

Decision 20-09-026 September 24, 2020

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

Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements.

Rulemaking 16-02-007

**GRANTS CALIFORNIA COMMUNITY CHOICE ASSOCIATION  
PETITION FOR MODIFICATION OF DECISION 19-11-016**

**Summary**

This decision grants the petition for modification (PFM) of Decision (D.) 19-11-016 filed by the California Community Choice Association (CalCCA) on May 14, 2020. In its PFM, CalCCA sought to have the qualifying capacity (QC) methodology for counting capacity procured from hybrid projects, to satisfy the capacity procurement requirements in D.19-11-016, updated to the Commission's most recent definitions adopted in the resource adequacy Rulemaking (R.) 19-11-009. This decision confirms the QC counting methodology.

In addition, CalCCA requested that the Commission modify the cost allocation principles articulated in D.19-11-016, to require that load-serving

entities be billed for capacity procured on behalf of their customers, rather than having the customers themselves billed through a non-bypassable surcharge

This decision allows for that possibility, but does not require it; record development and final decision-making on this topic is ongoing in the new integrated resource planning Rulemaking (R.) 20-05-003. The Commission will address the finer points of cost allocation for capacity procured to comply with D.19-11-016 in R.20-05-003.

This decision addresses the last remaining substantive request in this proceeding and therefore this proceeding is closed.

## **1. Background**

Decision (D.) 19-11-016 was issued in November 2019 to require procurement by all load-serving entities (LSEs) within the Commission's purview for integrated resource planning (IRP) purposes, due to an identified potential reliability challenge beginning in 2021 and extending through at least 2023.

All LSEs had a capacity procurement requirement under the terms of the decision, and the Commission strongly encouraged the LSEs to consider procurement of hybrid resources to meet the capacity requirements. At the time of the decision, the qualifying capacity (QC) value of hybrid projects was being discussed in the resource adequacy proceeding. D.20-01-004 adopted an interim methodology, and additional work was being done in Rulemaking (R.) 19-11-009 to determine a permanent methodology. The Commission has since adopted the permanent methodology in D.20-06-031.

D.19-11-016 also allowed each LSE to procure its own proportional share of its capacity requirement, or choose not to procure, and have the procurement conducted by the incumbent investor-owned utility (IOU), with costs allocated

on a non-bypassable basis to the customers of the LSE that opted out of procuring its share of the required capacity.<sup>1</sup>

The Commission initiated a stakeholder process to resolve the details of the cost allocation mechanism associated with procurement on behalf of LSEs who opted out of procuring their share of the capacity requirement by holding a workshop on February 3, 2020, and signaling that further development of the implementation details would be worked out in further proceedings, either in R.16-02-007 or in a successor proceeding, which has now been initiated by the Commission in the form of R.20-05-003.

## **2. California Community Choice Association Petition for Modification**

On May 14, 2020, the California Community Choice Association (CalCCA) filed a petition for modification (PFM) of D.19-11-016, seeking to have the Commission amend D.19-11-016 in two ways:

1. To update the QC counting methodology for hybrid resources to the permanent methodology adopted subsequent to the PFM, in D.20-06-031, Track 2 of the resource adequacy rulemaking (R.19-11-009).
2. To require, or at least permit, the costs of procurement by the IOUs on behalf of an LSE that opted-out of procuring capacity on behalf of its own customers, to be billed to the LSE directly, rather than to its customers through a non-bypassable surcharge.

On the QC counting methodology for hybrid projects, CalCCA justified its request by arguing that the existence of an interim methodology adopted in

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<sup>1</sup> D.19-11-016 at 37, and Ordering Paragraph 5.

D.20-01-004, in place during the procurement process, could cause confusion with the permanent methodology that was being developed at the time of CalCCA's PFM, and that has since been adopted by the Commission in D.20-06-031. CalCCA argued that this confusion on the part of LSEs and project developers could result in unnecessary overprocurement and costs to energy consumers, unless the Commission clarifies which QC counting methodology is in effect for purposes of compliance with D.19-11-016.

In addition, CalCCA requested modification of the cost recovery mechanism in D.19-11-016, in the situation where the IOUs procure system capacity on behalf of LSEs who chose not to self-procure their incremental capacity requirements. CalCCA argued that the Commission should require the IOUs to bill the LSE directly, rather than the LSE's customers, for procurement. At a minimum, CalCCA requested that the Commission at least permit direct billing to the LSE, rather than its customers.

In addition, CalCCA argued that the LSE should be subject to commercially reasonable credit and collateral requirements, and the costs billed to the LSE should include all related costs, including administrative and financing costs. CalCCA argued that this approach follows cost causation principles, protects customers who might be comparing costs among LSEs, and prevents cost shifting, thus ensuring a level playing field among LSEs.

