by requiring ESPs to procure new resources without expanding the cap on DA to allow ESPs to serve new customers.[18] The Rehearing Parties also seek rehearing pursuant to section 1757(a)(3) that the Decision is "not supported by any findings or evidence that ESPs can serve new load that is expected to occur" and thus the Decision "will cause ESPs to be harmed by cost-shifts from other LSEs that are allowed to serve the new load."[19]

As set forth below, the AFR should be rejected because: (1) the Commission did not commit legal error either under section 1757(a)(1), (2), or (3) because the Decision requires all LSEs to procure based on system reliability needs and incorporates evidence to that effect; (2) the requested remedy of reallocation should not be adopted because not only will it negatively impact all parties who are under a compressed timeline to procure under the Decision, but it should be addressed holistically in the IRP procurement track or in RCPPP to ensure a fair allocation methodology for all parties; and (3) the requested remedy of reopening consideration of D.21-06-033 is not properly raised in this AFR of the IRP Decision.

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16 *Id.*

17 *Util. Consumers' Action Network v. Pub. Util. Comm.* (2010) 187 Cal.App.4th 688, 705.

18 AFR, at 2-3.

19 AFR, at 3.

B. The Decision Does Not Constitute Legal Error Given the Commission Assigned Procurement Obligations to ESPs Based on System Reliability Need Supported by Staff Analysis

The Rehearing Parties' allegation of legal error based on the Commission's allocation of procurement responsibility to ESPs should be rejected given the Commission allocated procurement obligations to all LSEs (including ESPs) as a result of evidence supporting system reliability needs. The Rehearing Parties' assert that the allocation of procurement obligations to ESPs violates multiple code sections including sections 397 (requiring allocation of procurement needs based on LSE load contribution to the need), and 454.52(c), 366.2(d)(1), 365.2, 366.3 (addressing and prohibiting cost shifts). The Rehearing Parties acknowledge that the Decision requires all LSEs to procure based on its findings of the need to ensure *system reliability,* but dismiss that rationale as "hoary and tired."[20] Regardless of the Rehearing Parties' opinion of the Commission's findings and while CalCCA discusses below the need to reevaluate the allocation framework, the Commission's mandate to ensure system reliability is squarely within its statutory obligation in section 454.52 to ensure reliable electric service. The Decision considers the Rehearing Parties' arguments during the proceeding regarding the need to allocate those requirements away from ESPs. However, the Commission finds that "all customers contribute to the overall need to add resources to meet reliability standards and . . . all customers and providers benefit from a reliable electric system." This finding is consistent with other Commission reliability procurement mechanisms, such as past procurement orders in R.20-05-003, Cost Allocation Mechanism (CAM) and modified CAM procurement, and Diablo Canyon RA allocations, that similarly require sharing of cost responsibility amongst all customers. Given the Commission acts within its legal authority to determine system

[20] AFR, at 8.

reliability needs and makes findings based on those needs, the Rehearing Parties' arguments of legal error should be rejected.

C. Any Reallocation Should be Addressed in the IRP Procurement Track or RCPPP Given the Impacts to all Parties

While the Rehearing Parties' allegation of legal error should be rejected, the requested remedy of reallocation should also be disregarded in this context. The allocation issue does not exclusively impact the Rehearing Parties and should instead be addressed holistically in the IRP proceeding's procurement track and/or RCPPP given the compressed timeline for LSEs to meet ordered procurement and time necessary to develop a fair methodology for all LSEs. The current method for allocating procurement for future needs based on current load share can have effects on *all* LSEs, and changing that methodology would require reassessing all allocations to all LSEs. Indeed, if the net portfolio position of an LSE during the time of need is filled, then it may be unfair to allocate that LSE's additional procurement requirements. ESPs do face a prohibition on serving new customers if their total load served is greater than the Direct Access cap, but other LSEs can find themselves in similar positions if they are allocated procurement requirements based on their current load share, but their service areas are not expected to experience load growth.

Developing a methodology for allocating IRP procurement obligations in a manner that reflects net position will be a complex undertaking requiring ample process to ensure a fair approach. The Commission should enhance the allocation methodology either in the IRP Procurement track or through the development of the RCPPP.

D. The Rehearing Parties' Request for Reconsideration of DA Expansion in this AFR Should be Rejected Given DA Expansion is Not Material to and Outside the Scope of, the IRP Decision

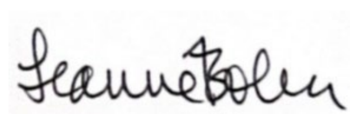
The Rehearing Parties also improperly seek to use rehearing of the IRP Decision as a vehicle to advance a separate policy objective – expansion or reevaluation of DA – that was neither within scope of the proceeding nor material to the Decision.[21] Section 1731(b) only allows AFRs for "matters determined in the action or proceeding." The Scoping Ruling for R.25-06-019 includes 11 items in scope, none of which include a reconsideration of the DA cap.[22]

DA expansion was raised by parties during the proceeding and mentioned in the Decision in the context of procurement order allocations to ESPs. However, the Commission did not consider or make specific findings on DA expansion as that was clearly not within the scope of the IRP proceeding and such a finding would not address the material procurement issues being considered in the case. While the Rehearing Parties are looking for a forum to reconsider DA expansion, an AFR of the IRP procurement decision in which DA expansion was not material to the proceeding and is entirely out of scope is not proper and should be rejected.

III. CONCLUSION

CalCCA respectfully requests that for the foregoing reasons, the Commission should deny the Application for Rehearing.

Respectfully submitted,



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April 21, 2026

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21 *See, e.g.,* D.14-06-053, *Order Modifying D.14-02-016 and Denying Rehearing of the Decision, as Modified* (June 26, 2014), at 7 (citing *Pacific Tel. & Tel. Co. v. Public Utils. Comm'n* (1965) 62 Cal.2d 634, 648, 659-661) ("Parties do not have a right to themselves determine what issues are material to this Commission's decision, or to require us to rule on their preferred set of issues").

22 *See* Scoping Ruling, at 3-4.