

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

Order Instituting Rulemaking to Integrate and)
Refine Procurement Policies and Consider Long-)
Term Procurement Plans.)

R.12-03-014
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CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE’S TRACK I REPLY BRIEF

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CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE’S TRACK I REPLY BRIEF

The California Environmental Justice Alliance (CEJA) submits the following Reply Brief in response to the Opening Briefs submitted by parties to this proceeding on September 24, 2012. CEJA is a statewide alliance composed of the following six groups: Asia Pacific Environmental Network, Center for Community Action and Environmental Justice, Center on Race, Poverty and the Environment, Communities for a Better Environment, Environmental Health Coalition, and People Organizing to Demand Environmental and Economic Rights. CEJA works to strengthen the environmental justice movement by representing communities disproportionately impacted by pollution and advocates for policies that protect public health and the environment.

I. EXECUTIVE SUMMARY

At the core of this proceeding is whether the Commission should rely on CAISO’s overly conservative analysis that ignores the contribution of thousands of MW of expected preferred resources. CAISO did not even account for all preferred resources that are currently providing capacity in SCE’s local area. CAISO also has not evaluated transmission mitigation options that could substantially reduce LCR need. While SCE makes the conclusory statement that it finds CAISO’s assumptions reasonable, it presents no analysis to support this conclusion and thus, has not met its burden to show that procurement is just, reasonable, or necessary.

Problematically, making decisions now assuming that the State’s goals will not be achieved in effect ensures that the goals will not be met.¹ When reasonable preferred resource forecasts are considered consistent with the Commission’s current programs, SCE’s LCR need is reduced to zero. The Commission should consider the impact of preferred resources and evaluate transmission options prior to authorizing any new procurement. Otherwise, relying on CAISO’s worst case scenario is likely to lead to unnecessary expensive procurement, stranded assets, and the crowding out of preferred resources.

¹ CAISO Ex. 6 (Millar Reply Test.) at p. 17 (“[m]aking decisions now assuming those goals will not be achieved in effect ensures that the goals will not be met”); *see also* Tr. 397:13 – 399: 28 (Miller, CAISO).

CEJA presents the table below summarizing the resources not included in CAISO’s LCR analysis for the LA Basin, as well as other conservative assumptions that CAISO relies on. As demonstrated in the chart, a full consideration of preferred resources and transmission mitigation not only shows a need of zero MW, but it also shows a surplus of resources. Thus, the Commission has ample support for a finding of zero need in this proceeding.

Resource and Other Assumptions that Reduce SCE’s LCR Need to Zero:

Item	LA Basin	Western LA Basin
CAISO’s Total Calculated LCR Need for 2020	1,870 MW to 3,741 MW ²	
Use of 2012 Demand Forecast rather than the 2009 Demand Forecast	Decreases demand by between 702 MW to 3,054 MW ³	
Uncommitted Energy Efficiency	1,934 MW ⁴	1,121 MW ⁵
Demand Response	2,224 MW ⁶	1,064 MW ⁷
Distributed Generation	2,335 MW ⁸	1,120 MW ⁹
Incremental CHP	at least 285 MW ¹⁰	180 MW ¹¹
Energy Storage	at least 100 MW ¹²	at least 48 MW ¹³
Double Contingency	approximately 1,400 MW reduction if CAISO had assumed a single contingency. ¹⁴	
Transmission Mitigation such as changing capability of limiting line ¹⁵	Likely reduces need; should conduct full assessment.	
Load Shedding ¹⁶	Reduces need; should conduct full assessment to determine amount.	
Potential Extensions of OTC Retirement Deadlines Past 2020 ¹⁷	Multiple OTC owners have requested extensions to compliance deadlines; issue needs further assessment.	

² CAISO Opening Br. at p. 34, Table 1.

³ Sierra Club Opening Br. at p. 24; *see* Tr. 471:1-12 (Millar, CAISO) (load forecast decreases in all SCE scenarios).

⁴ CEJA Opening Br. at p. 32.

⁵ *Id.* at p. 33.

⁶ *Id.* (state energy agencies’ provide DR assumptions).

⁷ *Id.*

⁸ CEJA Ex. 3 (J. May Opening Test.) at pp. 28-29.

⁹ *Id.*

¹⁰ CEJA Opening Br. at p. 32 (Commission should at least use CAISO’s assumption in its sensitivity analysis).

¹¹ *Id.*; *see* CEJA Ex. 3 at pp. 28-29 (CEJA recommended at least 285 MW CHP for the LA Basin; because Western LA Basin is approximately 48% of the LA Basin, 137 MW of CHP should be attributed to Western LA Basin).

¹² CEJA Opening Br. at p. 57 (citing sources).

¹³ *Id.* (CEJA recommended a storage assumption of 100 MW for the LA Basin; because the Western LA Basin is approximately 48% of the LA Basin, 48 MW of that storage should be attributed to the Western LA Basin).

¹⁴ *Id.* at p. 10.

¹⁵ *See* section *infra* at II.C (discussing various parties’ recommendations for further transmission study).

¹⁶ *See* CEJA Opening Br. at pp. 9,11-12; CEJA Ex. 3 at pp. 42-43; CLECA Opening Br. at pp. 19-20.

