BEFORE THE PUBLIC UTILITIES COMMISSION

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CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION REPLY COMMENTS ON ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENTS ON ADDITIONAL PROPOSAL FOR A RELIABLE AND CLEAN POWER PROCUREMENT PROGRAM

Sam Harper
John Holler
Harper Advisory LLC
9002 Six Pines Drive
Shenandoah, TX 77380
(214) 463-9423
Sam@harper.energy

Consultant to the California Large Energy Consumers Association

Nora Sheriff
Timothy S. Lee
Buchalter LLP
425 Market Street, 29th Floor
San Francisco, CA 94105-2491
415.227.3551 office
nsheriff@buchalter.com
tlee@buchalter.com

Counsel for the California Large Energy Consumers Association

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Pursuant to Rule 6.2 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure, the California Large Energy Consumers Association (CLECA)[1] submits these reply comments to the opening comments filed August 14, 2026, on the *Administrative Law Judge's Ruling Seeking Comments on Additional Proposal for a Reliable and Clean Power Procurement Program* (ALJ Ruling),[2] issued June 23, 2026, pursuant to the schedule as extended by the July 13, 2026, Email Ruling.[3]

[1] CLECA member companies produce goods essential for daily life, including critical infrastructure, oxygen for hospitals, and food distribution. CLECA members represent the steel, cement, industrial and medical gas, glass, beverage, minerals processing, cold storage, and pipeline transportation industries. Their aggregate electric demand is about 500 Megawatts, which is equivalent to the electricity consumption of approximately 470,000 average California households. CLECA members are large, high load factor and high voltage industrial electric customers in California for whom the price of electricity is essential to their competitiveness and for whom the reliability of electricity service is critically important. For both reasons, CLECA member companies have participated for decades in the Base Interruptible Program (BIP), providing reliability demand response to the grid in times of need. (For more information, please go to CLECA.org).

[2] Administrative Law Judge's Ruling Seeking Comments on Additional Proposal for a Reliable and Clean Power Procurement Program (June 23, 2026) (ALJ Ruling).

[3] Administrative Law Judge's E-mail Ruling Extending the Comment Schedule, R.20-05-003 (July 13, 2026).

I. INTRODUCTION

CLECA's members are among the customers that both fund and rely on the Reliable and Clean Power Procurement Program (RCPPP) and its procurements. They are large, high-load-factor, high-voltage industrial customers for whom electricity costs directly affect competitiveness and reliable service is essential.

CLECA's members also provide a critical system resource through supply-side demand response. They have participated in the Base Interruptible Program (BIP) for decades and have tailored their equipment and operations to meet its requirements. CLECA therefore asks that supply-side demand response be eligible to compete on the same attribute terms as any other resource, consistent with the framework developed in response to Question 5.

CLECA supports RCPPP's intent to move towards a programmatic procurement framework away from the one-off procurement orders and continues to recommend a multi-year Slice-Of-Day (SOD) construct within the scope of Option 1. [4] The framework described in the Administrative Law Judge's (ALJ) additional proposal raises concerns with its short-sighted focus on new resources and the failure to align RA and IRP. The Commission should instead adopt a multi-year SOD construct within the scope of Option 1 that applies a single procurement obligation to new and existing resources alike, rather than drawing an arbitrary line between them.

Other parties, including Pacific Gas and Electric Company (PG&E), the California Community Choice Association (CalCCA), the Alliance for Retail Energy Markets (AReM), Silicon

[4] California Large Energy Consumers Association Comments on the CPUC Staff Proposal for the Reliable and Clean Power Procurement Program (July 15, 2025) (CLECA Comments on Staff Proposal).

Valley Clean Energy (SVCE), and the Western Power Trading Forum (WPTF), likewise urge the Commission to adopt a multi-year Resource Adequacy (RA) SOD construct as the better foundation for a programmatic procurement framework.[5] PG&E reports that, "despite the ALJ Ruling's assertion otherwise, there has been clear consensus among parties on the use of a multi-year RA SOD paradigm."[6]

That framework is already administered by load-serving entities (LSEs). It does not rest on marginal effective load carrying capability (ELCC) values that swing unpredictably between studies. It does not create two accreditation regimes that apply inconsistent standards to the same resource and thereby create duplicative compliance and penalty exposure. And it does not require the Commission to draw and police an arbitrary line between new and existing resources, along with the repowering, retirement, and vintage definitions that this distinction would require.

