FILED
05/06/26
04:59 PM
R1903009

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Senate Bill 237 Related to Direct Access.	R.19-03-009

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S RESPONSE TO PETITION FOR MODIFICATION OF DECISION 21-06-033 BY THE ALLIANCE FOR RETAIL ENERGY MARKETS, CALIFORNIA COALITION OF LARGE ENERGY USERS, DIRECT ACCESS CUSTOMER COALITION, REGENTS OF THE UNIVERSITY OF CALIFORNIA, SHELL ENERGY NORTH AMERICA (US), L.P. AND WESTERN POWER TRADING FORUM

Leanne Bober,
Director of Regulatory Affairs and
Deputy General Counsel
Lauren Carr,
Senior Manager, Regulatory Affairs and
Market Policy

CALIFORNIA COMMUNITY CHOICE
ASSOCIATION
1121 L Street, Suite 400
Sacramento, CA 95814
Telephone: (510) 980-9459
E-mail: regulatory@cal-cca.org

May 6, 2026

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Statutes

California Public Utilities Commission Decisions

California Public Utilities Commission Proceedings

California Public Utilities Commission Rules of Practice and Procedure

SUMMARY OF RECOMMENDATIONS[1]

The Commission should reject the Petition and refrain from recommending Direct Access expansion at this time, because:

- The Commission has fulfilled its obligation required in section 365.1(f), which is now inoperative, and has no further role in making additional recommendations to the Legislature on the Direct Access cap;
- Even if the Commission were to reconsider the DA Decision as a result of this Petition or otherwise, it should continue to recommend against expanding Direct Access because
  - Clean energy sales and resource development related factors driving the Commission to recommend against expanding the Direct Access cap in the DA Decision have not materially changed; and
  - Claims that Direct Access service is "better-suited" for large load customers than other LSEs, including CCAs, have not been adequately supported.

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

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Senate Bill 237 Related to Direct Access.	R.19-03-009

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S RESPONSE TO PETITION FOR MODIFICATION OF DECISION 21-06-033 BY THE ALLIANCE FOR RETAIL ENERGY MARKETS, CALIFORNIA COALITION OF LARGE ENERGY USERS, DIRECT ACCESS CUSTOMER COALITION, REGENTS OF THE UNIVERSITY OF CALIFORNIA, SHELL ENERGY NORTH AMERICA (US), L.P. AND WESTERN POWER TRADING FORUM

Pursuant to Rule 16.4(f) of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure,[2] the California Community Choice Association[3] (CalCCA) hereby submits this Response to the *Petition for Modification of Decision 21-06-033 by The Alliance for Retail Energy Markets, California Coalition of Large Energy Users, Direct Access Customer Coalition, Regents of The University of California, Shell Energy North America (US), L.P. and Western Power Trading Forum*[4] (the Petition), dated April 6, 2026. For the reasons set forth herein, the Petition should be denied.

---

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 *Petition for Modification of Decision 21-06-033 by The Alliance for Retail Energy Markets, California Coalition of Large Energy Users, Direct Access Customer Coalition, Regents of The University of*

I. INTRODUCTION

The Alliance for Retail Energy Markets(AReM), California Coalition of Large Energy Users (CLEU), Direct Access Customer Coalition (DACC), Regents of The University of California (UC), Shell Energy North America (US), L.P. (Shell), and the Western Power Trading Forum (WPTF) (collectively, Petitioners) request the Commission modify D.21-06-033[5] (DA Decision) which recommended to the Legislature against further expansion of the Direct Access program.[6] The DA Decision concluded that expansion would have risked the state's reliability goals and potentially result in increased greenhouse (GHG) gas emissions, criteria air pollutants, and toxic air contaminants when compared to maintaining the cap.[7]

In support of their request, Petitioners first contend that the Commission's concerns set forth in the DA Decision no longer exist, given those concerns have "long since been addressed by both the Legislature and the Commission."[8] Petitioners cite the comprehensive framework of Resource Adequacy (RA), Renewables Portfolio Standard (RPS), and IRP under which ESPs are

---

California, Shell Energy North America (US), L.P. and Western Power Trading Forum, R.19-03-009 (Apr. 6, 2026), https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M604/K025/604025685.PDF.