¹⁷ *See* SCE Opening Br. at p. 6 (uncertainty in the “ultimate SWRCB compliance deadlines.”); *see also* DRA Opening Br. at pp. 21-22.

II. DETERMINATION OF LCR NEED IN CAISO STUDIES

A. **The Commission Should Not Authorize Procurement Based on CAISO's Overly Conservative LCR Study.**

1. **CAISO's Analysis is More Conservative than Commission Precedent.**

CAISO's analysis at issue here is the first LCR study that CAISO has conducted with a ten-year lookout.¹⁸ Despite this fact, CAISO is claiming that it is required by NERC and WECC to conduct a ten year grid reliability study.¹⁹ Even accepting CAISO's assertion that it is required to perform this study, which is unclear,²⁰ the requirement to *study* does not equate to a requirement to *procure* new resources. Critically, NERC reliability standards do not require LCR procurement ten years out.²¹

Furthermore, CAISO admits that it augmented NERC and WECC reliability standards.²² Perplexingly, CAISO also takes issue with both TURN and SCE who noted that CAISO augmented NERC and WECC standards, asserting that this is incorrect.²³ In fact, CAISO did augment NERC and WECC reliability criteria.²⁴ For instance, CAISO augmented NERC and WECC reliability standards by asserting that it had to meet a double contingency scenario,²⁵ modeled ten years out,²⁶ using a 1-in-10 weather day,²⁷ without considering load shed.²⁸ That

¹⁸ Tr. 117:20-24 (Sparks, CAISO) (this is the first LCR study CAISO has conducted with a ten year lookout).

¹⁹ See e.g. CAISO Opening Br. at p. 22, ("NERC and WECC reliability criteria requir[e] the ISO to conduct 10 year grid planning studies under stressed conditions.").

²⁰ Tr. 376:15-18 (Millar, CAISO) ("I don't believe the 10-year lookout is established as a specific criteria.").

²¹ Tr. 376:16-22 (Millar, CAISO); see also CAISO Ex. 13 (NERC Transmission Planning Standards).

²² CAISO Opening Br. at pp. 6, 8.

²³ *Id.* at p. 10.

²⁴ *Id.* at pp. 6, 8; see also Tr. 813:10-21 (Cabbell, SCE) (CAISO has additional standards on top of NERC standards); see also Tr. 813:22-28 – 814: 1-25 (Cabbell, SCE) (explaining how CAISO standards are more stringent).

²⁵ See CAISO Ex. 19 (CAISO Planning Standards) at p. 4 ("A single transmission circuit outage with one generator already out of service and the system adjusted shall meet the performance requirements of the NERC TPL standards for single contingencies (TPL002)"); see also *id.* at p. 10 ("The ISO recognizes that this planning standard is more stringent than allowed by NERC."); Tr. 376: 16-22 (Miller, CAISO) (NERC standards do not require a double contingency with a ten year lookout); D.06-06-064 at pp. 16-17 (CAISO can meet reliability criteria by only having reserves to meet one contingency scenario).

²⁶ See Tr. 376:1-22 (Millar, CAISO) ("I don't believe the 10-year lookout is established as a specific criteria.").

²⁷ See D.06-06-064 at pp. 16-17 (discussing requirements); see also CAISO Ex. 13 (NERC Transmission Planning Standards).

²⁸ See CAISO Ex. 13 (NERC Transmission Planning Standards) (NERC standards allow for load drop for Category C (or double contingency) outages).

augmentation of NERC and WECC criteria produced a transmission study that goes beyond what is required, and resulted in an ultra-conservative LCR procurement recommendation.²⁹

CAISO also argues that no party has proposed a valid alternative to CAISO's LCR methodology.³⁰ This is untrue. Numerous parties, including DRA and CEJA, proposed modifications or additional criteria to CAISO's LCR approach. For instance, DRA witness Fagan conducted extensive analysis using load and resource (L&R) tables on LA Basin LCR need.³¹ While CAISO claims that the use of L&R tables is inaccurate,³² the use of L&R methodology is consistent with past procurement proceedings.³³ For instance, SDG&E used L&R tables to project its LCR need in the 2010 LTPP.³⁴ CAISO also admitted that the numbers presented in Mr. Fagan's L&R table were within the same range as CAISO's powerflow analysis.³⁵ Because L&R tables have been a successful and accepted method used to study projected need in the past, it is illogical to suggest that their use is unreasonable in this proceeding. CEJA also provided alternatives to CAISO's proposed LCR methodology, including a probability analysis as a way of determining appropriate mitigation measures.³⁶

The LCR study that CAISO bases its purported need on is even more conservative than the analysis that the Commission has relied upon to authorize procurement in the year-ahead RA proceedings.³⁷ Providing a generation only solution to purported LCR need is inconsistent with and more conservative than the Commission approved approach even in the year-ahead RA context.³⁸ Authorizing procurement based on CAISO's analysis would be contrary to the

²⁹ See also CLECA Opening Br. at pp. 2-20. CLECA includes a lengthy and extremely useful analysis of how CAISO goes beyond federal standards to produce a more conservative LCR analysis.

³⁰ CAISO Opening Br. at pp. 2, 15.