The Commission should also proceed at a measured pace. This program would bind procurement for a decade at a scale measured in billions of dollars. Additional workshops would impose far less cost than adopting an untested design and correcting it after LSEs have contracted against it. Perpetual mid-course changes to a decade-long, penalty-backed program would themselves create regulatory uncertainty, increasing the cost of financing and procuring the very resources the program is intended to secure at competitive cost.

CLECA responds below to the ALJ Ruling's questions, including questions on which CLECA reserved in its opening comments.

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[5]PG&E Opening Comments at 2; CalCCA Opening Comments at 24, 48; AReM Opening Comments at 2, 15; SVCE Opening Comments at 4; WPTF Opening Comments at 4.
[6]PG&E Opening Comments at 2.

II. COMMENTS

A. Question 1: Does this ruling describe a workable framework for an RCPPP that will achieve the goals of IRP, pursuant to SB 350?

CLECA explained in opening comments that the proposed framework depends on existing resources that it does nothing to sustain, including the supply-side demand response the modeled portfolio assumes.[7] Numerous parties raised the same concern in opening comments. As the California Independent System Operator (CAISO) observed:

> "…planning assumptions generally assume that the existing fleet will largely stay online and serve California load for the entire planning horizon. Retaining these resources is critical to maintaining reliability and meeting the State's energy goals."[8]

AReM likewise identifies the lack of support for existing resources as one of the proposal's "major missing pieces."[9] CalCCA, Calpine, Milepost West, Shell Energy, SVCE, Diamond Generating, Ava Community Energy, Middle River Power, and the Independent Energy Producers Association (IEP) likewise argue that the proposal does not adequately address retention of existing resources on which the underlying planning assumptions depend.[10]

Limiting the obligation to new resources also requires the Commission to draw and then administer a boundary between "new" and "existing" capacity. That, in turn, requires defining repowering, retirement, and vintage rules and resolving the disputes that will likely arise at the margin. These distinctions add administrative cost and compliance risk without improving

[7] CLECA Opening Comments at 3.
[8] CAISO Opening Comments at 10.
[9] AReM Opening Comments at 4-5.
[10] CalCCA Opening Comments at 14; Calpine Opening Comments at 2, 4; Milepost West Opening Comments at 2, 11; Shell Energy Opening Comments at 6-7; SVCE Opening Comments at 4; Diamond Generating Opening Comments at 2; Ava Community Energy Opening Comments at 10; Middle River Power Opening Comments at 2; IEP Opening Comments at 3.

reliability. A single obligation that applies to new and existing resources alike, as under a multi-year SOD construct, avoids those problems entirely.

CLECA therefore urges the Commission to address this deficiency by adopting a multi-year SOD procurement obligation within the scope of Option 1. As discussed above, that approach is consistent with the proposals from PG&E, CalCCA, AReM, and SVCE, and avoids the need to distinguish between "new" and "existing" resources for purposes of compliance.[11]

B. Question 2: Will the proposal described in this ruling be simpler to implement than other proposals under consideration?

No. While the proposal may appear simpler at the outset because it relies on an existing planning product rather than a new central procurement construct, it would not be simpler to administer in practice. Although Option 3 relies on an existing planning product rather than a new central procurement construct, it would still require the Commission to develop and maintain the accreditation studies, penalty values, category ranges, and cross-program translations on which the framework depends. LSEs, in turn, would have to track those requirements while complying with two additional penalty mechanisms on top of existing Resource Adequacy (RA) and Renewables Portfolio Standard (RPS) obligations. Aligning procurement with the Integrated Resource Planning (IRP) would not eliminate this complexity. Rather, it shifts much of it to LSEs and the Commission, with ratepayers ultimately bearing the cost.

CalCCA makes the same point in its comments, stating that adding a different standard for the same need "will simply increase costs while adding complexity for both LSEs and

[11] PG&E Opening Comments at 2, 19; CalCCA Opening Comments at 4, 24; AReM Opening Comments at 2-3, 15; SVCE Opening Comments at 4.