### **3. Responses to the CalCCA PFM**

Timely responses to the CalCCA PFM were filed no later than June 15, 2020, by the following parties: California Energy Storage Alliance (CESA); Constellation NewEnergy, Inc. (CNE); Environmental Defense Fund

(EDF); Pacific Gas and Electric Company (PG&E) and San Diego Gas & Electric Company (SDG&E), jointly; the Public Advocates Office (Cal Advocates); and Southern California Edison Company (SCE).

Cal Advocates urged the Commission to adopt the request of CalCCA to use the most updated QC counting methodology for hybrid resources, because it is the most accurate and current. Cal Advocates had no position on the issue of cost recovery method in the CalCCA PFM.

EDF similarly commented only on the hybrid QC counting methodology, and urged the Commission to grant the PFM to utilize the most updated method. EDF argued that doing so would ensure that the hybrid resources receive full compensation for the actual value they provide to the grid, preventing overbuilding and under-procurement. EDF argued that this also sends the appropriate signal to the market, encouraging development of new resources that will efficiently aid in the integration of renewable resources. EDF also suggested that the Commission encourage the use of hybrid energy storage resources for charging during times of excess renewable generation and discharging at other times, to maximize emissions reductions.

Similarly, CESA also recommended that the Commission adopt the CalCCA recommendation to use the most updated QC counting methodology for hybrid resources, since CESA believes that the interim methodology from D.20-01-004 had the potential to devalue the hybrid resources and increase ratepayer costs.

SCE also commented on the QC counting methodology issue, and argued that if the Commission adopts a “less conservative” methodology than the

interim methodology included in D.20-01-004, then that new methodology should be used for counting the qualifying capacity for the procurement of hybrid resources to comply with the requirements of D.19-11-016. SCE also urged the Commission to expeditiously resolve which QC counting methodology would be used to measure compliance with D.19-11-016 since it matters to the LSEs making final procurement decisions.

SCE also commented on CalCCA's request related to cost allocation of backstop procurement costs. SCE opposed the suggestion that the decision be revised to require billing of backstop procurement costs directly to LSEs that opted out of self-procuring capacity instead of LSE customers. SCE also opposed the suggestion that billing of LSEs directly, instead of customers, be permitted. SCE argued that Public Utilities (Pub. Util.) Code Sections 454.51(c) and 365.1(c)(2) require backstop procurement costs to be allocated on a fully non-bypassable basis to customers, and prohibit cost shifting among customers. SCE further argued that CalCCA's proposal exposes bundled service customers of IOUs, as well as customers of other LSEs, to potentially significant credit risks; does not address customer migration issues; and is likely to result in cost shifting among customers. Finally, SCE argued that the implementation details of the cost recovery mechanism adopted in D.19-11-016 are already being developed through a stakeholder process in the new IRP rulemaking (R.20-05-003).

CNE commented only on the cost recovery aspects of the CalCCA PFM, pointing out that D.19-11-016 allowed LSEs to elect not to self-procure their allocated share of the capacity required in D.19-11-016, and kicked off a stakeholder process that was initiated at the workshop on February 3, 2020, to

discuss cost allocation issues. Thus, CNE argued that the Commission should consider these issues in the new IRP rulemaking (R.20-05-003) rather than addressing them in response to the CalCCA PFM.

CNE further argued that CalCCA's justification in support of its PFM, that the modified cost allocation mechanism will be costly to implement, does not include any evidence to support this contention. CNE also disagreed with CalCCA's arguments that the approach of cost allocation via a non-bypassable charge to customers of LSEs would allow masking of generation costs, create subsidies for credit and administrative costs, and result in an un-level playing field among LSEs. Instead, CNE argued that granting the request in the CalCCA PFM to modify the cost allocation approach would punish LSEs who opted out of procuring capacity on behalf of their customers on the basis of the cost allocation policy articulated in D.19-11-016.

PG&E and SDG&E, in their comments, also opposed the portion of the CalCCA PFM addressing allocation of costs of procurement for LSEs that opted out of procuring their share of the capacity required by D.19-11-016. PG&E and SDG&E jointly argued that the CalCCA PFM is not the procedurally appropriate venue for resolving these issues. Instead, PG&E and SDG&E argued that the parties to R.16-02-007 and/or R.20-05-003 should all have the opportunity to provide comments and participate in a stakeholder process to resolve these issues, as outlined in an Administrative Law Judge (ALJ) Ruling issued subsequent to the CalCCA PFM, on June 5, 2020, in R.20-05-003, and seeking further comments from parties on these issues.



Second, PG&E and SDG&E argued that the CalCCA PFM fails to demonstrate that directly billing to LSEs instead of their customers is a fair and equitable means of allocating the costs of generation resources to all benefitting customers. Finally, PG&E and SDG&E argued that CalCCA's proposed solution implicitly suggests that there should be different cost allocation mechanisms for the LSEs who opted out of procuring their share of capacity at the front end, compared to those that try and fail to provide the requisite capacity.