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

6 Petitioners also filed an application for rehearing (AFR) of the 2026 Integrated Resource Planning (IRP) decision, D.26-02-057. Petitioners argue that the IRP Decision will cause inappropriate cost shifting to Direct Access customers given the IRP Decision orders procurement by all investor-owned utilities (IOU), community choice aggregators (CCAs), and electric service providers (ESP) for system reliability needs, despite ESPs not being allowed to serve the new load driving the need for incremental procurement due to the Direct Access cap. CalCCA filed a Response to the AFR on April 21, 2026, arguing that: (1) the IRP Decision does not constitute legal error given the Commission assigned procurement obligations to ESPs based on system reliability need; (2) the request that the ESP share be reallocated to other load-serving entities (LSEs) should be rejected and instead addressed in the IRP procurement track or in the Reliable and Clean Power Procurement Program given the impacts on all parties; and (3) the request for reconsideration of Direct Access expansion in the AFR should be rejected given it is outside the scope of the IRP Decision.

7 DA Decision, at 2.

8 Petition, at 21.

now required to make contributions to system reliability and the State's clean energy goals.[9] Petitioners also argue that Direct Access is "ideal" and "better suited" than CCAs or IOUs for serving new large commercial loads, such as data centers.[10]

The Petitioners' requested modification should be rejected, and no recommendation should be made to the Legislature to reopen Direct Access. As an initial matter, it is the Legislature, not the Commission, that has the authority to modify the Direct Access cap, and the Commission has no current role in providing a recommendation to the Legislature on this topic. Public Utilities Code section 365.1(a) allows the Legislature, by statute, to lift the suspension or otherwise authorize Direct Access.[11] The DA Decision was decided pursuant to former section 365.1(f), which has since become inoperative. Section 365.1(f) required the Commission to provide recommendations and findings to the Legislature regarding potential Direct Access reopening *on or before June 1, 2020.* In making its recommendation in the DA Decision, the Commission fulfilled its obligation required in section 365.1(f) and has no further obligation to make additional recommendations to the Legislature on this matter.

Even if the Commission were to reconsider the DA Decision as a result of this Petition or otherwise provide recommendations on Direct Access to the Legislature, however, the Commission should still find that lifting the Direct Access cap is not the right policy decision for California at this time. Indeed, the factors driving the Commission to recommend against expanding the Direct Access cap in the DA Decision have *not* materially changed. For example, although all LSEs are subject to the same RPS and IRP compliance requirements, ESPs' share of retail sales from clean resources and progress on new resource development continues to lag

9 Petition, at 9, 21.

10 Petition, at 11.

11 All subsequent code sections cited herein are references to the California Public Utilities Code specified.

behind other LSEs, suggesting these factors are still relevant. In addition, the Petitioners fail to justify their claims that ESPs are *better-suited* than other LSEs, including CCAs, to serve new large commercial loads, such as data centers. Even if an argument could be made to open Direct Access for data center load, the Petitioners' recommendation is overly broad, extending to "all non-residential customers."[12]

In summary, the Commission should reject the Petition and refrain from recommending Direct Access expansion to the Legislature at this time, because:

- The Commission has fulfilled its obligation required in former section 365.1(f), which is now inoperative, and has no further role in making additional recommendations to the Legislature on the Direct Access cap;
- Even if the Commission were to reconsider the DA Decision as a result of this Petition or otherwise make any recommendations on reopening Direct Access, it should continue to recommend against expanding Direct Access because
    - Clean energy sales and resource development related factors driving the Commission to recommend against expanding the Direct Access cap in the DA Decision have not materially changed; and
    - Claims that Direct Access service is "better-suited" for large load customers than other LSEs, including CCAs, have not been adequately supported.