Commission staff."[12] SVCE likewise "does not view Option III as easier to administer than other proposals provided by Energy Division and other stakeholders."[13] AReM, after cataloging the studies, documentation, and bookkeeping the framework would require, "sees no clear reduced administrative burden."[14] Shell Energy similarly urges the Commission to reconcile Reliable and Clean Power Procurement Program (RCPPP) accreditation with the RA program to avoid "conflicting procurement signals and duplicative compliance burdens,"[15] while Southern California Edison Company (SCE) finds the complexity compounded by the accreditation construct Option 3 would layer on top of RA.[16]

Given the affordability crisis facing ratepayers, the additional accreditation, compliance, and penalty mechanisms of Option 3, alongside existing RA obligations, would increase complexity and cost for all participants.

C. Question 3: Is this ruling's proposal preferable to the current ad hoc procurement order process?

Yes. A programmatic framework is preferable to the order-by-order procurement. Successive procurement orders have produced compressed solicitation windows in which LSEs compete for the same limited supply, which San Diego Gas & Electric (SDG&E) connects to the RA price spikes seen in 2023-2024.[17]

At the same time, the Commission should be pragmatic about what a programmatic framework can accomplish. Although a step in the right direction, any construct that binds

[12]CalCCA Opening Comments at 13.
[13]SVCE Opening Comments at 7.
[14]AReM Opening Comments at 6.
[15]Shell Energy Opening Comments at 5.
[16]SCE Opening Comments at 19.
[17]SDG&E Opening Comments at 12.

procurement years in advance will necessarily remain slow and relatively inflexible. It will not eliminate short-term pressures for emergency or ad hoc procurement. If an unforeseen market event or resource shortfall arises, the Commission may still feel the need to act outside the program. The question, therefore, is not whether a programmatic framework can eliminate all future procurement interventions, but whether it can reduce reliance on them relative to the current process.

The Commission also should not treat any planning and procurement construct as the ultimate guarantor of reliability. Each LSE's obligation to serve its customers remains the obligation that ultimately secures service, and real-time performance is the final test of whether procurement was sufficient. Whatever framework the Commission adopts, it should reinforce that responsibility and preserve LSEs' flexibility to meet it. A centralized planning determination should not substitute for the LSE's duty to serve its customers' load in real time. Accordingly, the Commission should adopt a programmatic framework that provides greater predictability than ad hoc procurement orders while preserving LSE flexibility to satisfy their reliability obligations.

D. Question 4: Are there other proposals already under consideration that better make the connection between long-term resource and transmission planning and LSE resource procurement?

Yes. A multi-year SOD construct aligned with Option 1's scope and the stakeholder proposals described below preserves the planning-to-procurement connection while avoiding the three defects that make Option 3 costly: accreditation values that shift between studies, two inconsistent compliance regimes applied to the same resource, and an administrative line between new and existing resources that the Commission must then define and police through

repowering and vintage rules. Multiple parties have placed such a construct before the Commission through proposals aligned with the scope of Option 1. PG&E proposes a multi-year Resource Adequacy SOD paradigm; AReM proposes a multi-year RA framework that retains the 2025 Clean Energy Standard; CalCCA proposes Option 1 with a Clean Energy Standard; and SVCE and WPTF likewise support a multi-year, forward RA-based construct.[18]

CLECA does not take a position on which proposal is best or on the precise design parameters of any of them. CLECA identifies these alternatives because they share a common structure that CLECA submits is the most appropriate: a single, multi-year, RA-consistent obligation that applies to new and existing resources alike.

E. Question 5: Should the need determination be based on specific identified resources or resource attributes, and how should the procurement need be expressed?

Support for technology- or category-specific requirements comes primarily from parties with a commercial or programmatic interest in securing a market for a particular resource.[19] On the other hand, CLECA and other parties, including investor-owned utilities, community choice aggregators, and electric service providers, all urge the Commission to avoid technology-specific procurement mandates, favoring broad resource attributes where categories are used.[20]

[18] PG&E Opening Comments at 5; AReM Opening Comments at 4; CalCCA Opening Comments at 8, 24; SVCE Opening Comments at 4; WPTF Opening Comments at 4.
[19] Ormat Opening Comments at 4; Fervo Opening Comments at 3; XGS Opening Comments at 5; GreenGenStorage Opening Comments at 3; LDES Council Opening Comments at 18.
[20] PG&E Opening Comments at 15; SCE Opening Comments at 21-24; SDG&E Opening Comments at 15-16; SVCE Opening Comments at 10; Shell Energy Opening Comments at 8; CLECA Opening Comments at 5; Cal Advocates Opening Comments at 12-15.