³¹ See DRA Ex. 6 (R. Fagan Reply Test.).

³² CAISO Opening Br. at p. 22.

³³ Tr. 1217:22 – 1218:6 (Anderson, SDG&E)(SDG&E used load and resource tables in the 2010 LTPP); see also SCE Ex. 1 in R.10-05-006 at p. 7 (“SCE has relied on a spreadsheet calculator developed by the CAISO with input from the CPUC and CEC to assess LCR needs for modeling purposes.”).

³⁴ Tr. 1217:22-1218:6 (Anderson, SDG&E).

³⁵ Tr. 1342:5-21 (Sparks, CAISO).

³⁶ See e.g. CEJA Ex. 3 (J. May Opening Test.) at pp. 38-40.

³⁷ See D.06-06-064 at pp. 21-22 (The Commission chose “Option 2” that would analyze a category C contingency with operational solutions, in this proceeding CAISO is recommending addressing LCR need through pure procurement.).

³⁸ See CEJA Opening Br. at pp. 8-11.

Commission’s duty to ensure just and reasonable rates for its ratepayers, as unnecessary procurement is not just and reasonable.³⁹ The Commission should not authorize procurement based on CAISO’s ultra-conservative, worst-case long-term transmission planning study.

2. A Probability Analysis Is an Important Tool to Evaluate Potential Mitigation.

The probability of CAISO’s proposed contingency scenario occurring is on the order of one minute in a ten year period.⁴⁰ The incredibly low probability of CAISO’s contingency event ever occurring demonstrates another reason the Commission should not authorize expensive procurement based on CAISO’s analysis.

Despite this, CAISO continues to argue that probability should not be considered when evaluating mitigation options.⁴¹ A probability metric, such as this, is an important tool for evaluating mitigation options, since expensive procurement is not just and reasonable when the contingency is highly unlikely to ever occur.⁴² The Commission is tasked with authorizing only just and reasonable procurement, taking into account ratepayer costs and potential alternatives to avoid or mitigate those costs.⁴³ A probability assessment is a useful tool to help the Commission achieve its mandate to “[w]eigh[] the costs and benefits of achieving different degrees of local reliability so that an optimal level of local reliability is targeted.”⁴⁴

In addition, CAISO misconstrues CEJA’s common sense assertion that probability should be considered as a wholesale rejection of using any type of deterministic approach.⁴⁵ CEJA has never suggested that a probability analysis should completely replace a deterministic analysis.⁴⁶ A closer examination demonstrates that CAISO and CEJA appear to agree that a probability

³⁹ See CEJA Opening Br. at p. 3; *see also* Cal. Pub. Util. Code § 454.5; § 451.

⁴⁰ CEJA Ex. 3 (J. May Opening Test.) at p. 38.

⁴¹ CAISO Opening Br. at pp. 17-18; *see also* Tr. 124: 28 – 125:3 (Sparks, CAISO) (there is not an analysis of probability for the LA Basin); Tr. 126: 26-127:2 (Sparks, CAISO) (same).

⁴² CEJA Opening Br. at pp. 11-12; TURN Opening Br. at p. 5 (“Of even greater concern is the fact that the CAISO has made no effort to consider the cost impact on ratepayers of overly conservative assumptions that lead to overprocurement.”).

⁴³ See Cal. Pub. Util. Code § 454.5; § 451; *see also* CLECA Opening Br. at p. 14 (it is the Commission’s responsibility to determine ratepayer implications of procurement).

⁴⁴ D.06-06-064 at p. 7.

⁴⁵ See CAISO Opening Br. at pp. 16-18.

⁴⁶ See *id.* at pp. 16-17.

analysis is a useful tool for weighing the reasonableness of procuring potentially billions of dollars in resources to cover unlikely contingencies.⁴⁷ For all these reasons, the Commission should consider the unlikely probability of the contingency events ever occurring when determining whether to authorize procurement in this proceeding.

3. A Potential Long-Term SONGS Outage Should Not Be Considered Prior to Full Development of the Record.

CAISO discusses the status of SONGS as support for its OTC LCR analysis recommendation.⁴⁸ However, CAISO did not specifically study the impact of SONGS in its OTC LCR analysis.⁴⁹ Attempts to bring the current SONGS outage into Track I of this proceeding are inappropriate, particularly where other parties have not been allowed to present evidence related to the SONGS outage. A July 17 Ruling struck testimony of Women’s Energy Matters related to SONGS as outside the scope of Track I, finding that “Track 2 is the appropriate venue for consideration of issues related to retirement of SONGS.”⁵⁰ Thus, the current outage at SONGS should not factor into the Commission’s analysis of LCR issues, especially without a chance for all parties to place evidence into the record on this issue.⁵¹

4. SCE Has Failed to Meet its Burden to Demonstrate that Its Requested Procurement is Just, Reasonable, and Needed.

By not performing any analysis, SCE has failed to meet its burden to demonstrate that its requested procurement is just, reasonable, and needed. Section 454.5 of the Public Utilities Code requires utilities to file a procurement plan that specifies, *inter alia*, the “amount to be

⁴⁷ See Tr. 406: 24-28 (Miller, CAISO) (probabilistic assessment can be useful to determine appropriate mitigation options).

