

Decision 22-07-004 July 14, 2022

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

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

Rulemaking 20-05-003

**CORRECTION TO DECISION 22-02-004**

**Summary**

This decision grants, in part, a petition for modification of the California Large Energy Consumers Association (CLECA) of the 2021 Preferred System Plan Decision 22-02-004. In the course of revising the proposed decision in response to comments, an error was introduced that mischaracterized CLECA's membership and purpose. This decision corrects that error.

This proceeding remains open.

**1. Background**

In Decision (D.) 22-02-004, the Commission adopted the 2021 Preferred System Plan. The original proposed decision issued for comment did not include any description of the California Large Energy Consumers Association (CLECA).

The final version of the decision, as revised in response to comments of the Protect Our Communities Foundation (PCF), ultimately included a reference to CLECA, grouped with other organizations that are owners and operators of gas-fired generators.

The language in question appears on page 131 of the final decision, and reads as follows:

Ultimately, parties were split on whether the Commission should allow natural gas upgrades to count toward [mid-term reliability] MTR requirements. Parties representing [load serving entities] LSEs (Joint [community choice aggregators] CCAs, [Pacific Gas and Electric Company] PG&E), consumer advocates ([Public Advocates Office] Cal Advocates, [Protect Our Communities Foundation] PCF, [California Environmental Justice Alliance] CEJA), environmental parties ([Environmental Defense Fund] EDF, [Union of Concerned Scientists] UCS, Sierra Club, [Natural Resources Defense Council] NRDC, [Defenders of Wildlife] DOW), and a business group ([Advanced Energy Economy] AEE) opposed counting gas upgrades toward MTR requirements. Owners and operators of gas-fired generators and their trade association groups generally supported procurement of gas-fired resources (CLECA, Calpine, Diamond, [Independent Energy Producers] IEP) as did [Alliance for Retail Energy Markets] AReM and Shell [Energy].<sup>1</sup>

## **2. Petition for Modification**

On March 11, 2022, CLECA filed a petition for modification (PFM) of D.22-02-004 seeking a correction to what CLECA characterizes as a mischaracterization of its membership and purpose, stating that it does not represent gas-fired generators with capacity available for procurement.

CLECA includes a description of its membership as follows, and notes that a similar description is included in its motion for party status and most of its comments filed in this proceeding:

CLECA is an organization of large, high load factor industrial customers located throughout the state; the members are in the cement, steel, industrial gas, pipeline, beverage, cold

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<sup>1</sup> D.22-02-004 at 131.

storage, and minerals processing industries, and share the fact that electricity costs comprise a significant portion of their costs of production. Some members are bundled customers, others are Direct Access (DA) customers, and some are served by Community Choice Aggregators (CCAs); a few members have onsite renewable generation. CLECA has been an active participant in Commission regulatory proceedings since the mid-1980s, and all CLECA members engage in Demand Response (DR) programs to both promote grid reliability and help mitigate the impact of the high cost of electricity in California on the competitiveness of manufacturing. CLECA members have participated in the Base Interruptible Program (BIP) and its predecessor interruptible and non-firm programs since the early 1980s.<sup>2</sup>

CLECA's PFM notes correctly that the proposed decision was revised in response to comments from PCF requesting that the decision establish the affiliates of the parties. CLECA notes that it was unable to alert the Commission to this mischaracterization of its organization because the revised decision was issued only two days before the decision was adopted.

To remedy this, CLECA recommends that its name be deleted from the reference to the comments from owners and operators of gas-fired generators, and that the following sentence be added: "CLECA, an organization of large customers that participate in demand response, recommended a middle-of-the-road approach focused on reliability."<sup>3</sup>

### **3. Response to Petition for Modification**

On April 11, 2022, PCF filed a response to the CLECA PFM of D.22-02-004. PCF responds that the decision characterized CLECA accurately and the decision should not be revised.

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<sup>2</sup> CLECA Petition for Modification of D.22-02-004 at 3.

<sup>3</sup> *Ibid.*, at 6.

To support this position, PCF states that it submitted a data request to CLECA to determine how many of CLECA's members own gas-fired generation and how much capacity of each those members own but claims that CLECA refused to answer the data request.

PCF states that, "at a minimum, prior to considering changes to D.22-02-004, it would be reasonable for CLECA to be ordered to respond to PCF's data request and to provide a copy of the response to the Commission so that the Commission has a better understanding of CLECA members' positions regarding generation and procurement issues."<sup>4</sup>

PCF's response characterizes CLECA's arguments as in favor of gas-fired generation capacity, "couched as requests to retain reliability."<sup>5</sup> PCF then goes on to make arguments about how reliability can be maintained while using far less fossil-fuel-based electricity generation than currently used in California, how fossil fuel use leads to population displacement, societal instability, economic destruction, and human suffering. PCF argues that climate change costs trillions of dollars, causes wars, and causes human suffering worldwide.

Ultimately, PCF requests that the Commission reject CLECA's PFM.