Shell Energy proposes the correct standard for any exception, recommending that the Commission avoid technology-prescriptive mandates unless a stakeholder-vetted analysis demonstrates:

> "(a) a quantified reliability or environmental need that only the proposed technology can address; (b) why technology-neutral or broader attribute-based categories cannot satisfy that need; and (c) that the incremental cost of the technology specific requirement is justified relative to the reliability or environmental benefit obtained."[21]

CLECA endorses this test and asks that the Commission consider it before adopting any exception to a fully attribute-based procurement need specification.

The Public Advocates Office (Cal Advocates) provides a useful example of the consequences of defining resource attributes too narrowly. In the mid-term reliability (MTR) decision, the requirement that firm zero-emitting resources have a minimum capacity factor of 80 percent "effectively ruled out weather-dependent or intermittent resources. Geothermal and biomass were the only resources likely to fulfill this category."[22] Cal Advocates further reports that LSEs have faced serious procurement challenges in meeting that carve-out because of limited market availability. The result is fewer eligible bidders, a higher price for the same reliability, and greater difficulty in meeting compliance requirements.

Finally, as stated in the introduction, CLECA urges the Commission to ensure that supply-side demand response resources, including BIP and other Reliability Demand Response Resources (RDRR), are eligible to compete to satisfy the procurement requirement.[23] CLECA

[21] Shell Energy Opening Comments at 8.
[22] Cal Advocates Opening Comments at 12.
[23] CLECA Opening Comments at 5.

does not seek a carve-out, set-aside, or minimum procurement level for demand response. It seeks the opposite: consistent with the attribute-based, technology-neutral approach described above, supply-side demand response should compete on the same terms as any other resource. If a resource can provide the required availability, dispatchability, and duration during critical hours, the Commission should not exclude it from satisfying the procurement requirement based on the technology that provides those attributes.

F. Question 7: Comment on the proposal for a smaller buffer than included in the Staff Proposal from April 2025

CLECA supports the one-percent buffer as a maximum and prefers the smallest buffer that reasonably meets reliability. As CLECA explained in its opening comments, the 0.1 loss-of-load-expectation (LOLE) standard, implemented through the planning reserve margin, is already conservative, and additional procurement above that standard imposes costs that exceed the incremental reliability value it provides.[24] CLECA therefore does not support any additional buffer, and any buffer the Commission adopts should be no greater than the one percent proposed in the ALJ Ruling.

A broad group agrees, and several parties would go further. PG&E "continues to oppose the inclusion of a procurement 'buffer' in any RCPPP framework"[25] and questions how increasing demand in an already constrained market would produce the competitive benefit the ALJ Ruling describes. SCE opposes any administratively-determined buffer because it "would require customers to pay for procurement beyond the level demonstrated to be

[24] CLECA Opening Comments at 5-6.
[25] PG&E Opening Comments at 26.

needed for reliability."[26] SVCE advances the same reasoning CLECA presented in its opening comments, opposing any intentional buffer on the ground that a 0.1 LOLE is an industry-accepted standard and that a buffer on top of it harms affordability without a corresponding reliability benefit.[27] CalCCA would rather rely on LSE risk management and enforcement than a generic buffer.[28] Shell Energy would eliminate the buffer because the RA planning reserve margin (PRM) already provides a reliability cushion.[29] That duplication is quantifiable. As the Environmental Defense Fund (EDF) observes, the Commission adopted a PRM of 20.7 percent in the MTR decision, against a typical range of 15 to 17 percent.[30]

Cal Advocates recommends a larger, adaptive retirement allowance, reasoning that the modeling assumes essentially no retirements through 2045, so that actual market exit in excess of the buffer would leave the market with less net qualifying capacity (NQC) than the model assumed.[31] This failure to properly account for retirements is a consequence of ignoring existing resources in the procurement requirement. The appropriate remedy is not to compensate for this deficiency by inflating the new-build obligation, but to eliminate the deficiency by accounting for existing resources in the procurement requirement.

G. Question 8: Is it appropriate to require the LSEs to procure resources or resource attributes with minimum and maximum levels within a range?

CLECA concurs with AReM in that the appropriate range "depends on the driver for the need for a range," which the record has not established, so the question "is not ripe for a

[26] SCE Opening Comments at 25.
[27] SVCE Opening Comments at 12.
[28] CalCCA Opening Comments at 46.
[29] Shell Energy Opening Comments at 9
[30] EDF Opening Comments at 13.
[31] Cal Advocates Opening Comments at 15.

decision without considerable record development."[32] The answer depends on how the Commission defines the need. If the Commission defines need through resource attributes, as CLECA recommends, a reasonable range around each attribute could be workable. If, however, the Commission defines need by specific resources or technology categories, the record is not sufficiently developed for a decision, and CLECA takes no position on the appropriate range.