⁴⁸ CAISO Opening Br. at pp. 15, 22.

⁴⁹ See CAISO Ex. 7 (2011/2012 Transmission Plan).

⁵⁰ Assigned Commissioner and Administrative Law Judge’s Ruling Partially Granting Motion to Strike Testimony, R.12-03-014 (July 17, 2012) (“Further, as Track 1 of this proceeding concerns long-term local capacity requirements, this is not the proper venue for considering issues related to the current outage.”).

⁵¹ Had CEJA known that CAISO would relate its LCR modeling to the SONGS outage, CEJA would have presented additional evidence that CAISO has already employed flex alerts and demand response to cover the outage at SONGS during peak summer months, that despite the current loss of capacity at SONGS summer operations have proceeded smoothly, and mitigation measures such as converting units at the Huntington Beach facility into synchronous condensers and adding additional capacitor banks on the SCE electric system are currently underway.

procured under the plan” and the “range of *quantities* of each product to be procured.”⁵² A key purpose of these requirements is to ensure that utilities come into compliance with California’s RPS and preferred resource goals,⁵³ and ensure just and reasonable rates for utility customers.⁵⁴ Procurement plans also must make “[a] showing that . . . [t]he electrical corporation shall first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.”⁵⁵

In the past, the Commission has required utilities to present detailed information regarding resource assumptions to justify procurement requests. For instance, the Commission has “require[d] IOUs to conduct a needs analysis for locally constrained areas.”⁵⁶ Utilities have conducted their own analysis in previous LTTP proceedings, including Loads & Resources tables and spreadsheets.⁵⁷ For example, in a past proceeding, SCE provided calculations of expected plant availability and interruptible load program in calculating its reserve margin.⁵⁸ In the 2010 LTTP, SCE performed its own LCR analysis using CAISO’s L&R tool.⁵⁹ SCE departed from the established practice by not conducting any analysis demonstrating that its requested procurement is just, reasonable, and needed.⁶⁰

SCE’s reliance on CAISO’s analysis is especially problematic because it does not agree with CAISO’s conservative assumptions. In its Opening Brief, SCE asserts that it “generally

⁵² Cal. Pub. Util. Code § 454.5(b) (emphasis added).

⁵³ Cal. Pub. Util. Code § 454.5(b)(9)(A); § 454.5(b)(9)(C).

⁵⁴ See D.07-12-052 at p. 11 (“The goal of AB 57 was to allow the IOUs to reliably serve their customers’ needs at just and reasonable rates.”); Cal. Pub. Util. Code § 454.8 (project must be “used and useful.”); § 454.3 (same); see also D.11-03-036 at pp. 2-3 (rejecting project that would “subject the ratepayers to unacceptable risks” where the utility failed to make “an adequate showing of need.”).

⁵⁵ Cal. Pub. Util. Code § 454.5(b)(9)-(C).

⁵⁶ Assigned Commissioner and Administrative Law Judge’s Joint Scoping Memo and Ruling, R.10-05-006, at p. 21 (Dec. 3, 2010).

⁵⁷ See D.12-01-33; Tr. 1217:22 – 1218:6 (Anderson, SDG&E).

⁵⁸ D.03-12-062 at p. 9.

⁵⁹ Testimony of Southern California Edison Company on Track I Issues, R.10-05-006 at p. 9 (July 1, 2011) (“SCE used the most recent version of the CAISO’s Load and Resources Analysis (L&R) tool (released in December 2010) to perform its LCR analysis.”).

⁶⁰ Tr. 936:16-22 (Minick, SCE) (SCE has not conducted its own LCR analysis); CEJA X SCE Ex. 1 (Data Request Responses) at pp. 1-4 (SCE has not conducted its own LCR analysis and does not have its own preferred resource assumptions).

agrees with the CAISO's LCR need assessment,"⁶¹ despite previous statements that it "does not agree with all of the assumptions used by the CAISO."⁶² SCE also states that it accepts CAISO's assumption of zero MW of DR,⁶³ yet its own witness produced information demonstrating current DR capacity is much higher than zero⁶⁴ and stated that it is reasonable to assume that these programs will still exist in 2020.⁶⁵ SCE also has "internal load forecasts and renewable resource generation assumptions that are not exactly the same as those used by CAISO,"⁶⁶ yet SCE chooses not to do an analysis. SCE's testimony also reveals concerns about the accuracy of CAISO's modeling. SCE acknowledges that it will need to complete a whole new analysis to determine the best mix of resources and establish the amount of procurement needed.⁶⁷ SCE's reliance on CAISO's need determination is unreasonable given SCE's lack of confidence in the accuracy of CAISO's recommendations.⁶⁸

SCE should have provided its current best estimates of preferred resource availability. Commission proceedings must "ensure meaningful public participation" and "open decision making."⁶⁹ The Commission has concluded that most information used by a utility should be disclosed to the public, absent a narrowly construed confidentiality requirement.⁷⁰ SCE has not raised confidentiality as an issue and it is unlikely that information it failed to disclose would qualify for an exemption, as demonstrated by the demand response analysis produced by Mr.

