

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



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Order Instituting Rulemaking to Continue
Electric Integrated Resource Planning and
Related Procurement Processes.

R.20-05-003

**REPLY COMMENTS OF SHELL ENERGY NORTH AMERICA (US), L.P. ON
THE ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENTS ON
ADDITIONAL PROPOSAL FOR A RELIABLE AND CLEAN POWER
PROCUREMENT PROGRAM**

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I. INTRODUCTION

Shell Energy North America (US), L.P. (“Shell Energy”) submits these reply comments in response to parties’ opening comments¹ on the Administrative Law Judge’s *Ruling Seeking Comments on Additional Proposal for a Reliable and Clean Power Procurement Program*, issued June 23, 2026, which presents an additional option (“Option 3”) for consideration by the California Public Utilities Commission (“Commission”).²

Although parties disagree on whether Option 3 should serve as the complete Reliable and Clean Power Procurement Program (“RCPPP”) framework and on important implementation details,³ they broadly agree that a durable framework must:

- recognize eligible prior procurement and existing resources;
- address repowers and measurable incremental improvements;
- provide workable treatment of long-lead-time resources;

¹ Party opening comments are cited as follows: [Party Name] Comments at [page number(s)].

² Pursuant to ALJ Fitch’s July 10, 2026, e-mail ruling granting in part the Joint IOU extension request, these comments are timely filed on September 2, 2026.

³ See, e.g., San Diego Gas & Electric Company (“SDG&E”) Comments at 1-3; The Utility Reform Network (“TURN”) Comments at 1-4; the California Independent System Operator (“CAISO”) Comments at 1-3; Western Power Trading Forum (“WPTF”) Comments at 1-3; California Energy Storage Alliance (“CESA”) Comments at 6-8; Alliance for Retail Energy Markets (“AReM”) Comments at 2-6; Southern California Edison Company (“SCE”) Comments at 1-4.

- establish predictable accreditation and development rules; and
- avoid penalizing an LSE for delays or deficiencies outside its reasonable control.⁴

This convergence provides a practical foundation regardless of the framework the Commission ultimately adopts. Before using Preferred System Plan (“PSP”) and Transmission Planning Process (“TPP”) portfolio outputs to establish binding load-serving entity (“LSE”) obligations, the Commission should:

- allocate each component of system need based on cost causation and apply eligible credits and transfers to determine each LSE’s net obligation;
- establish prospective accreditation rules and a transparent crosswalk to expected Resource Adequacy (“RA”) treatment;
- account for the complete portfolio underlying the need determination;
- define procurement requirements through measurable attributes no more narrowly than necessary to preserve adopted planning outcomes; and
- establish administrable notice, cure, extension, substitution, transfer, and waiver procedures that distinguish LSE-caused deficiencies from events outside an LSE’s reasonable control.

With these safeguards, Option 3 could translate a complete system-need determination into obligations that reflect cost causation, recognize authorized compliance credits, and coordinate transparently with RA. It should not treat marginal effective load carrying capacity (“mELCC”) and Slice-of-Day (“SOD”) as interchangeable or convert incomplete baseline assumptions, gross

⁴ See WPTF Comments at 2-4, 7-12; CAISO Comments at 2, 9-12; SDG&E Comments at 1-3, 15-22, 34-39; Independent Energy Producers (“IEP”) Comments at 1-2, 7-9; CESA Comments at 5-8, 11-18, 27-28; TURN Comments at 6-9; Milepost West Comments at 2-10, 14-19; Clearway Energy Group LLC (“Clearway”) Comments at 2-4, 11-12; REV Renewables, LLC (“REV”) Comments at 2-5.

allocations, or modeled resource archetypes into duplicative procurement, overstated net obligations, or technology-specific mandates.

II. DISCUSSION

A. Allocation Must Follow the Cause of Need While Crediting Eligible Prior Procurement

The Commission should distinguish the method used to allocate gross procurement responsibility from the compliance accounting used to calculate each LSE's net obligation. Allocation should identify the system condition driving each component of incremental need and measure each LSE's contribution to that condition. Compliance accounting should then determine which existing or previously procured eligible resources, authorized central-procurement credits, banked compliance value, and transferred compliance rights may be applied against the LSE's gross allocation, subject to applicable eligibility, vintage, and anti-double-counting requirements. This sequencing ensures that the Commission first allocates responsibility according to cost causation and then determines the incremental procurement, if any, required from each LSE.

1. Shared Reliability Need Should Follow Critical-Hour Contribution

LSE and market-participant comments support moving away from an undifferentiated annual-energy allocator when the identified need is driven by a different system condition.⁵ CalWEA proposes allocating clean-resource needs based on each LSE's proportional contribution to gas-fired generation during system-critical hours, thereby tying the procurement obligation to the condition that creates the integration need.⁶ Milepost West similarly recommends that allocation reflect "each LSE's contribution to the hours and conditions driving need, not annual energy alone."⁷

⁵ IEP Comments at 7; the California Wind Energy Association ("CalWEA") Comments at 2-3, 10-12; WPTF Comments at 2-3, 6-7; Milepost West Comments at 14-15.

⁶ CalWEA Comments at 10-12.

⁷ Milepost West Comments at 14.