H. Question 9: Comment on this ruling's proposal for need allocation to specific LSEs

CLECA continues to support allocation based on demand in critical hours. Shell Energy likewise supports tying the reliability need to each LSE's contribution to system needs during critical hours.[33] AReM recommends the same basis for the reliability need and ties it to the cost causation principles of Public Utilities Code section 397.[34] American Clean Power – California (ACP-California), SCE, and the IEP likewise support a net-peak or critical-hours basis for the reliability need.[35] The need being allocated is a capacity need concentrated in a limited set of hours, and only an allocator tied to those hours preserves the incentive identified in the ALJ Ruling: that LSEs "would be incentivized to affect their load shape and/or their load in general through investment in demand-side management."[36] That incentive exists only if reducing load during critical hours reduces an LSE's allocation.

[32] AReM Opening Comments at 10.
[33] Shell Energy Opening Comments at 11.
[34] AReM Opening Comments at 3, 12.
[35] ACP-California Opening Comments at 14; SCE Opening Comments at 16; IEP Opening Comments at 7.
[36] ALJ Ruling at 11.

I. Question 10: Comment on the proposed requirement for 100 percent of required resources to be under contract three years out

CLECA opposes a rigid requirement that 100 percent of an allocation be under contract two years before the online deadline, since such a requirement would increase ratepayer costs without providing any reliability benefit. SCE explains that, "LSEs may be incentivized to execute contracts for projects that are unlikely to succeed or with uncertain viability to demonstrate compliance," outcomes that "would not improve reliability and could increase customer costs."[37] PG&E reaches the same conclusion, describing a firm contracting requirement as a blunt instrument likely to increase costs and administrative burden while being unlikely to materially improve reliability or emissions outcomes, because LSEs already face consequences for missing online dates.[38]

CalCCA notes that the RA program requires 90 percent of an LSE's requirement to be under contract one year ahead.[39] A contracting milestone calibrated to that standard would therefore be reasonable. Moreover, because the proposed RCPPP milestone would apply two years before the online deadline, one year earlier than the RA program's showing, the appropriate threshold should be lower than 90 percent, not a rigid 100 percent.

Further, any contracting milestone should be supported by the same treatment of delay CLECA recommends for the online deadline. Even parties that support the 100 percent milestone concur. GreenGenStorage would extend good-faith protection to an LSE that has diligently pursued a long-lead-time resource that is not yet contractable because licensing and

[37] SCE Opening Comments at 28.
[38] PG&E Opening Comments at 28.
[39] CalCCA Opening Comments at 48.

interconnection milestones, rather than a lack of LSE effort, determine when such a resource can support a bankable contract.[40]

J. Question 11: Comment on the proposed requirement for 100 percent of required resources to be online within five years

CLECA reserved in opening comments on whether the five-year online requirement is reasonable, noting that LSEs and resource developers were better positioned to address it. They have now done so, and nearly unanimously. SDG&E, SCE, CalCCA, Shell Energy, AReM, the CAISO, ACP-California, IEP, CURE, the Green Hydrogen Coalition, and Cal Advocates all state that a uniform five-year online requirement does not reflect current permitting, interconnection, and transmission timelines, particularly for long lead time resources.[41] Cal Advocates explains the requirement "may be an unworkable requirement if five years proves insufficient."[42]

CLECA agrees with the weight of the record that the schedule is too aggressive as proposed and reiterates that compliance requirements must include safe harbors for development delays beyond the LSE's control, including permitting, interconnection, and force majeure.

[40] GreenGenStorage Opening Comments at 14.
[41] SDG&E Opening Comments at 6; SCE Opening Comments at 34; CalCCA Opening Comments at 18; Shell Energy Opening Comments at 15; AReM Opening Comments at 17; CAISO Opening Comments at 10; ACP-California Opening Comments at 18; IEP Opening Comments at 9; CURE Opening Comments at 6; Green Hydrogen Coalition Opening Comments at 16; Cal Advocates Opening Comments at 20.
[42] Cal Advocates Opening Comments at 17.