II. THE COMMISSION HAS FULFILLED ITS OBLIGATION REQUIRED IN SECTION 365.1(F) AND HAS NO FURTHER ROLE IN MAKING ADDITIONAL DIRECT ACCESS EXPANSION RECOMMENDATIONS TO THE LEGISLATURE

The Petition should be rejected because it is the Legislature, not the Commission, that has the authority to modify the Direct Access cap, and the Commission has no current role in providing the Legislature with recommendations on this topic. The DA Decision was decided pursuant to former section 365.1(f), which has since become inoperative. Section 365.1(f) required the Commission to provide recommendations and findings to the Legislature regarding

---

12 *See* Petition, at 5, and Exhibit A.

potential Direct Access reopening on or before June 1, 2020. The recommendations were to address "implementing a further direct transactions reopening schedule, . . . for all remaining nonresidential customer accounts in each electrical corporation's service territory."[13] The findings, to be considered when developing the recommendations, were that the recommendations: (1) are consistent with the state's GHG emission reduction goals; (2) do not increase criteria air pollutants and toxic air contaminants; (3) ensure electric system reliability; and (4) do not cause undue shifting of costs to bundled service customers of an electrical corporation or to direct transaction customers.[14]

The Commission concluded in the DA Decision that it could not recommend reopening Direct Access because it could not make findings (1) through (3) (and therefore did not need to address finding (4)).[15] While the section 365.1(f) requirements are no longer operative, current section 365.1(a) does allow the Legislature, by statute, to lift the suspension or otherwise authorize Direct Access. In making its recommendation in the DA Decision, the Commission fulfilled its obligation required in section 365.1(f) and has no further role in making additional recommendations to the Legislature on this matter.

III. EVEN IF THE DA DECISION IS RECONSIDERED OR DIRECT ACCESS RECOMMENDATIONS ARE MADE, THE COMMISSION SHOULD CONTINUE TO RECOMMEND AGAINST DIRECT ACCESS EXPANSION BECAUSE ESP CLEAN ENERGY SALES AND RESOURCE DEVELOPMENT HAVE NOT MATERIALLY CHANGED

Petitioners argue that factors cited by the DA Decision to recommend not lifting the Direct Access cap are no longer present, especially given ESPs are now subject to the same RPS, IRP, and RA requirements as all other LSEs. As set forth below, however, certain factors have

---

13 Pub. Util. Code § 365.1(f)(1).

14 *Id.* § 365.1(f)(2).

15 DA Decision, at 18-22.

not materially changed, including that: (1) historical progress demonstrates that ESPs lag behind other LSEs in the amount of retail sales from clean resources, and the significant procurement necessary to meet future compliance requirements indicates that this trend may continue; and (2) a review of the Commission's 2026 RPS Report and LSE IRP Plans suggest ESPs continue to lag behind on new resource development, and catching up may already be infeasible given current market conditions and interconnection constraints. As a result, Petitioners' request to reopen Direct Access should be rejected.

A. ESPs' Share of Retail Sales from Clean Resources Has Historically Been Below the Share Achieved by the CCAs and IOUs

The DA Decision recommends against further expansion of the Direct Access program in part because "[i]f past procurement indicates future outcomes, then load migration from IOUs or CCAs to ESPs may lead to a net decline in RPS procurement, relative to maintaining the current cap on Direct Access, which may increase GHG emissions and increase criteria air pollutants and toxic air contaminants."[16] The Petitioners state that concerns regarding RPS procurement and criteria air pollutants are unfounded because ESPs, like all LSEs, are subject to the same RPS and criteria air pollutant standards and ESPs recently met their requirements for the 2021-2024 RPS compliance period.[17] Although all LSEs are subject to the same requirements, ESPs' share of retail sales from clean resources has historically been below the share achieved by the IOUs and CCAs, as demonstrated in Figure 1, below.