A shared reliability need does not manifest uniformly across all hours or system conditions. When the Commission identifies an incremental reliability requirement, it should allocate gross responsibility according to each LSE's contribution to the critical hours, seasons, and modeled system conditions driving that requirement. Annual energy consumption alone may not reasonably measure an LSE's contribution to a peak, net-peak, ramping, duration, or other identified reliability constraint. Before imposing a binding allocation, the Commission should:

- identify the reliability condition being addressed;
- define the critical hours, seasons, or modeled system conditions used to measure contribution;
- disclose the load data, assumptions, normalization rules, and calculation methodology; and
- apply the same causal metric to all LSEs subject to that component of need.

An annual-energy allocator may be appropriate when annual energy reasonably measures each LSE's contribution to an identified energy or greenhouse-gas-reduction need. It should not substitute for critical-condition contribution when an obligation is intended to remedy a reliability constraint arising during particular hours, seasons, or system conditions.⁸ Using the allocator associated with one type of system need to allocate a materially different type of need would disconnect procurement responsibility from the condition the procurement is intended to address.

The final decision should direct Energy Division, before the first binding allocation, to propose for Commission consideration the critical-condition definition, calculation methodology, applicable load data, normalization rules, and true-up process. The proposed methodology should

⁸ See IEP Comments at 7-8; CalWEA Comments at 10-12; Pacific Gas and Electric Company ("PG&E") Comments at 3-7.

allow each LSE to verify its allocated share and should explain how forecast-load changes and other relevant input updates will be incorporated into subsequent procurement cycles.

The Commission should pair that methodological transparency with appropriate protection for confidential market information. The methodology, assumptions, system totals, and aggregate compliance results should be transparent. By contrast, LSE-specific gross allocations and net compliance positions, bid and contract terms, and commercially sensitive procurement data should receive appropriate confidential treatment. This balance would permit parties to evaluate the allocation methodology and aggregate program results without disclosing information that could impair an LSE's bargaining position or facilitate the exercise of supplier market power.

2. Load-Growth Procurement Responsibility Should Follow the LSE Serving the Incremental Load

Load-growth-driven procurement presents a separate cost-causation issue. Procurement needed to serve large new customers, concentrated load additions, or other material incremental demand should follow the LSEs and customers responsible for that growth. Requiring LSEs with little or no growth to fund procurement for another entity's expansion would create an inequitable cost-shift, expose customers to stranded costs if forecast growth does not materialize, and distort competitive neutrality among LSEs.

CalWEA's causation framework, although focused on critical-hour emissions, reinforces the broader principle that integration-resource obligations should follow the conditions that create the need.⁹ WPTF explains that a fixed allocation based on a snapshot of load creates "free riders and stranded costs" and recommends a mechanism under which compliance and cost responsibility remain aligned with the load being served, while transferable compliance attributes move without requiring transfer or novation of the underlying contract.¹⁰ Milepost West likewise recommends that

⁹ CalWEA Comments at 10-12.

¹⁰ WPTF Comments at 6-7.

baseline accounting update for load migration and permit transfers of obligations and compliance positions.¹¹ The Long Duration Energy Storage Council (“LDES Council”) also supports transferability of Net Qualifying Capacity (“NQC”) to address load migration and allow obligations to move efficiently among LSEs.¹² These proposals address changes in which LSE serves the relevant load. The Protect Our Communities Foundation (“PCF”) identifies the related forecast-risk problem, warning against assigning procurement costs to customers in areas where projected data-center load may not materialize.¹³

The Commission should address both risks through complementary allocation, true-up, and transfer rules. Before assigning procurement, the Commission should determine that the growth is reasonably attributable to the affected LSE, supported by objective development milestones, and sufficiently likely to materialize within the applicable compliance period. For unusually large or discrete loads, the Commission should establish milestone-based treatment and update the associated allocation as the project reaches, misses, or revises those milestones. Periodic true-ups should also reconcile forecast growth with updated forecast and actual load data.¹⁴

Separate transfer rules should apply when load changes providers after the Commission has allocated an obligation or an LSE has executed procurement. To the extent practicable, the associated obligation, cost responsibility, and eligible compliance value should follow the migrated load through a defined Commission process. The former provider should not retain responsibility for load it no longer serves, and the receiving provider should not receive the benefit of serving that load without the associated procurement responsibility. The mechanism should permit eligible compliance value,

¹¹ Milepost West Comments at 14.

¹² LDES Council Comments at 13-14.

¹³ PCF Comments at 11-13.

¹⁴ AReM Comments at 2-3, 12-14, and Attachment A at A-1 to A-11; WPTF Comments at 2-3.

rather than the underlying resource contract, to transfer and should address existing contracts, banked credits, cost recovery, partial-year transfers, and reconciliation in the next compliance filing.

These principles should apply symmetrically to market entry, material load growth, load migration, and material load reductions. A new or growing LSE should receive an initial obligation based on the best available forecast of its contribution to the system conditions giving rise to the procurement need, subject to reconciliation as updated forecast and actual load data become available. The LSE should be permitted to satisfy that obligation through eligible procurement, acquisition of banked or transferred compliance value, or another Commission-approved compliance mechanism, without requiring assignment or novation of the underlying resource contract. The obligation of an LSE that no longer serves the associated load should be reduced to avoid duplicative responsibility. The Commission should direct Energy Division to first establish:

- the thresholds for identifying material or unusually large load additions and reductions;
- the development milestones and evidentiary requirements used to determine whether forecast growth is sufficiently likely to materialize;
- the effective dates and treatment of partial-year market entry, market exit, and load migration;
- the applicable forecast, load-shape, and critical-system-condition inputs;
- procedures for acquiring, transferring, banking, and retiring compliance value; and
- true-up and reconciliation rules for departing, receiving, growing, and shrinking LSEs.