K. Question 12: Comment on the reasonableness of the proposed cadence and sequencing of work, including ELCC development, net CONE calculation, and procurement data filings

The sequencing does not work as proposed. Under Table 1 of the ALJ Ruling, each LSE's procurement need is allocated in March 2028. Still, the marginal ELCC values for the 2033 compliance year are published in August 2028, and the penalty values for that year would not be published until August 2029.[43] An LSE therefore receives a binding, penalty-backed obligation five months before it learns the accreditation by which that obligation will be measured, and 17 months before it learns the consequence of missing it. Milepost West summarizes the conflict: publishing "[marginal] ELCC values in August 2028 but penalty values in August 2029 leaves material economics unresolved during procurement for the June 1, 2031 contract deadline."[44]

The remedy commands broad support. CalCCA asks that ELCC values "be provided at the same time LSEs are allocated their procurement requirements at the latest."[45] SCE supports establishing fixed ELCC values five years in advance at the time of need allocation, and NextEra Energy Resources (NEER) states that ELCC development should be "issued simultaneously with the need determination, because LSEs need both to initiate procurement activity."[46] CLECA concurs, notwithstanding its positions on this record regarding the appropriateness of such accreditation and penalty measures.

[43] ALJ Ruling, Tables 1-2, at 16-17.
[44] Milepost West Opening Comments at 15.
[45] CalCCA Opening Comments at 49.
[46] SCE Opening Comments at 30; NEER Opening Comments at 21.

L. Question 13: Comment on the reasonableness of using marginal ELCC accreditation toward the procurement requirements

Parties across the record describe marginal ELCC as too unstable to anchor a decade-long, penalty-backed obligation. CalCCA explains that the framework yields "a single value per month by technology that can swing dramatically based upon the portfolio of resources on the system," against the 24-hourly values the RA Slice-of-Day program uses.[47] SCE references in its proposal "the uncertainty resulting from volatile changes in ELCC values."[48] AReM states the point most directly: "If the ELCCs are at such high risk of inaccuracy that all this administrative complexity must be added on, ELCCs should not be relied on."[49]

CLECA continues to recommend accreditation aligned with the SOD framework used in the RA program. SCE recommends the same: the binding five-year reliability procurement requirement should rest on an SOD framework, preserving marginal ELCC "as a useful long-term planning tool, but not as the sole basis for binding near-term reliability procurement obligations."[50]

More fundamentally, the problem is not whether marginal ELCC can be calculated accurately. However precisely the Commission calculates it, marginal ELCC will still differ from the SOD standard used in the RA program. Applying marginal ELCC in RCPPP would therefore subject the same resource to two accreditation standards, increasing costs and creating the duplicative penalty and over-procurement risks CLECA describes in response to Question 19.

[47] CalCCA Opening Comments at 12-13.
[48] SCE Opening Comments at 19.
[49] AReM Opening Comments at 10.
[50] SCE Opening Comments at 16.

SOD is also an established standard. The Commission developed the framework over several years through its Resource Adequacy reform rulemaking, which opened in 2021, adopted the SOD framework in 2022, and implemented it for the 2025 compliance year after extensive stakeholder input.[51] Aligning RCPPP with that established framework, rather than layering a separate marginal-ELCC standard on top of it, is simply prudent and consistent with the measured, get-it-right approach CLECA urges.

If the Commission nonetheless retains marginal ELCC, values should be fixed at the procurement vintage and not revised against a contracted resource, as most of the marginal ELCC proponents also recommend.[52]

M. Question 15: Comment on the proposal to penalize failure to procure a minimum of non-lowest-cost resource procurement at the level of the highest-cost marginal resource

For the reasons stated in response to Question 8, this question is not ripe. SCE reaches the same conclusion, stating that it is premature to establish a specific penalty framework and that the appropriateness of any penalty framework "cannot be assessed until the Commission further defines the underlying resource categories, compliance requirements, compliance flexibilities, and alternative compliance mechanisms."[53] The penalty at issue presupposes an answer to Question 5 with which CLECA and many other parties disagree.[54]

[51] Resource Adequacy reform rulemaking, R.21-10-002 (2021); D.22-06-050 at Appendix A (24-Hour Slice Framework) (June 23, 2022).
[52] See Fervo Opening Comments at 3; WPTF Opening Comments at 9; NEER Opening Comments at 12; ACP-California Opening Comments at 18; LSA-SEIA Opening Comments at 7; SCE Opening Comments at 30.
[53] SCE Opening Comments at 34-35.
[54] See Section E.