---

16 DA Decision, at 11.

17 *See* Petition, at 17-18.

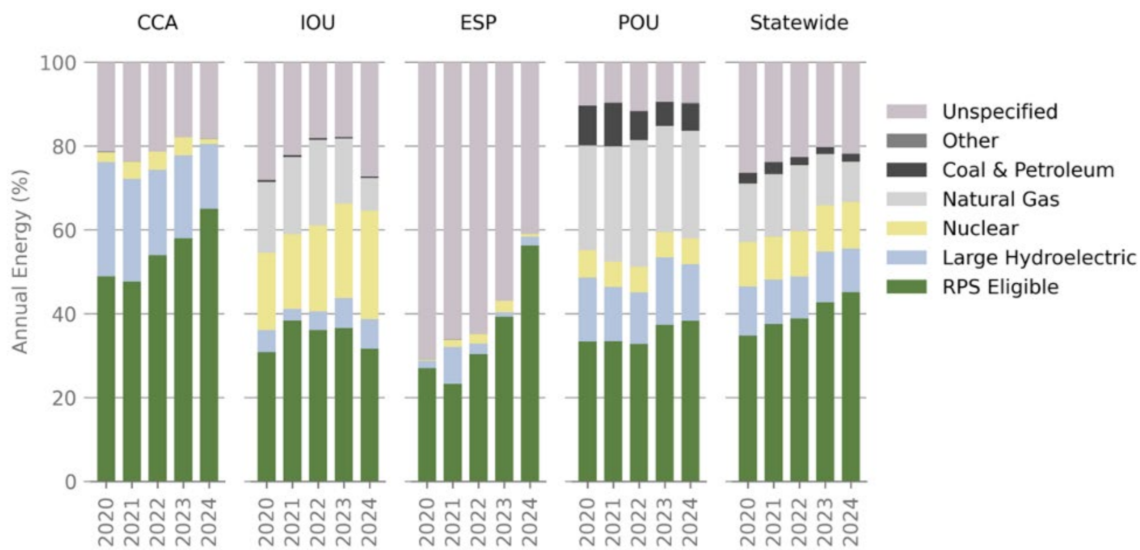


Figure 1: Sources of Annual Energy Sales by LSE Type[18]

ESPs have historically been minimally compliant with RPS requirements, and going forward, the 2025 RPS Report suggests the 2025-2027 and 2028-2030 compliance periods may be a challenge for ESPs, as demonstrated by Figure 2, below.

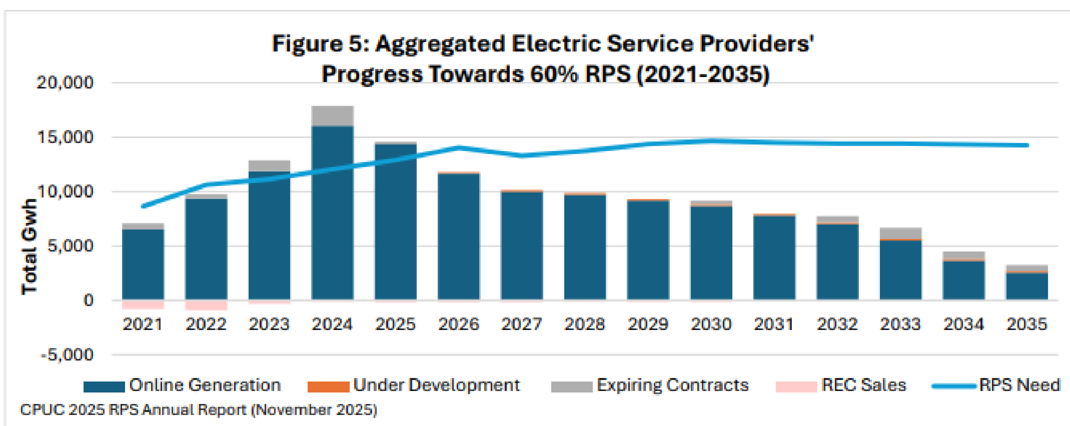


Figure 2: Aggregate ESP Progress towards 60 Percent RPS (Source: CPUC 2025 RPS Report)