⁶¹ SCE Opening Br. at p. 4.

⁶² SCE Ex. 1 (SCE Opening Test.) at p. 5; *see also* CEJA X SCE Ex. 3 (SCE Data Request Responses) at p. 2 (explaining the SCE has different load forecasts and generation assumptions as CAISO and "[i]n this respect our analysis would be different than the CAISO analysis if we had done an LCR study.").

⁶³ SCE Opening Br. at pp. 5-6.

⁶⁴ Tr.1079: 2- 1080:4 (Silsbee, SCE); *see also* CEJA X SCE Ex. 3.

⁶⁵ Tr.1084:4-8 (Silsbee, SCE).

⁶⁶ CEJA X SCE Ex. 1 at p.2.

⁶⁷ Tr. 732: 2-20 (Cushnie, SCE); *see also* SCE Opening Br. at p. 12 ("If there is cost-effective incremental EE that could be implemented in locations that would reduce LCR need, SCE will work with CAISO to re-run the transmission modeling load flow analysis to determine the actual impact of the EE on LCR need. If the transmission modeling load flow analysis shows that the incremental EE reduces the LCR need in a cost effective manner, SCE will reduce its LCR procurement to allow future EE to meet SCE's LCR need."); *id.* ("If such resources are determined to be cost-effective, SCE will engage CAISO to re-run its transmission modeling load flow analysis to determine the actual impact of DR and DG on LCR need.").

⁶⁸ *Id.*

⁶⁹ D.06-06-066 at p. 2.

⁷⁰ *Id.* at pp. 2-3.

Silsbee.⁷¹ SCE’s lack of transparency threatens to lead to an inaccurate determination and wastes Commission time and resources.

SCE has failed to show that it will “meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.”⁷² As such, SCE’s request for procurement authorization should be denied.

B. CAISO Should Have Included Preferred Resources in Its Analysis.

A number of diverse parties agree with CEJA that CAISO’s exclusion of preferred resources, most notably uncommitted energy efficiency and demand response, taints its analysis, presenting the Commission with an overly conservative model that overestimates SCE’s local need.⁷³ Not only is CAISO’s analysis overly conservative, it is arbitrary and unreasonable.⁷⁴ CAISO has arbitrarily chosen to include some uncommitted resources while excluding others. Similarly, CAISO relies on some of the CEC’s highest estimates for factors such as population growth and retirements,⁷⁵ but entirely ignores its estimates for other programs.⁷⁶ CAISO has also stated that “making decisions now assuming those goals will not be achieved in effect ensures that the goals will not be met.”⁷⁷ While CAISO applies this standard to its conservative assumption that all OTC units will retire by 2020, CAISO does not apply this same standard to energy efficiency or demand response programs.⁷⁸

CAISO’s primary driver for excluding certain resources seems to be its understanding of committed and uncommitted resources.⁷⁹ Although the CEC puts energy efficiency savings into

⁷¹ CEJA X SCE Ex.3.

⁷² Cal. Pub. Util. Code § 454.5(b)(9)(C).

⁷³ See CEJA Opening Br., DRA Opening Br. at pp. 11-18; Sierra Club Opening Br. at pp. 13-16; NRDC Opening Br. at pp. 3-9; CLECA Opening Br. at pp. 20-22; TURN Opening Br. at pp. 6-10; Enernoc Opening Br. at pp. 5-14; CEERT Opening Br. at pp. 19-21; Calpine Opening Br. at pp. 3-4; CCC Opening Br. at pp. 4-10.

⁷⁴ See e.g., TURN Opening Br. at p. 9 (“The disparate treatment of ‘uncommitted’ generation and ‘uncommitted’ preferred resources is not justified.”).

⁷⁵ Tr. 179: 5-24 (Sparks, CAISO); see also NRDC Opening Br. at pp. 3-4.

⁷⁶ See NRDC Opening Br. at pp. 5-6.

⁷⁷ CAISO Ex. 6 (Millar Reply Test.) at p. 17.

⁷⁸ See Tr. 399:1 - 401:8 (Millar, CAISO).

⁷⁹ See e.g., CAISO Opening Br. at p. 27 (describing committed energy as “expected or possible” and seeing “no reason” not to leave out uncommitted resources).

these two categories, the CEC states that both categories are reasonably expected to occur.⁸⁰ This is contrary to the way in which CAISO treats committed and uncommitted resources.

CAISO also includes assumptions for distributed generation that could rightfully be called “uncommitted.”⁸¹ As TURN points out, CAISO claims that its renewable assumptions were reasonable given the state’s commitment to achieving a 33% RPS.⁸² Essentially, CAISO seems to suggest that because renewable development is required pursuant to California law, this resource should be treated as “committed.” Yet, as NRDC demonstrates, CAISO excluded EE savings from the 2010 and 2013 building EE standards, the 2011 TV standards, and the 2011 lighting standards among others.⁸³ CAISO did not explain why it is reasonable to assume achievement of California’s RPS law but unreasonable to assume achievement of these federal and state efficiency standards. Importantly, as NRDC further points out, savings from these standards are already occurring, meaning that CAISO also excluded efficiency that has already been realized.⁸⁴ Similarly, CAISO’s assumption of zero MW of demand response excludes currently existing DR in SCE’s local area, which even SCE has stated can reasonably be expected to remain on the system in future years.⁸⁵

As noted by CLECA, CAISO’s disparate treatment of preferred resources is understandable given that CAISO is responsible for transmission planning, not generation planning.⁸⁶ Because CAISO is not a generation planner, it should have relied on the projections of the Commission and the CEC, but CAISO failed to use the Commission’s and the CEC’s projections consistently.⁸⁷ The result is that thousands of MW of expected savings from energy efficiency and other preferred resources were left out of the LCR modeling.