If the Commission adopts category minimums notwithstanding the record, the proposed penalty would be punitive rather than corrective. The stated purpose is to dissuade LSEs from meeting their total requirement with the least-cost resource alone.[55] A penalty serves that purpose once it exceeds the cost advantage created by the substitution. A reasonable measure should therefore reflect the difference between the cost of the category the LSE was required to procure and the cost of the category it procured instead, or, at most, the next-lowest-cost value in the portfolio. Any penalty beyond this adds no compliance benefit and would likely put upward pressure on prices to consumers through their LSEs.

CalCCA explains that the proposal "would invite suppliers to offer high prices knowing that LSEs would either have to choose between contracting with them or pay penalties based on the highest marginal cost."[56] Every supplier in a constrained category learns that the LSE's alternative to contracting is a payment set at the cost of the most expensive resource in the portfolio, and prices accordingly. SVCE illustrates the corresponding unfairness: an LSE that misses a wind requirement because of market availability "could be penalized at the cost of an entirely different technology for something out of its control."[57] SCE, PG&E, and Milepost West also oppose the highest-cost basis.[58]

The complexity, distorted bidder incentives, and adverse ratepayer consequences this penalty further demonstrate why the Commission should reject the category-minimum premise and instead define the need through resource attributes. However, if a category penalty is

[55] ALJ Ruling, Section 2.6, at 14.
[56] CalCCA Opening Comments at 52.
[57] SVCE Opening Comments at 16.
[58] SCE Opening Comments at 35; PG&E Opening Comments at 30; Milepost West Opening Comments at 11.

adopted, CLECA supports Calpine's proposal that the penalty " be based on the cost of that resource, or a comparable resource, rather than the highest-cost marginal resource in the modeled portfolio."[59]

N. Question 16: Comment on the proposal to penalize non-compliance with contracting requirements with an administrative penalty and suggest a basis for this calculation.

The ALJ Ruling proposes that this penalty have "an administrative basis, rather than being based on the cost of a particular resource."[60] Indeed, the non-compliance in this case is purely administrative in nature, since failure to deliver actual capacity is handled separately. As such, any penalty beyond a nominal amount serves only to, as PG&E states, "shift market power to [sellers], resulting in increased procurement costs." Consistent with that, every party on this record proposing a significant contracting penalty is a seller or a seller trade association; no LSE, utility, ratepayer advocate, or customer group proposes one.[61]

CLECA concurs with PG&E's observation that this penalty creates an asymmetric negotiation dynamic. It binds the buyer, the LSE, to a firm contracting deadline while there is no corresponding deadline or obligation on the seller. A developer that knows the LSE must execute a contract by a fixed date or face a penalty can hold out for a higher price with the clock on its side, increasing contract costs for ratepayers; the very market-power concern PG&E identifies.

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[59] Calpine Opening Comments at 9.

[60] ALJ Ruling, Section 2.6, at 14.

[61] PG&E Opening Comments at 28. The parties proposing that a contracting penalty be set at, or as a fraction of, net cost of new entry are NEER Opening Comments at 23; GreenGenStorage Opening Comments at 20; Milepost West Opening Comments at 17; and CalWEA Opening Comments at 15. CESA would add a net CONE-based procurement charge for long lead-time resources only. CESA Opening Comments at 27.

AReM, Ava Community Energy, CalCCA, PG&E, SCE, and San José Clean Energy (SJCE) all oppose penalties for contracting non-compliance.[62] AReM opposes penalties keyed to "arbitrary 'contracting' cut-offs" and would let LSEs demonstrate good-faith efforts instead. SJCE explains that a separate administrative penalty is redundant where the framework already carries a net Cost of New Entry (net CONE) penalty, and "could unnecessarily increase compliance risk and customer costs without improving procurement outcomes." SDG&E, which does not oppose an administrative penalty, urges the Commission "to consider cost causation principles in development of any penalty."[63] CalCCA states that:

> "…the final assessment of compliance is whether a resource reached [commercial operation date (COD)]. When the contract was signed is not relevant as long as the resource comes online when required. Therefore, the Commission should require reporting on contract status and only assess penalties for COD non-compliance. If the Commission does adopt a penalty for non-compliance with contracting requirements, the Commission should adopt a process for LSEs to demonstrate alternative compliance and good faith efforts to comply before the Commission assesses penalties."[64]

CLECA, concurring with these parties, asks that the Commission remove this penalty or order that it be limited to a nominal amount.