The Commission's 2025 RPS Report finds that, "[t]he ESPs' forecasted procurement percentages are lower in the future because a substantial amount of the ESPs' RPS procurement

18 CalCCA analysis of the Power Source Disclosure Annual Reports submitted to the CEC for 2020-2024, https://www.energy.ca.gov/programs-and-topics/programs/power-source-disclosure-program.

is in short-term contracts…" and "many will need significant procurement to meet the RPS 2025-2027 compliance period and beyond."[19]

Historical progress demonstrates that ESPs lag behind other LSEs in the amount of retail sales from clean resources. The significant amount of procurement necessary to meet future compliance requirements indicates that this trend may continue. The Commission's concern expressed in the DA Decision that "…load migration from IOUs or CCAs to ESPs may lead to a net decline in RPS procurement, relative to maintaining the current cap on Direct Access, which may increase GHG emissions and increase criteria air pollutants and toxic air contaminants," is therefore still relevant.

B. The RPS Report and LSE IRP Plans Suggest ESPs Continue to Lag Behind on New Resource Development, and Catching Up May Already Be Infeasible

The DA Decision also recommends against further expansion of the Direct Access program because of "ESPs' lack of track record in building new generation resources," which the Commission found may increase reliability risks.[20] As demonstrated in Figure 2 above, thus far, ESPs have very little generation under development to meet RPS requirements. This is in contrast to CCAs, who plan to meet RPS requirements with significant amounts of generation under development, as demonstrated in Figure 3, below.

---

19 *See 2025 California Renewables Portfolio Standard Annual Report* (Nov. 2025), at 24, https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/office-of-governmental-affairs-division/reports/2025/2025-california-renewables-portfolio-standard-rps-annual-report.pdf.

20 DA Decision, at 11.

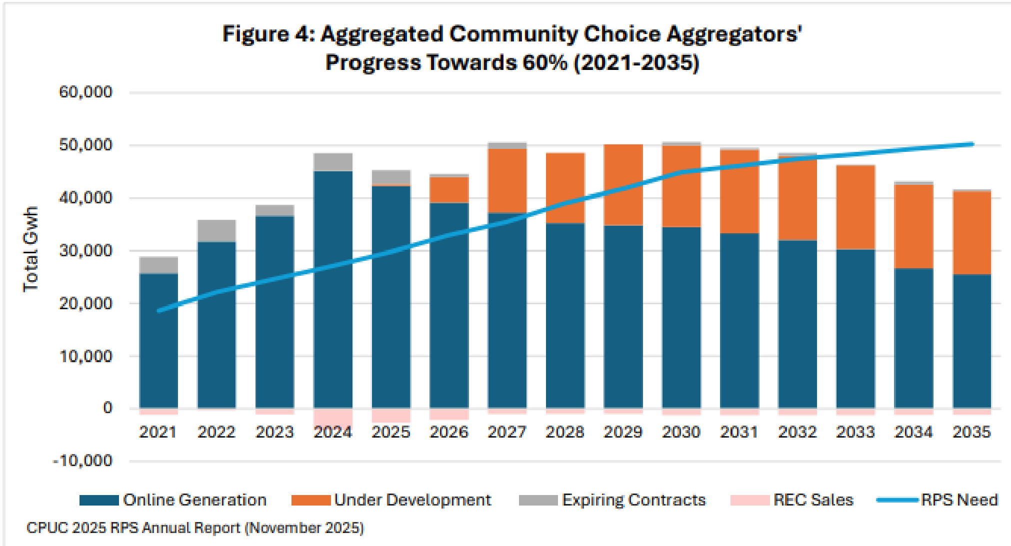


Figure 3: Aggregate CCA Progress Towards 60 Percent RPS (Source: CPUC 2025 RPS Report)

IRP plans similarly demonstrate that ESPs are lagging behind other LSEs, as a percentage of peak demand, in the development of new clean resources, as demonstrated in Figure 4, below. LSEs most recently filed IRP plans in 2022.