#### **4. Discussion**

CLECA's PFM presents a straightforward question about an organization's ability to characterize its own membership and correct what it perceives as a misimpression left by a Commission decision. CLECA is well-known to this Commission, with decades of experience representing the interests of large energy consumers in Commission proceedings.

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<sup>4</sup> PCF response to CLECA PFM at 2.

<sup>5</sup> *Ibid.*, at 3.

Whether or not some of CLECA's members may own back-up generation or other forms of self-generation does not negate the fact that the association represents organizations that are primarily large consumers of energy in California.

In a similar fashion, it is likely that many intervenors representing California residential consumers before the Commission have some members who own diesel back-up generation for their homes, but that does not make those consumer organizations representatives of fossil-fuel generation interests.

Large energy consumers, in particular, often have complex operations that involve both production and consumption of energy. The details are not as black and white as PCF's response to the PFM would suggest.

Further, the changes made in response to PCF's original comments on the proposed decision before it became D.22-02-004, characterizing CLECA's role, did not affect the outcome of the decision. The Commission rejected allowing fossil-fueled generation to count toward the requirements of D.21-06-035.

In addition, stating CLECA's position on the matter does not require summarizing their recommendation as "middle of the road." Rather, the decision can simply state CLECA's position.

Ultimately, CLECA and the consumers it represents were mischaracterized from CLECA's point of view, because editing of large documents in response to voluminous comments on a proposed decision is often done very quickly. To remedy the entire situation, the language on page 131 of D.22-02-004 will be corrected to read as follows (additions in underline; deletions in ~~striketrough~~):

Ultimately, parties were split on whether the Commission should allow natural gas upgrades to count toward MTR requirements. Parties representing LSEs (Joint CCAs, PG&E), consumer advocates (Cal Advocates, PCF, CEJA),

environmental parties (EDF, UCS, Sierra Club, NRDC, DOW), and a business group (AEE) opposed counting gas upgrades toward MTR requirements. CLECA, an organization of large customers that participate in demand response, recommended an approach focused on reliability. Owners and operators of gas-fired generators and their trade association groups generally supported procurement of gas-fired resources (CLECA, Calpine, Diamond, IEP) as did AReM and Shell.

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

The proposed decision of ALJ Julie A. Fitch in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by CLECA on June 27, 2022, urging that the proposed decision be adopted with no changes. No reply comments were filed.

## **6. Assignment of Proceeding**

Clifford Rechtschaffen is the assigned Commissioner and Julie A. Fitch is the assigned ALJ in this proceeding.

## **Findings of Fact**

1. The proposed decision form of D.22-02-004 originally did not include any characterization of CLECA.
2. The proposed decision form of D.22-02-004 was edited in response to comments from PCF and the revised version included a phrase listing CLECA, along with several other organizations, as "owners and operators of gas-fired generators and their trade association groups."
3. The revised characterization of CLECA's comments in response to PCF's comments on the proposed decision did not affect the outcome of D.22-02-004.
4. CLECA's description of the organization's purpose, included in its motion for party status and numerous sets of comments, includes characterization of its

members as large industrial customers and participants in demand response programs.

### **Conclusions of Law**

1. The characterization of CLECA as representing owners and operators of gas-fired generators in D.22-02-004 on page 131 was an inadvertent editing error.
2. CLECA's PFM should be granted, as modified herein.
3. D.22-02-004 should be corrected to focus on the substantive comments that CLECA made.

## **O R D E R**

**IT IS ORDERED** that:

1. The March 11, 2022 California Large Energy Consumers Association Petition for Modification of Decision 22-02-004 is granted in part, as revised in Ordering Paragraph 2.
2. The text on Page 131 of Decision 22-02-004 is revised as follows (additions in underline; deletions in ~~striketrough~~):

Ultimately, parties were split on whether the Commission should allow natural gas upgrades to count toward [mid-term reliability] MTR requirements. Parties representing [load serving entities] LSEs (Joint [community choice aggregators] CCAs, [Pacific Gas and Electric Company] PG&E), consumer advocates ([Public Advocates Office] Cal Advocates, [Protect Our Communities Foundation] PCF, [California Environmental Justice Alliance] CEJA), environmental parties ([Environmental Defense Fund] EDF, [Union of Concerned Scientists] UCS, Sierra Club, [Natural Resources Defense Council] NRDC, [Defenders of Wildlife] DOW), and a business group ([Advanced Energy Economy] AEE) opposed counting gas upgrades toward MTR requirements. CLECA, an organization of large customers that participate in demand response, recommended an approach focused on reliability.

Owners and operators of gas-fired generators and their trade association groups generally supported procurement of gas-fired resources (~~CLECA~~, Calpine, Diamond, [Independent Energy Producers] IEP) as did [Alliance for Retail Energy Markets] AReM and Shell [Energy].

3. This proceeding remains open.

This order is effective today.

Dated July 14, 2022, at Diamond Bar, California.

ALICE REYNOLDS  
President  
CLIFFORD RECHTSCHAFFEN  
GENEVIEVE SHIROMA  
DARCIE L. HOUCK  
Commissioners

Commissioner John Reynolds, being necessarily absent, did not participate.