In sum, PG&E and SDG&E argued that all of these issues should be further addressed during responses and subsequent record development followed the June 5, 2020 ALJ ruling in R.20-05-003 on these issues.

#### **4. Discussion**

There are two topics raised by the CalCCA PFM: 1) the appropriate QC counting methodology for hybrid resources used to count toward the procurement requirements in D.19-11-016, and 2) the cost allocation approach for procurement on behalf of LSEs who opted out of self-providing their proportional share of capacity required by D.19-11-016. We address the topics separately below.

##### **4.1. Qualifying Capacity Counting Methodology for Hybrid Resources**

In its PFM, CalCCA recommended that the Commission make clear that the most updated methodology for counting QC of hybrid resources should be used to demonstrate compliance with D.19-11-016 procurement requirements. At the time the CalCCA PFM was filed, the "interim" counting methodology for hybrid resources adopted in D.20-01-004 was the most current. Subsequently, in June 2020, the Commission adopted D.20-06-031, which included the

“permanent” methodology for counting the QC of in-front-of-the-meter hybrid and co-located resources.

There appears to be no disagreement among parties that the most up-to-date methodology for counting the QC of hybrid resources should be used. We agree. The methodology included in D.20-06-031 should be used to determine QC for resources used to comply with the requirements of D.19-11-016. If any improvements are made to the methodology in the future, they will be applied to future procurement obligations.

#### **4.2. Cost Allocation Approach**

CalCCA’s PFM asked that the Commission require that the costs of procurement, for LSEs who opted out of self-providing the capacity required by D.19-11-016, be collected from the LSEs themselves directly, instead of on a non-bypassable basis from the LSE customers, as contemplated in D.19-11-016.

CalCCA’s PFM requested that, at a minimum, even if the Commission did not require the procurement costs be collected from LSEs directly, that the Commission at least permit this as an option, alongside consideration of billing LSE customers on a non-bypassable basis.

While CalCCA’s PFM was pending, and before responses were filed, as noted by several parties including PG&E and SDG&E, an ALJ ruling was issued in the new IRP rulemaking (R.20-05-003) on June 5, 2020, seeking comments from parties about the details of the cost allocation mechanisms in support of D.19-11-016. Indeed, as part of the June 5, 2020 ALJ ruling in R.20-05-003, comments from parties were sought on the option to bill LSEs directly for procurement costs, rather than to bill LSE customers directly on a non-

bypassable basis. This already signaled an openness to considering all options for appropriate cost allocation for the procurement associated with D.19-11-016.

There are pros and cons to the CalCCA approach for cost allocation, as well as considerations with respect to adherence to Pub. Util. Code requirements, as pointed out by SCE in its comments. The Commission is continuing to consider the proposal to bill LSEs directly, alongside other proposals, as well as robust input from all stakeholders, in R.20-05-003. The Commission will render a final decision on the appropriate cost allocation details in that proceeding, and thus it is premature to select an outcome in response to the CalCCA PFM here.

However, consistent with the language in the June 5, 2020 ALJ ruling, we do grant the CalCCA alternative proposal to modify D.19-11-016 to allow for the possibility that LSEs could be billed directly for procurement costs on behalf of their customers, rather than having the IOUs bill the LSE customers directly, in cases where the LSE has opted out of self-providing the capacity required by D.19-11-016. This is not an explicit endorsement of the concept, nor are we making any conclusions about its legality. We are simply stating that the Commission is open to considering the possibility, subject to further legal and policy analysis. Thus, we modify D.19-11-016 to allow for the possibility of procurement costs for LSEs who opted out of self-providing capacity to be billed directly to the LSEs, though the method by which these costs will be billed is a live issue that will be resolved by the Commission later in R.20-05-003.

## **5. Comments on Proposed Decision**

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Pub. Util. Code and comments were

allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on September 14, 2020 by CalCCA, EDF, PG&E, and SCE. Reply comments were filed on September 21, 2020 by SCE.

CalCCA supports the proposed decision and urges the Commission to adopt it as written.

EDF supports the proposed decision on the issue of the counting methodology for hybrid resources, and urges the Commission to remind LSEs that hybrid resources should be designed and deployed primarily to maximize environmental benefits, and should not be used to charge from fossil-fueled resources, which could increase emissions and pollution. While we agree with EDF that the purpose of hybrid resources should be primarily to maximize environmental benefits, we are not going to prescribe here the exact configurations of hybrid resources that LSEs may deploy.