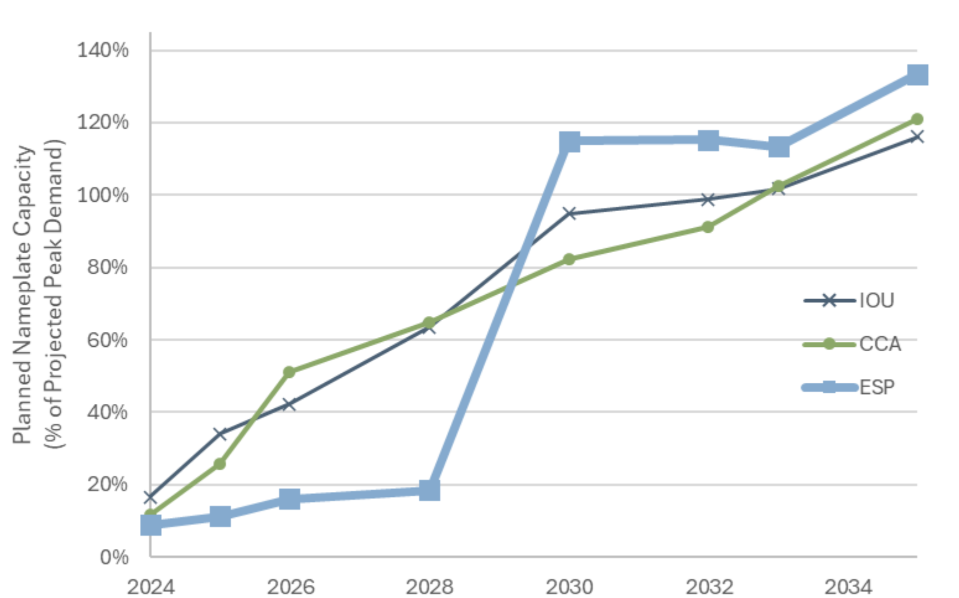


Figure 4: New Resource Additions using Aggregated 25 MMT Plans from 2022 LSE IRPs[21]

---

21 CalCCA analysis of new resource additions for the aggregated 25 MMT plans in the 2022 IRPS on Slide 17-19, https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-

In those plans, ESPs show very little planned new resource additions, as a percentage of projected peak demand, from 2024-2028. Additionally, ESPs forecasted increase in new resource additions between 2028 and 2030 – going from 20 percent to over 110 percent – will likely be a significant challenge under current market conditions and interconnection timelines.

The ability for the state to meet climate and reliability objectives requires expeditious development of new resources. Figures 2 through 4 demonstrate that it may not be possible to achieve the same pace of new resource development if Direct Access is expanded relative to maintaining the current cap. For these reasons, the Commission's concern around the "ESPs' lack of track record in building new generation resources," continues to be relevant.

IV. THE PETITIONERS FAIL TO DEMONSTRATE WHY ESPS ARE "BETTER-SUITED" THAN OTHER LSES FOR SERVING LARGE LOAD CUSTOMERS GIVEN IOUS AND CCAS ARE CURRENTLY SERVING LARGE LOAD CUSTOMERS

The Petitioners' argument that ESPs are somehow in a better position to serve large customers than other LSEs, including CCAs, is unfounded and unsubstantiated. Petitioners state that "ESPs are *better suited* at preventing cost shifting to existing customers than CCAs and IOUs to meet the needs of new large customers because ESPs will place such customers under dedicated contract."[22] Petitioners further state that "[n]ew large loads get the advantage of