3. Portfolio Resources Should Determine Net Compliance, Not Replace the Causal Allocation Metric

PG&E argues that Public Utilities Code Section 397 requires the Commission to consider both an LSE's load and its resource portfolio when allocating procurement need. PG&E accordingly proposes that each LSE's obligation consist primarily of the incremental resources identified in its individual Integrated Resource Plan ("IRP"), together with a pro rata share of any additional system

need identified through Commission modeling.¹⁵ PG&E also acknowledges that LSEs may have used inconsistent assumptions in their current IIRPs and that its proposed methodology would require further standardization before those plans could support binding allocations. Shell Energy agrees with PG&E that eligible portfolio resources and early procurement must be recognized. The question is not whether portfolio position should matter, but where it should enter the calculation.

Section 397 requires an allocation methodology based on each LSE's contribution to load and resource portfolio, but does not prescribe a portfolio-first methodology or require an LSE's individual planning assumptions to determine its initial share of binding system procurement responsibility. The Commission can account for both statutory considerations while preserving a common and verifiable cost-causation metric through the following sequence:

1. Determine total system need;
2. Assign gross responsibility according to contribution to critical reliability conditions, incremental load growth, or another identified causal driver; and then
3. Credit eligible portfolio resources, prior procurement, central procurement, banking rights, and transferred compliance positions to determine the LSE's net compliance obligation.

This sequence recognizes portfolio resources without allowing differences among individual planning assumptions to determine the starting allocation. A portfolio-first methodology would create two related risks. First, unless the Commission has adopted common inputs, eligibility rules, and accounting conventions, an LSE's individual planning choices could materially affect its binding responsibility before those choices have been evaluated under a uniform allocation methodology. Second, LSEs contributing comparably to the same incremental system condition could receive

¹⁵ PG&E Comments at 3-12.

materially different gross responsibility based on historical procurement rather than their contribution to the condition creating the need.

Those concerns do not justify disregarding early procurement. They support recognizing it at the compliance-accounting stage under uniform eligibility, vintage, valuation, and anti-double-counting rules. TURN similarly urges the Commission to recognize newly developed resources already procured under long-term contracts and to permit eligible excess procurement to count toward future obligations, so that early action is not discouraged.¹⁶

The final decision should therefore distinguish expressly between gross allocation and net compliance. Before the first binding allocation, the Commission should identify:

- the causal metric applicable to each component of system need;
- the resource and procurement commitments eligible to reduce an LSE's gross allocation;
- the applicable eligibility, accreditation, vintage, and valuation rules;
- the treatment of qualifying central procurement, banked compliance value, and transferred compliance positions; and
- the ownership, tracking, and anti-double-counting rules applicable to each credit.

Energy Division should disclose the system conditions, critical-hour definitions, load-growth assumptions, data sources, and calculation methodology used to determine gross responsibility. It should then apply authorized portfolio credits and transfers under the Commission's uniform rules to calculate each LSE's net compliance obligation. This approach gives effect to both load and resource-portfolio considerations while ensuring that gross responsibility is allocated under a common methodology and that similarly situated procurement receives consistent compliance treatment.

¹⁶ TURN Comments at 4, 6-7.

B. The Commission Must Establish a Transparent, Prospective Crosswalk Between RCPMP Accreditation and RA Compliance

Before entering a long-term contract, an LSE must be able to evaluate both the resource's value for RCPMP compliance and the reasonably expected treatment of the resource and its associated capacity rights under RA when the resource becomes operational. RCPMP and RA serve distinct but complementary functions. Option 3 would use mELCC to accredit long-term procurement, while RA uses SOD for nearer-term compliance. The Commission need not apply a single accreditation methodology to both programs, and it should not suggest that mELCC and SOD values are mathematically interchangeable. It should, however, establish prospectively how a resource's physical capabilities, contractual rights, deliverability status, and capacity attributes will be recognized and reported under each program.

The opening comments demonstrate the need for that crosswalk even if the Commission retains distinct accreditation methodologies. CAISO supports complementary roles for RCPMP and RA and emphasizes the need for coordinated signals supporting long-term resource development, retention of needed existing resources, and operational reliability.¹⁷ CESA maintains that an RCPMP-procured resource may carry distinct RCPMP and RA attributes that can be unbundled and transacted independently,¹⁸ while WPTF emphasizes that an LSE should not procure one amount under RCPMP only to discover that a materially different amount is required for the corresponding RA obligation.¹⁹ These comments identify related but distinct coordination needs: alignment of long-term procurement and nearer-term reliability signals, clarity concerning ownership and transfer of compliance attributes, and advance notice of potentially material differences between RCPMP and RA accreditation.

¹⁷ CAISO Comments at 2, 9-11.

¹⁸ CESA Comments at 7-8.

¹⁹ WPTF Comments at 9.

Without clear coordination rules, LSEs may receive conflicting procurement signals, face uncertainty regarding the ownership and transfer of capacity attributes and incur compliance exposure when accreditation methodologies change after procurement. The rules must ensure that each RCPPP or RA compliance attribute is claimed only once for the applicable obligation and compliance period. CESA proposes that the RA attributes associated with a resource may be separated and traded while the procuring LSE retains the RCPPP compliance attribute.²⁰ Whether the Commission adopts that approach or another structure, any separability or transferability must be accompanied by clear rules governing ownership, reporting, transfer, retirement, and prevention of double counting.