PG&E supports the proposed decision's deferral of the cost allocation questions to R.20-05-003 for ultimate resolution. PG&E also urges this decision to clarify that the permanent hybrid capacity counting methodology adopted in D.20-06-031 will be the only methodology used to determine LSE compliance with D.19-11-016. Simultaneously, PG&E reiterates its view that the methodology for counting hybrid capacity adopted in D.20-06-031 has weaknesses and should be improved. However, PG&E is concerned that a new methodology not be applied retroactively to the procurement already in progress to comply with D.19-11-016. SCE, in its reply comments, agrees with PG&E's arguments. We also agree, and have made modifications to ensure clarity that the D.20-06-031 methodology applies to resources procured to meet D.19-11-016

requirements, while any future improvements to the methodology will be applied to future procurement obligations that may be required.

SCE also agrees with the proposed decision on the counting methodology for hybrid resources and other resources that are planning to access investment tax credits, including all in-front-of-the-meter hybrid and co-located resources. SCE suggests minor clarifications to align this decision's language with D.20-06-031. We have made these changes for the sake of consistency and clarity.

In addition, SCE disagrees with the proposed decision's modification to the language of D.19-11-016 to allow for the possibility charging costs to LSEs directly instead of only to customers of LSEs for backstop procurement conducted in response to D.19-11-016. SCE argues that since the Commission is not making any determinations on the final merits or legality of direct-billing to LSEs, any changes to D.19-11-016 can be made in the final decision in R.20-05-003, where these issues are still being debated. We have not made any changes in response to these arguments, because the result is the same as we have included herein: the Commission is still considering the merits and the legal arguments on cost allocation in R.20-05-003.

## **6. Assignment of Proceeding**

Liane M. Randolph is the assigned Commissioner and Julie A. Fitch is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. D.19-11-016 required LSEs to bring online 3,300 megawatt (MW) of incremental capacity for system reliability purposes, beginning with 50 percent of the capacity available to deliver by August 1, 2021.

2. D.19-11-016 indicated that the qualifying capacity counting methodology for hybrid resources would be taken up in R.17-09-020.

3. D.20-01-004 adopted an interim methodology for counting qualifying capacity of hybrid resources.

4. D.20-06-031 adopted a permanent methodology for counting qualifying capacity of in-front-of-the-meter hybrid and co-located resources.

5. D.19-11-016, Ordering Paragraph 5, required the costs of procurement on behalf of LSEs who choose to opt out of self-providing the required capacity to be allocated to the customers of those LSEs on a non-bypassable basis.

6. An ALJ ruling issued June 5, 2020, in R.20-05-003 opened up the possibility that the Commission may consider allocating costs of procurement on behalf of LSEs who choose to opt out of self-providing the required capacity in D.19-11-016 to the LSEs directly rather than only to their customers on a non-bypassable basis.

7. The details of cost allocation policy associated with procurement required by D.19-11-016 are still the subject of an ongoing policy development process in R.20-05-003 and will be finalized by the Commission in a decision in that proceeding, which is a successor to R.16-02-007.

### **Conclusions of Law**

1. The Commission should utilize the most up-to-date methodology possible when considering the qualifying capacity associated with in-front-of-the-meter hybrid and co-located resources that are procured to meet the requirements of D.19-11-016.

2. The most up-to-date methodology currently available for counting the qualifying capacity of in-front-of-the-meter hybrid and co-located resources is contained in D.20-06-031. Therefore, the methodology included in that decision should apply to the procurement conducted in response to D.19-11-016.

3. The Commission should consider and further analyze the possibility that the costs of procurement for LSEs who opted out of self-providing the capacity required by D.19-11-016 could be billed to the LSEs directly instead of to their customers.

4. The Commission should adopt the final details of the cost allocation approach for procurement resulting from D.19-11-016 in R.20-05-003 after the conclusion of the stakeholder input process currently underway in that proceeding.

## **O R D E R**

### **IT IS ORDERED** that:

1. The May 14, 2020 Petition for Modification of Decision 19-11-016 filed by the California Community Choice Association is granted.

2. The qualifying capacity counting methodology associated with any in-front-of-the-meter hybrid and co-located resources procured to satisfy the requirements of Decision (D.) 19-11-016 shall utilize the approach contained in D.20-06-031.

3. Decision (D.) 19-11-016, Ordering Paragraph 5, is modified to allow for the possibility that the costs of procurement associated with load-serving entities (LSEs) who opted out of self-providing the required capacity could be billed directly to the LSEs instead of to their customers. The details of the cost

allocation methodology for procurement associated with the requirements of D.19-11-016 will be further developed with the assistance of stakeholders and the Commission will render a final decision on this matter in Rulemaking 20-05-003.

4. Rulemaking 16-02-007 is closed.

This order is effective today.

Dated September 24, 2020, at San Francisco, California

MARYBEL BATJER

President

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

Commissioners