---

division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltpp/2023-irp-cycle-events-and-materials/2022_lse_plan_aggregation_steps_20231004.pdf. To obtain a percentage of projected peak demand, CalCCA used the peak load share from 2021 that was used to define MTR requirements (Slide 12 of https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltpp/compliance-status-reportmid-term-reliability-mtr-and-supplemental-mtr.pdf), then assumed that the ratio of peak demand to retail sales in 2021 remains constant out through 2035. CalCCA then used the Individual "LSE Energy Load Forecast Assignments for Use in 2022 LSE IRPs", which shows the projected retail sales out through 2035, (https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltpp/2022-irp-cycle-events-and-materials/2022-final-ghg-emission-benchmarks-for-lses_public.xlsx) to calculate the projected peak demand for each LSE category.

[22] Petition, at 16.

flexibility in contracting that can meet their needs including providing the customer's desired level of green power attributes, while other customers bear no risk of generation rate increases or stranded costs."[23]

This "win-win situation for large load customers and the rest of the state,"[24] however, is not unique to Direct Access service. CCAs can already structure individual transactions with new large loads in the same way ESPs can today, tailoring the agreement to the situation. CCAs can structure any such transactions so that the CCA can remain consistent with the clean energy and environmental objectives of their communities. The Commission is now considering the IOUs' approach to these issues in the Advanced Rate Design proceeding (R.26-04-009), and nothing prevents the Commission from enabling customer-specific contracts for this purpose. CCAs and IOUs alike can "ring fence" transactions using long-term obligations and security requirements, designed for each scenario, to prevent shifting costs to other customers in the future.

For example, Silicon Valley Clean Energy (SVCE) entered into a special agreement with Google in 2022 to provide 24/7 carbon-free energy service for Google's offices in Mountain View and Sunnyvale, California. SVCE agreed to match carbon-free electricity with Google's local demand for at least 92 percent of all hours in the year – from a tailored portfolio of renewable energy resources meeting additionality requirements. Google also agreed to flex its building electric loads to further improve carbon-free energy and cost performance, and to invest in electrification at its local facilities.[25]

---

23 Petition, at 11-12.

24 *Ibid.*

25 *See* "Silicon Valley Clean Energy and Google Announce Comprehensive 24/7 Carbon-Free Energy Agreement" (June 15, 2022), https://svcleanenergy.org/news/silicon-valley-clean-energy-and-google-announce-comprehensive-24-7-carbon-free-energy-agreement/.

San José Clean Energy (SJCE) provides another example of how CCAs can provide benefits to large loads. The City of San José, of which SJCE is a part, has its own Large-Load Energy Customer Development department to "support the next generation of data centers" by providing a "concierge-style support" to help data centers developers and operators navigate energy interconnections, zoning, and permitting.[26] In addition, the City of San José and PG&E have partnered to streamline the interconnection process for large-load energy users such as data centers. SJCE is connected to the process through its transparent pricing for data centers, clean energy options, and energy efficiency programs and initiatives that can help data centers reduce peak demand and improve operational resilience. In short, Petitioner arguments that Direct Access service is somehow "better suited" to serve large loads, including data centers, is misguided and can be easily debunked.

Even if an argument could be made to open Direct Access for data center load, the Petitioners' recommendation is also unjustifiably broad. While the Petitioners claim that Direct Access is "ideal" for data centers, the Petitioners propose to expand Direct Access eligibility to "all non-residential customers." The Petition offers no justification for this broad approach. For these reasons, the Petition does not demonstrate a need to lift the Direct Access cap for the purpose of serving large loads.

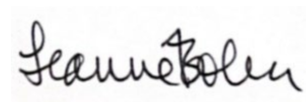
---

[26] *See* "Powering San Jose," https://www.sjeconomy.com/how-we-help/programs-and-services/powering-san-jos-energy-infrastructure-for-data-centers#sjce.

V. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests that the Commission deny the Petition for Modification.

Respectfully submitted,



Leanne Bober,
Director of Regulatory Affairs and Deputy General Counsel

CALIFORNIA COMMUNITY CHOICE ASSOCIATION

May 6, 2026