To implement these principles, the final decision should direct Energy Division to publish, in advance of each solicitation cycle, an accreditation and compliance crosswalk identifying:

- the applicable RCPPP accreditation rules and values by resource class, compliance attribute, and procurement vintage;
- the then-applicable or reasonably anticipated RA SOD treatment and deliverability requirements;
- the ownership, separability, transfer, tracking, retirement, and anti-double-counting rules applicable to RCPPP and RA attributes;
- the data fields and documentation required to identify RCPPP compliance value, expected RA treatment, deliverability status, and ownership or transfer of separable attributes;
- the prospective transition rules applicable to subsequent methodology changes; and
- the respective treatment under RCPPP and RA of contracting deficiencies, delayed commercial operation, operating-period showing or availability deficiencies, and events that may implicate both programs.

²⁰ CESA Comments at 7-8.

The crosswalk should distinguish between binding RCPMP rules adopted for the procurement cycle and informational projections of future RA treatment. If the Commission cannot determine future RA treatment when the crosswalk is issued, the crosswalk should identify the unresolved issue, the then-applicable rule, and the process through which any subsequent change will be addressed. This approach would provide useful procurement guidance without treating a forecast of future RA rules as a guarantee that those rules cannot later change through the applicable Commission process.

The Commission should separately protect procurement undertaken in reasonable reliance on the RCPMP rules governing the applicable procurement cycle. For purposes of determining whether an LSE timely satisfied an RCPMP contracting obligation, the Commission should apply the accreditation value and eligibility rules established for that cycle. Updated methodologies may apply prospectively to later procurement obligations and, where appropriate, future compliance periods, after reasonable notice and under previously established transition rules. A subsequent methodology change should not retroactively convert procurement that satisfied the then-applicable RCPMP contracting requirements into a contracting deficiency solely because the Commission later changes the accreditation methodology.

The opening comments propose different mechanisms for achieving this regulatory certainty, but they generally support prospective rather than retroactive treatment. WPTF states that the “value published for a compliance vintage should be binding and nonretroactive” and that an executed contract should not lose compliance value solely because a later study changes the accreditation of its resource type.²¹ SCE and Fervo similarly recommend fixing or bounding applicable values, while IEP recommends locking the value at contracting through the next biennial update and providing a cure window.²² These proposals support establishing accreditation treatment by procurement vintage,

²¹ WPTF Comments at 9.

²² SCE Comments at 17; IEP Comments at 9; Fervo Comments at 2-3.

adopting transition rules before methodologies change, and providing a reasonable cure mechanism when a later system-wide change affects an LSE's prospective position. If such a change creates a prospective portfolio deficiency, the affected LSE should receive notice and a reasonable opportunity to cure, substitute, transfer, or otherwise address the deficiency before penalties apply.

Finally, the Commission should clearly define the enforcement boundary between RCPPP and RA. RCPPP should enforce the forward procurement obligation and the contracting and online milestones assigned to that program. RA should continue to govern operating-period showings and resource availability. Compliance with one program should not excuse a distinct violation of the other. But when the same underlying event implicates both programs, the Commission should identify the separate obligation violated under each program and ensure that any remedies or penalties reflect distinct compliance failures rather than imposing duplicative consequences for the same capacity deficiency during the same period. Milepost West supports maintaining distinct forward RCPPP and operating-period RA enforcement while avoiding overlapping penalties for the same failure.²³

C. The Need Determination Must Account for the Complete Portfolio and Avoid Duplicative Procurement

A durable procurement framework must identify the resources and attributes on which the adopted portfolio depends before calculating incremental procurement need. Option 3 should not assume that an existing resource will remain available throughout the planning horizon, provide no meaningful mechanism to support its retention or reinvestment, and then procure replacement capacity only after the resource retires or becomes unavailable. Nor should the Commission impose incremental LSE obligations without accounting for resources already online, under contract, or procured through Commission-authorized central procurement. CAISO similarly emphasizes that

²³ Milepost West Comments at 10, 18-19.

accurate baseline treatment is necessary to avoid under-procurement, over-procurement, and premature retirement of resources that continue to provide reliability value.²⁴

These concerns require a coordinated approach. The Commission should first establish a baseline identifying the resources and attributes already available or expected to become available. It should then determine which assumed existing resources require retention or reinvestment, recognize measurable incremental improvements at existing facilities, and credit central procurement only when objective milestones demonstrate a sufficient likelihood of delivery.

1. Baseline Accounting Must Precede the Calculation of Incremental Need

The Commission should determine the total system need reflected in the adopted portfolio and establish a transparent baseline of resource, contract, and development status before calculating incremental RCPPP obligations. The baseline should separately identify: (1) resources already online; (2) resources subject to executed contracts; (3) resources authorized but not yet contracted; and (4) existing resources that the PSP assumes will continue operating during the relevant planning period. It should also identify procurement undertaken through the Mid-Term Reliability, supplemental Mid-Term Reliability, long-lead-time, Department of Water Resources (“DWR”), Central Procurement Entity (“CPE”), and other Commission-authorized processes.

For each resource or procurement commitment, the baseline should identify:

- 1) the resource or system attribute reflected in the PSP or TPP portfolio;
- 2) commercial and development status;
- 3) applicable accreditation and assumed online period;
- 4) whether the resource or attribute has already been credited toward another procurement obligation; and

²⁴ CAISO Comments at 9-12. See also Clearway Energy Group, LLC, Comments at 4-10; Milepost West Comments at 4-6; Middle River Power (“MRP”) Comments at 2-5.

- 5) remaining incremental need after application of all eligible credits and anti-double-counting rules.