O. Question 19: Comment on the relationship of this proposal to the RA program

The problem this proposal has is compliance stacking: holding the same resource to two inconsistent accreditation standards, so that an LSE must procure at a higher level to comply

[62] AReM Opening Comments at 18; Ava Community Energy Opening Comments at 8; CalCCA Opening Comments at 48; PG&E Opening Comments at 28; SCE Opening Comments at 36; SJCE Opening Comments at 11.
[63] SDG&E Opening Comments at 39.
[64] CalCCA Opening Comments at 48.

with both. CalCCA states the consequence that LSEs "will always need to procure to the higher of the two standards to be in full compliance, without corresponding reliability or clean energy benefits."[65] SVCE, Shell Energy, SDG&E, AReM, SCE, PG&E, Calpine, EDF, and the Protect Our Communities Foundation (PCF) identify the same inefficiency.[66] This is the strongest reason to align RCPPP accreditation with the SOD framework rather than to operate two regimes and rely on "LSE portfolio management," which is to say, the ratepayer, to absorb the difference. That is the same conclusion CLECA reaches in response to Question 4 and Question 13: a multi-year Slice-of-Day construct resolves the mismatch at its source because it does not create a second accreditation standard to reconcile.

Cal Advocates recommends extending LSEs' system RA obligations by one additional year if the Commission adopts Option 2 or Option 3.[67] That recommendation would compound the problem, extending the period over which the same resource is held to two divergent standards. If the Commission is concerned about the durability of the resources the portfolio assumes, the answer is a mechanism to secure those resources rather than an additional year of compliance stacking. CLECA's response to Question 1 identifies that mechanism as the treatment of existing resources within the procurement requirement itself, and its response to Question 7 explains why an enlarged buffer is not a substitute for it.

[65] CalCCA Opening Comments at 13.
[66] SVCE Opening Comments at 16; Shell Energy Opening Comments at 17; SDG&E Opening Comments at 14; AReM Opening Comments at 21; SCE Opening Comments at 21; PG&E Opening Comments at 32; Calpine Opening Comments at 11; EDF Opening Comments at 18; PCF Opening Comments at 9.
[67] Cal Advocates Opening Comments at 3.

III. SUMMARY OF RECOMMENDATIONS

1. Adopt a multi-year Slice-of-Day construct with Option 1's scope or one of the stakeholder proposed alternatives as the foundation for the RCPPP; if the Commission proceeds with the framework described in the ALJ Ruling, adopt the modifications below.
2. Express procurement need through resource attributes rather than named technologies or technology categories, and adopt the three-part test proposed by Shell Energy for any technology-prescriptive mandate.
3. Confirm that supply-side demand response resources, including the Base Interruptible Program and other Reliability Demand Response Resources, are eligible to compete to satisfy the procurement requirement.
4. Adopt no buffer or, at most, the one percent proposed in the ALJ Ruling.
5. Do not adopt category-based minimum and maximum levels on this record; a reasonable range around each resource attribute may be workable if broad attributes define the need.
6. Allocate the procurement need based on each LSE's demand during critical hours.
7. Do not require 100 percent of an allocation to be under contract by the third year after allocation; any contracting showing should be no more binding than the Resource Adequacy program's 90 percent year-ahead standard and should carry the same relief for delays outside the LSE's control that applies to the online requirement.
8. Provide safe harbors for development delays beyond the LSE's control at both the contracting and online milestones, and recognize partial or delayed deliverability.

9. Use Slice-of-Day accreditation rather than marginal ELCC; if marginal ELCC is retained, fix values at the procurement vintage and do not revise them against a contracted resource.
10. Publish all required inputs, including penalty values and marginal ELCC values if applicable, contemporaneously with, or before, the need allocation.
11. Do not adopt a category penalty based on the highest-cost marginal resource; if any category penalty is adopted, base it on the cost of the resource category not procured.
12. Do not set a penalty for contracting non-compliance or, at most, set it at a nominal amount.
13. Do not extend system Resource Adequacy obligations by an additional year while two inconsistent accreditation standards remain in effect.

IV. CONCLUSION

CLECA appreciates the opportunity to submit these reply comments and respectfully requests that the Commission adopt the recommendations set forth above.

Respectfully submitted,

BUCHALTER LLP

By:



Nora Sheriff

Counsel for the California Large Energy Consumers Association

CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION

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