⁸⁰ NRDC Opening Br. at p. 4; CEJA Opening Br. at p. 16.

⁸¹ TURN Opening Br. at p. 9.

⁸² *Id.* at p. 9.

⁸³ NRDC Opening Br. at pp. 6-7, citing Tr. 445-47 (Millar, CAISO).

⁸⁴ *Id.*

⁸⁵ Tr. 1035: 1-10 (Silsbee, SCE); Tr. 1041: 23-28 (Silsbee, SCE) (SCE’s currently DR programs should be available in 2020); CEJA X SCE Ex. 3 (Sum of DR MW) (listing DR sums by substation); Tr. 1084: 4-8 (Silsbee, SCE) (likely that all programs reflected in document will be in existence in 2020).

⁸⁶ See CLECA Opening Br. at p. 4; see also Tr. 1019: 7-8 (Minick, SCE) (“The ISO is not a generation planning entity.”).

⁸⁷ See TURN Opening Br. at pp. 8-10; NRDC Opening Br. at pp. 3-5

C. Transmission Mitigation Should Be Evaluated Before Procurement is Authorized.

Numerous parties to this proceeding have raised the issue of potential transmission mitigation fixes that could substantially lower need in SCE's local area. Parties have pointed to multiple potential transmission fixes that should be examined prior to authorizing new costly procurement. Especially when considering the conservative assumptions made with regard to preferred resources, the Commission has time to consider and evaluate transmission options without authorizing need. Potential transmission mitigation options that should be studied further include:

- Further CAISO analysis regarding transmission upgrades of the Moorpark sub-area.⁸⁸ Even SCE admits that “[s]ome cost effective transmission modifications could also lower the LCR need,” in the Big Creek/Ventura area, and that therefore any procurement can wait until the next LTPP cycle.⁸⁹
- The possibility of a special protection system that could eliminate need in the Ellis sub-area that CAISO assumed was not in existence when completing its OTC study despite being “currently operational” and “maintained by SCE.”⁹⁰
- The continued exploration by SCE of the 230 kV expansion into the Western LA Basin.⁹¹ CAISO has not yet evaluated this solution, but has raised it as a possibility.⁹²
- Consideration of additional transmission beyond 2021.⁹³ SCE noted that CAISO has not considered additional transmission beyond 2021 even though additional transmission beyond that date would impact their LCR study results.⁹⁴
- The construction of shunt capacitors, static VAR compensators, and synchronous condensers, which can all provide reactive support.⁹⁵ SCE witnesses indicated that these are potential alternatives to constructing new generation.⁹⁶ SCE also “typically relies on shunt capacitors when there are voltage issues.”⁹⁷

⁸⁸ Calpine Opening Br. at p. 6; DRA Ex. 1 (R. Fagan Test.) at p. 27; SCE Opening Br. at p. 11.

⁸⁹ SCE Ex. 2 (SCE Reply Test.) at p. 20.

⁹⁰ Sierra Club Opening Br. at p. 17 citing CAISO Ex. 1 at p. 10.

⁹¹ Sierra Club Opening Br. at p. 18 citing CEJA Ex. 4 (CAISO Data Request Responses).

⁹² CEJA Opening Br. at pp. 10-11; Sierra Club Opening Br. at p. 18 citing CEJA Ex. 4.

⁹³ See CEERT Opening Br. at pp. 26-27.

⁹⁴ Sierra Club Opening Br. at p. 18 citing SCE Ex. 1 (SCE Opening Test.) at p. 8 (“...the CAISO has not investigated adding transmission facilities beyond the 2021 transmission configuration used in its analysis of need for LCR resources in the LA Basin. If additional transmission facilities are identified through specific transmission technical studies, the CAISO’s analysis would need to be re-run.”).

⁹⁵ Sierra Club Opening Br. at p. 18 citing Tr. 780: 22 – 781: 2 (Cabell, SCE).

⁹⁶ *Id.*

⁹⁷ Tr. 780: 7-14 (Cabell, SCE).

- Further exploration of the use of the Huntington Beach Units 3 & 4 as synchronous condensers.⁹⁸ CAISO has indicated that it is interested in exploring this option.⁹⁹
- Determination of how “improved balancing area coordination within the LA Basin could lead to total lower LCR needs for both the CAISO and LADWP control areas.”¹⁰⁰ SSJID also notes that Publicly Owned Utilities have “been constructing new generation that provides local reliability benefits that extend to IOU customers.”¹⁰¹ The impacts of this new construction should also be evaluated.

These types of options are likely less expensive than procuring new resources and should be evaluated before authorizing expensive procurement to assure that it is actually necessary, just, and reasonable.