CAISO likewise recommends a baseline that can be clearly and accurately cross-walked between the planning portfolio and the procurement-compliance portfolio.²⁵

Calculating incremental need before reconciling the baseline risks creating obligations that later must be reduced or unwound. Conversely, treating a procurement authorization or planning forecast as equivalent to an executed and viable procurement commitment risks understating the need that LSEs ultimately must satisfy. The Commission should publish, before each binding need determination, a baseline ledger identifying the relevant resources and attributes, contract and development status, accreditation values, availability and online-date assumptions, prior compliance treatment, central-procurement credits, and resulting incremental need.

2. New-Resource Procurement Must Be Coordinated with Retention and Reinvestment

As WPTF succinctly observes, a “planning assumption is not a retention mechanism.”²⁶ CAISO emphasizes that an effective framework must support both new-resource development and continued availability of existing resources. Milepost West proposes two coordinated bilateral tracks, one for incremental resources and another for competitive retention and reinvestment.²⁷ CAISO further explains that planning portfolios generally assume the continued availability of a substantial portion of the existing fleet and recommends that the Commission evaluate whether RCPMP and RA together provide complementary signals for new-resource development and existing-resource

²⁵ CAISO Comments at 11-12.

²⁶ WPTF Comments at 3.

²⁷ Milepost West Comments at 4-10; CAISO Comments at 9-11.

retention.²⁸ Support for addressing the continued availability of existing resources extends beyond parties advocating a particular resource type or retention construct.²⁹

Parties differ on whether retention and reinvestment should be addressed through RCPPP, a multi-year RA mechanism, or another coordinated process. Regardless of the vehicle selected, the Commission should not impose binding new-resource obligations without addressing whether the existing resources assumed in the planning baseline are reasonably expected to remain available for the modeled period. A retention or reinvestment pathway would not allow existing capacity to displace an independently determined incremental new-resource need. Rather, it would secure the baseline on which that need determination depends. This approach would preserve the development signal for incremental resources without assuming that existing resources will remain available absent a contractual commitment, reinvestment, or other effective retention mechanism.

Any retention or reinvestment commitment should identify:

- the specific accredited resource or system attribute being retained;
- the applicable commitment and accreditation period;
- the retirement, availability, or performance risk being addressed; and
- the replacement need avoided by retaining the resource or attribute.

The same capacity or attribute should not both reduce baseline need and receive incremental-resource credit for the same compliance period. The final decision should establish the need for coordinated new-resource and retention or reinvestment pathways and direct Energy Division to develop proposed eligibility, solicitation, accreditation, contract-term, and anti-double-counting rules before the first procurement cycle.

²⁸ CAISO Comments at 9-11.

²⁹ See CAISO Comments at 2, 9-12; WPTF Comments at 3-5; IEP Comments at 1-2; MRP Comments at 2-5; Clearway Comments at 2-4, 11-12; Calpine LLC (“Calpine”) Comments at 2-5, 11-12; Diamond Comments at 1-5; REV Comments at 2-5; Milepost West Comments at 4-10; CESA Comments at 11-18; SDG&E Comments at 1-3, 19-20.

3. Repowers, Augmentations, and Expansions Should Receive Credit for Measurable Incremental Attributes

The framework should also recognize improvements to existing facilities that provide measurable incremental value. Diamond Generating LLC (“Diamond”) supports eligibility for additions at existing sites that provide incremental clean capacity or make use of existing interconnection and deliverability. CESA supports crediting incremental attributes resulting from repowering or expansion while distinguishing those improvements from work that merely offsets ordinary degradation. IEP likewise supports including existing, repowered, and retrofitted resources under an attribute-based framework.³⁰

For each eligible improvement, the Commission should measure the incremental accredited attribute relative to a defined pre-investment baseline. Incremental attributes may include additional capacity, duration, flexibility, deliverability, clean-energy output, emissions performance, or availability during critical conditions. Routine maintenance and work that merely offsets ordinary degradation should not automatically qualify for incremental procurement credit.

Where an investment both retains an existing attribute and adds an incremental attribute, compliance accounting should separately identify the retained and incremental portions. CESA illustrates this distinction through the expansion of a four-hour battery to eight-hour duration: the incremental four-hour capability may qualify toward procurement compliance, while augmentation that merely preserves the resource’s original operating characteristics should not receive incremental credit.³¹ The Commission should establish standardized rules for defining the pre-investment baseline, measuring and verifying each incremental attribute, assigning the applicable accreditation vintage and compliance period, and preventing duplicate credit.

³⁰ Diamond Comments at 2-5; CESA Comments at 11-18; IEP Comments at 2-5.

³¹ CESA Comments at 13-16.

4. DWR and CPE Procurement Should Reduce LSE Obligations Only Upon Satisfaction of Objective Milestones

DWR or CPE procurement should reduce LSE obligations only after it reaches objective milestones demonstrating that the relevant resources and attributes are sufficiently likely to be delivered. TURN would subtract CPE resources only after the CPE has contracted for them, the Commission has found the contracts reasonable, and the resources are reasonably likely to come online during the relevant period.³² Other parties likewise distinguish executed or sufficiently mature central procurement from an unexercised authorization.³³

An unexercised procurement authorization should not reduce LSE obligations. After contract execution, the Commission may provide provisional credit based on the applicable accreditation value, expected online date, development status, and continuing commercial viability of the centrally procured resource. Full credit should be provided only when specified milestones demonstrate a sufficiently certain quantity and delivery schedule. Energy Division should periodically reconcile central procurement and disclose the resource, attribute, quantity, accreditation value, development status, expected online date, and resulting LSE credit.

If centrally procured capacity is subsequently delayed, reduced, or terminated, the Commission should prospectively revise the affected need determination and provide LSEs a reasonable opportunity to respond. An LSE should not be deemed noncompliant, or required to replace the affected resource on a schedule that was not reasonably available, solely because the Commission previously reduced the LSE's obligation in reliance on central procurement. The final decision should specify:

- 1) the minimum milestones required for provisional credit;

³² TURN Comments at 6.

³³GreenGenStorage, LLC, ("GreenGen") Comments at 9-11; Hydrostor, Inc., ("Hydrostor") Comments at 9-10; IEP Comments at 5-7.

- 2) the conditions required for full credit;
- 3) the frequency and process for reconciliation;
- 4) the treatment of delayed, reduced, or terminated central procurement; and
- 5) the compliance relief available to affected LSEs.

D. Procurement Requirements Should Be Attribute-Based, With Narrower Categories Permitted Only Upon Specific Findings

Comments reflect broad support for defining procurement requirements through resource attributes but disagreement over how narrowly those attributes should be defined. Multiple parties support measurable resource attributes, rather than named technologies, as the general basis for procurement eligibility and compliance.³⁴ Other parties propose more narrowly defined categories or minimum requirements intended to preserve procurement of geothermal, clean-firm, long-duration, or duration-specific storage resources represented in the modeled portfolio.³⁵

The latter proposals respond to a legitimate concern: procurement must preserve the material reliability, emissions, deliverability, locational, and transmission outcomes reflected in the adopted portfolio. But a modeled resource archetype represents one means of satisfying an identified system need. It should not become a binding technology requirement unless the Commission determines, based on the record, that broader measurable attributes or commercially available substitutes cannot reasonably preserve the material planning outcome.

This distinction is also critical to affordability. Opening comments identify technology neutrality as an important means of promoting cost-effective procurement.³⁶ Where multiple

³⁴ See Shell Energy Comments at 8-9; Calpine Comments at 2, 5-6; IEP Comments at 1-2, 10-12; WPTF Comments at 4-6; Cal Advocates Comments at 12-15. See also UCS/NRDC Comments at 4-5.

³⁵ See Ormat Technologies, Inc., (“Ormat”) Comments at 3-6; Fervo Comments at 2-3; Form Energy Comments at 3-6; Hydrostor Comments at 5-6, 8-10; GreenGen Comments at 7-9; LDES Council Comments at 7-10; XGS Energy, Inc., (“XGS”) Comments at 4-6; NextEra Energy Resources, LLC, (“NextEra”) Comments at 18-21.

³⁶ AReM Comments at 7-9; Calpine Comments at 2, 4-5; WPTF Comments at 4-6.

technologies can provide the material system attributes reflected in the adopted portfolio, an attribute-based requirement allows competitive solicitation results, rather than administrative selection of a technology, to identify the most cost-effective compliant solution. If a narrower requirement is necessary, the Commission should identify the incremental system benefit that justifies reducing competition and evaluate the associated customer-cost and execution risks. Affordability does not justify relaxing a demonstrated reliability, emissions-reduction, deliverability, locational, or transmission requirement. It does require the Commission to define obligations no more narrowly than necessary to preserve the identified system outcome.

The Commission should therefore define procurement requirements through measurable performance attributes and permit resources to compete if they can demonstrate the required contribution to the identified system outcome. Technology neutrality does not require the Commission to disregard differentiated system needs. CAISO supports attribute-based need determinations while recognizing that targeted clean-firm, long-lead-time, or locational requirements may be appropriate where material to planning outcomes. TURN similarly supports attributes as the general rule while recognizing that specific resource requirements may be justified in limited circumstances.³⁷ The relevant distinction is not between broad and narrow requirements in the abstract, but between requirements supported by an identified system need and restrictions that merely reproduce the modeled resource mix.

Before making a narrow attribute category or technology-specific category binding on LSEs, the Commission should make findings addressing:

- Materiality: The proposed requirement is material to preserving an identified system or local reliability, emissions, deliverability, locational, avoided-transmission, or distribution-system outcome reflected in the adopted portfolio.

³⁷ CAISO Comments at 3-5; TURN Comments at 5.

- Non-substitutability: A set of measurable attributes, including attributes available from commercially viable substitutes, cannot reasonably preserve that outcome.
- Feasibility: The required quantity, procurement date, and online date are supported by evidence of commercial availability and development feasibility.
- Competition and affordability: The requirement is expected to preserve sufficient competition, and its incremental system benefits justify the associated customer-cost and execution risks relative to available alternatives.

These findings should identify both the outcome to be preserved and the evidence showing why a broader attribute definition would not preserve it. A modeled preference for a particular resource archetype, standing alone, should not be sufficient to establish non-substitutability.

1. Minimum Attribute Requirements and Maximum Category Limits Require Distinct Findings

The Commission may establish a minimum attribute requirement where the record supports the findings described above. A maximum category limit requires a separate justification because it restricts the extent to which an LSE may rely on otherwise eligible procurement to satisfy its total obligation. Such a limit could exclude procurement that is economic, commercially available, and capable of providing relevant system attributes. CESA, CalWEA, IEP, and Ormat oppose or question maximums that could discourage prudent hedging, fail to accommodate lumpy procurement, or interfere with voluntary clean-energy action.³⁸

The Commission should therefore focus on the total procurement obligation and supported minimum attribute requirements, rather than penalty-bearing maximum category limits. Before adopting a maximum, the Commission should identify:

³⁸ CESA Comments at 23-25; CalWEA Comments at 9-10; IEP Comments at 7-8; Ormat Comments at 5-6.