III. THERE IS NO NEED FOR LCR PROCUREMENT AT THIS TIME.

Many diverse parties in this proceeding, including environmental groups such as Sierra Club and NRDC, consumer advocacy groups such as DRA and TURN, and industry groups such as EnerNOC, agree that CAISO’s assumptions of preferred resources are unreasonable and that CAISO’s need determination is too high.¹⁰²

As CEJA, DRA, and Sierra Club show, when preferred resources are taken into account, there is little to no need for procurement. By relying on the Commission’s and the CEC’s projections for preferred resources, CEJA found no need to authorize procurement in SCE’s LCR areas.¹⁰³ DRA’s analysis similarly found little need for LCR procurement for the Western LA Basin “when including the impact of uncommitted EE, DR and CHP.”¹⁰⁴ Sierra Club also relied on assumptions from the Commission and the CEC to find that there was no need in SCE’s local areas.¹⁰⁵

⁹⁸ TURN Opening Br. at p. 12 citing Tr. 365-366 (Millar, CAISO).

⁹⁹ *Id.*; see also TURN Opening Br. at p. 13 (“TURN believes that the Commission should explicitly direct SCE to explore the costs and practical barriers to converting Huntington Beach (and any other retiring OTC units) to synchronous condensers. Information should be solicited from all relevant owners of generation in early 2013 in order to determine if this option is desirable.”).

¹⁰⁰ DRA Opening Br. at p. 26; CEERT Opening Br. at p. 26.

¹⁰¹ SSJID Opening Br. at p. 5.

¹⁰² See e.g. CEJA Opening Br. at pp. 14-23, Sierra Club Opening Br. at pp. 13-16, NRDC Opening Br. at pp. 3-9, DRA Opening Br. at pp. 4-18, TURN Opening Br. at pp. 6-10, CEERT Opening Br. at pp. 19-21, and EnerNOC Opening Br. at pp. 5-14.

¹⁰³ See generally CEJA Opening Br.

¹⁰⁴ DRA Ex. 6 (R. Fagan Reply Test.) at p. 4.

¹⁰⁵ See generally Sierra Club Opening Br.

Parties who found an LCR need that nears or exceeds 1,000 MW either rely on CAISO's modeling without conducting their own analysis, or develop their own projected LCR need without presenting any analysis supporting that figure.¹⁰⁶ For instance, SCE recommends that the Commission authorize up to the CAISO purported LCR need¹⁰⁷ without doing any technical analysis of its own.¹⁰⁸ Recommending a MW authorization to fill a purported need requires a thorough analysis of the affected LCR area; SCE's approach is the equivalent of a medical student picking a diagnosis at random without examining the patient.

The Commission should base its need finding upon a full consideration of the expected contribution of preferred resources in 2020 and beyond. When considering the Commission's and the CEC's forecasts, there is no need to authorize LCR procurement at this time.

IV. THE COMMISSION SHOULD REJECT SCE'S "TRUST ME" APPROACH.

SCE requests "flexible" procurement authority from the Commission so it can decide how much procurement it actually needs at a later date.¹⁰⁹ SCE's "trust me" approach to procurement fails to ensure compliance with the loading order and will largely take procurement out of the public process envisioned by the Public Utilities Code. For instance, SCE has repeatedly cited the urgent need to begin procuring new resources, particularly given its projected 5-7 year lead time needed to build new fossil fuel plants.¹¹⁰ However, SCE also states that its request for flexibility will allow it to wait and see whether the preferred resources excluded from CAISO's analysis will come on line.¹¹¹ Preferred resources will not have a chance to fill LCR need if they are crowded out by new conventional generation.

¹⁰⁶ See generally SCE, SDG&E, and PG&E Opening Briefs.

¹⁰⁷ See SCE Opening Br. at p. 2.

¹⁰⁸ Tr. 829:3-13 (Cabbell, CAISO); CEJA X SCE 1 (Data Request Responses) at pp. 1-2.

¹⁰⁹ See SCE Opening Br. at pp. 12-13.

¹¹⁰ See e.g., *id.* at p. 19; SCE Ex. 1 (SCE Opening Test.) at p. 17; see also Tr. 371: 22 - 372: 6 (Millar, CAISO) (need for procurement authority now is based on lead time of up to seven years to build conventional resources).

¹¹¹ See SCE Opening Br. at p. 9 ("Uncertainties over the potential amount of preferred resources that could emerge also necessitate the need for flexibility. Flexibility in procurement would give SCE the option of re-running the transmission modeling load flow analysis with any additional cost-effective preferred resources identified during its procurement processes.").

SCE's plan is to presumably solicit new resources and then apply to the Commission for approval where the issue of need would again have to be addressed.¹¹² Instead of determining SCE's exact need in this proceeding, parties and the Commission would apparently be expected to re-litigate the issue of LCR need every time SCE submitted an application requesting Commission approval of a project.¹¹³ This directly evades the intent laid out in the Public Utilities Code to "eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved procurement plan."¹¹⁴ Further, parties wishing to challenge the assumption that a facility is needed would have to intervene in each individual application to challenge need. This is a waste of time and resources of both the intervenors and the Commission, as well as ratepayer money should those parties be eligible for intervenor compensation. Need should be determined in this proceeding as envisioned by the Code, not in each subsequent utility application.