- the specific planning outcome that would be impaired if procurement exceeded the category limit;
- why accreditation of the resource's actual attributes would not adequately account for that concern;
- how the maximum would interact with lumpy project sizes and voluntary procurement; and
- how procurement above the limit would be treated for banking, transfer, or future-cycle compliance.

Absent those findings, otherwise eligible procurement should not lose compliance value solely because it exceeds an administrative category limit. Procurement above a current category requirement should remain eligible for banking, transfer, or future-cycle credit, subject to applicable accreditation, vintage, eligibility, and anti-double-counting rules.

2. Eligibility Must Account for Contributions Not Expressed Through NQC

The same attribute-based principle should govern resources whose contributions are not fully captured by an NQC-only construct. The final decision should specify how energy-only resources, imports, and resources delivered to non-CAISO balancing authorities may demonstrate contribution to a required attribute.³⁹ An NQC-based framework should not categorically or inadvertently exclude a resource category represented in the adopted planning portfolio without explaining how that resource's modeled contribution will otherwise be recognized.

³⁹ CAISO Comments at 11-13, indicating that Option 3 does not explicitly resolve EO eligibility and recommends that co-located EO treatment depend on the results of its TPP reliability assessment; SCV Water Comments at 2-3, stating that the IRP portfolio includes EODS solar and asks that need determination recognize both FCDS and EODS resources; IEP Comments at 11-12, asks whether resources delivered to California balancing authorities outside CAISO would qualify; Milepost West Comments at 19-20, stating that imports should be able to compete when they satisfy applicable delivery and deliverability requirements.

Eligibility should turn on whether the resource can demonstrate the required reliability, energy, emissions, locational, delivery, or deliverability contribution applicable to that attribute. Where a resource provides an energy or emissions attribute but does not provide NQC, that contribution should be measured, tracked, and reported separately from capacity accredited as NQC. The Commission should also identify any delivery, verification, counting, or transfer requirements necessary to establish that the claimed contribution is available to serve the planning need.

E. Timelines, Compliance Relief, and Penalties Must Reflect Development Feasibility and Attributability

1. A Common Procurement Cycle Should Accommodate Differentiated Contracting and Online Milestones

A common procurement cycle can provide a predictable connection among IRP planning, transmission planning, and procurement without imposing uniform deadlines on resources with materially different development pathways. CAISO explains that the proposed schedule allows only two years between the three-year contracting deadline and the five-year commercial-operation deadline. CAISO considers that period infeasible for projects dependent on transmission upgrades or other complex development activities and warns that a uniform deadline could narrow the eligible resource pool, reduce resource diversity, and increase procurement costs.⁴⁰ Developers of clean-firm, long-lead-time, and infrastructure-dependent resources similarly identify permitting, interconnection, deliverability, transmission, financing, and construction constraints that may require longer development periods.⁴¹

The Commission should retain a common cycle for determining need, allocating responsibility, and reporting progress, while establishing contracting, development, and online milestones appropriate to the required attributes and reasonably anticipated development pathways.

⁴⁰ CAISO Comments at 6-8.

⁴¹ Fervo Comments at 2-4; XGS Comments at 6-7; Ormat Comments at 6-8; Hydrostor Comments at 3-5, 10-13; LDES Council Comments at 11-16.

Contracting deadlines should provide a meaningful development signal without requiring LSEs to execute contracts before material project dependencies can reasonably be evaluated. TURN similarly supports differentiated advance-contracting requirements and extended online deadlines for resources with longer development requirements.⁴²

Interim showings should measure documented commercial progress rather than compel execution of a commercially unreasonable contract solely to satisfy a percentage-based requirement.⁴³ Depending on the applicable development pathway, qualifying progress could include completing a competitive solicitation, negotiating with viable counterparties, executing a contract, satisfying specified development milestones, or documenting reasonable efforts to address a market shortfall.

Before the first procurement cycle, the final decision should direct Energy Division to propose for Commission consideration:

- contracting, development, and online milestones for each development pathway;
- the evidence required to satisfy each milestone;
- treatment of projects dependent on transmission, deliverability, interconnection, permitting, or central-procurement actions;
- conditions under which phased contracting or shorter contract terms may qualify; and
- procedures for extension, substitution, or other compliance relief.

2. Compliance Should Be Evaluated Based on Diligence and Causation

A missed milestone should trigger compliance review, not an automatic finding of noncompliance. The Commission should consider the LSE's diligence, the cause of the deficiency, whether the relevant circumstances were within the LSE's reasonable control, and the LSE's mitigation efforts. CalCCA proposes defining "good faith efforts" as "documented, timely, and

⁴² TURN Comments at 7-8.

⁴³ NextEra Comments at 4, 9-11, 18; Fervo Comments at 2-3. See also Shell Energy Comments at 13-14.

reasonable procurement actions undertaken by an LSE to meet procurement obligations.”⁴⁴ Relevant factors should include:

- the timing, scope, and adequacy of solicitations;
- the availability, pricing, and material terms of responsive bids;
- commercially reasonable contracting efforts;
- contract administration and achievement of applicable milestones;
- timely notice of anticipated delays or deficiencies;
- reasonable cure, replacement, substitution, or transfer efforts; and
- the extent to which the deficiency is outside the LSE’s reasonable control.

Multiple developers support good-faith relief, cure periods, or extensions for documented circumstances outside the reasonable control of the LSE or developer.⁴⁵ Relief should not depend solely on the origin of the event. The Commission should also consider whether the LSE acted reasonably in selecting and managing the procurement, monitoring foreseeable risks, providing notice, preserving available remedies, and pursuing mitigation.

The final decision should establish a defined process for notice, cure, extension, substitution, transfer, and waiver. The process should allow an LSE to determine its compliance status before additional milestones or penalties accrue. Where a deficiency results from DWR or CPE procurement previously credited against an LSE’s obligation, the prospective reallocation and relief principles described in Section II.C.4 should apply.

3. Penalties Should Apply Only to an Attributable, Uncured Deficiency

Penalties should follow notice and opportunity to cure, apply only to the remaining attributable deficiency, and cease when the deficiency is cured or the obligation is prospectively

⁴⁴ CalCCA Comments at 39-40.

⁴⁵ CESA Comments at 27-28; REV Renewables, LLC, Comments at 3-5; Hydrostor Comments at 14-15; GreenGen Comments at 18-21; IEP Comments at 7-9.

modified. The penalty should reflect the nature and duration of the violation, the LSE's diligence and control over the deficiency, and the reliability or clean-energy consequences of the shortfall.

The Commission should distinguish among failure to undertake required procurement, satisfy a contracting milestone, achieve an online milestone, and meet an operating-year obligation. These events may warrant different remedies and should not automatically be subject to the same penalty formula. WPTF recommends that the "same megawatt should not be subject to overlapping contracting and online penalties for the same period" and that penalties follow a reasonable cure and substitution period.⁴⁶

Several parties support penalties sufficient to prevent LSEs from defaulting to lower-cost resources or treating noncompliance as an economic alternative to required category-specific procurement.⁴⁷ That concern may justify penalties sufficient to deter strategic noncompliance, but not a formula that disregards resource availability, diligent procurement, project causation, reasonable mitigation, or competitive pricing. The Commission therefore should not mechanically link a narrow-category penalty to the highest-cost available resource. Any cost-based benchmark should be reasonably related to the violation being deterred and should not encourage inflated offer prices or compel acceptance of commercially unreasonable terms.

The Commission should also coordinate RCPMP enforcement with RA requirements and contractual remedies. Distinct violations arising from the same event may warrant distinct consequences, but overlapping penalties should not apply to the same megawatt deficiency, compliance period, and injury absent identification of the separate violation and consequence addressed by each assessment. Contracting-stage penalties, if retained, should be lower than penalties for an attributable, uncured online deficiency because contracting-stage deficiencies may remain

⁴⁶ WPTF Comments at 10.

⁴⁷ Fervo Comments at 2-3; GreenGen Comments at 18-19; LDES Council Comments at 18-19; Form Energy Comments at 11, 16-17.

curable through replacement procurement, substitution, or transfer. Prior RCPMP assessments for the same shortfall and compliance period should be credited against later RCPMP penalties as necessary to prevent duplicative recovery for the same violation.

F. The Commission Should Not Adopt a Procurement Buffer Without a Quantified Showing of Residual Risk

The Commission should not automatically add a generic procurement buffer to a portfolio designed to satisfy an identified reliability standard, particularly where the RA Planning Reserve Margin (“PRM”) and other reliability mechanisms already address overlapping risks. Several parties oppose or question imposing an automatic buffer without analysis demonstrating its need and appropriate size.⁴⁸ CalCCA argues that a generic Commission-established buffer would duplicate the project-delay risk management already embedded in individual LSE procurement strategies and could result in costly excess procurement because a uniform percentage would not reflect differences among LSE portfolios.⁴⁹ Milepost West recommends that any residual buffer be sized only after the Commission models the remaining load, outage, weather, and development risks and accounts for reliability margins that exist outside RCPMP.⁵⁰ ACP-CA similarly recommends evaluating specific risks through IRP modeling rather than applying a generic fixed buffer.⁵¹ Forecast or development uncertainty, standing alone, does not establish either the need for or the appropriate size of an additional RCPMP procurement requirement. Before adopting a buffer, the Commission should:

- 1) identify the specific load, outage, weather, development, or performance risk that the buffer is intended to address;

⁴⁸ Environmental Defense Fund Comments at 12-13; IEP Comments at 7; Small and Multi-Jurisdictional Utilities (“SMJUs”) Comments at 10-11; PG&E Comments at 27-28; SCE Comments at 25-26; CalCCA Comments at 31-33.

⁴⁹ CalCCA Comments at 31-32 and 46-47.

⁵⁰ Milepost West Comments at 13-14.

⁵¹ ACP-CA Comments at 12-13.

- 2) quantify that risk after accounting for the PRM, existing reserves, procurement milestones, and other measures that mitigate the same risk;
- 3) demonstrate that the buffer would not duplicate another planning margin or procurement requirement;
- 4) evaluate whether targeted mitigation, cure, replacement, or backstop mechanisms could address the identified risk more efficiently; and
- 5) apply any supported adjustment only once at the system-need level and reevaluate its necessity and size in each planning cycle.

Unless this analysis demonstrates a distinct and material residual risk, the Commission should not add a generic percentage to LSE procurement obligations. If the Commission determines on the present record that some buffer is warranted, any buffer adopted for this planning cycle should not exceed the proposed one percent, should not establish a presumptive minimum for future cycles, and should be reevaluated based on the then-current record in each subsequent planning cycle.

III. CONCLUSION

Shell Energy supports Option 3 as the foundation for a durable RCPMP, provided that the Commission resolves the allocation and accreditation rules before binding procurement begins.

Respectfully submitted,

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