In addition, while the Commission has established numerous criteria for evaluating a project, none of that criterion considers whether the project is actually needed, as need should have already been established in the LTPP.¹¹⁵ Similarly, while there is oversight of the project selection and evaluation process, none of it is specifically aimed at determining need.¹¹⁶ There are also potential conflicts to considering need in the utility run RFO process. For instance, the Commission has admitted utility hiring of Independent Evaluators (IE) creates a potential

¹¹² See *id.* at pp. 3-4 ("The Commission will have further opportunity to review the results of SCE's procurement via the application process for any PPAs that SCE enters into."); *id.* at p. 10 ("The Commission should . . . give SCE flexible authority to pursue procurement of new LCR resources now. This is subject, of course, to final Commission review of the reasonableness of the resources chosen when SCE submits an application seeking Commission approval of any PPAs or other LCR solutions."); see also Tr. 638-640 (Cushnie, SCE) (discussing post-hoc review of SCE PPAs and parties ability to re-litigate need issue).

¹¹³ See SCE Opening Br. at p. 13 ("The Commission would review whether SCE appropriately incorporated preferred resources in its procurement when it submits its application requesting approval of its PPAs and/or other procurement plans.").

¹¹⁴ Cal. Pub. Util. Code § 454.5 (d)(2).

¹¹⁵ Factors include: least cost best fit (D.04-12-048 at FOF, p. 86), debt equivalence (D.04-12-048 at pp. 144-45 and D.08-11-008 at p. 2), and environmental justice and brownfield sites (D.07-12-052 at p. 157, D.04-12-048 at p. 1) among others.

¹¹⁶ For instance, the role of an IE is to ensure a "fair and competitive process." D.12-04-046 at p. 66.

conflict of interest.¹¹⁷ Thus, an after the fact review of selected projects has the strong possibility of not addressing or being as thorough as the need analysis presented in this proceeding.

Courts have also recognized that once there is momentum behind a project it becomes more difficult to conduct a thorough and probing assessment of that project.¹¹⁸ From a practical perspective, once a project has already been formulated, with a significant amount of money and resources having gone into the bidding process, it will be more difficult to question and challenge whether that project is actually needed. For instance, in the Commission's initial decision denying approval of PG&E's Oakley plant, the concurrence of Commissioner Bohn noted his concerns that denial of a plant that "participates and wins a competitive solicitation and yet still is rejected . . . will dampen the interest of investors and developers."¹¹⁹ Similarly, in the CEQA context, courts have found that "the later the environmental review process begins, the more bureaucratic and financial momentum there is behind a proposed project, thus providing a strong incentive to ignore environmental concerns."¹²⁰ Thus, project review must occur "before project momentum reduces or eliminates the agency's flexibility to subsequently change its course of action."¹²¹

Notably, SCE's "trust me" approach is inconsistent with its position in the last LTPP that it needs upfront, achievable standards for the procurement process. In the 2010 LTPP, SCE argued against expanding oversight of the IE in the procurement process, arguing that:

These proposals [to expand IE oversight] are exactly what AB 57 prohibits because they would undermine an IOU's ability to know at the time of the procurement transaction that it is per se reasonable by virtue of complying with the upfront, achievable rules and

¹¹⁷ D.12-04-046 at p. 68 ("We agree that it would be preferable for IEs to be hired by and report to the Commission, rather than the utilities, and to the extent the barriers to doing so can be overcome in the future, we will consider this proposal again.").

¹¹⁸ See e.g., *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 130 n. 9 (project analysis must not be delayed to the point where "bureaucratic and financial momentum rendered it practically moot.") (internal quotations omitted).

¹¹⁹ D.10-07-045 (Concurrence of Commissioner John A. Bohn) at pp. 1-2 ("I am troubled by the message we send to the investment community and project developers when a project has met all the conditions we lay out, participates and wins a competitive solicitation and yet still is rejected. I must believe that such an act will dampen the interest of investors and developers in participating in the California market. . .").

¹²⁰ See *Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal.3d 376, 395.

¹²¹ *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028.

criteria within the IOU's AB 57 procurement plan. SCE has no idea how these amorphous proposals could be translated into upfront, achievable standards since they provide no standard at all by which an IOU can know how to engage in procurement transactions without fear of its activities being deemed unreasonable in hindsight.¹²²

SCE also took issue with expanded IE oversight because an “after-the-fact reasonableness review” would mean that the utilities “would have no assurance of cost recovery for their procurement transactions.”¹²³ In addition, SCE noted that IE's do not assess reasonableness (including need) of the contract, but are tasked with assuring fairness in the procurement process.¹²⁴

SCE's “trust-me” approach seeks to subvert the public process laid out in AB 57 and Commission decisions. The Commission should not grant SCE's request for flexibility in the amount of resources it procures. The Commission should definitively decide whether LCR needs exists in this proceeding and what that need is, or it should defer the issue of need to the next LTPP after SCE has conducted an analysis of preferred resource and transmission options.

VII. D. CAISO DOES NOT HAVE LONG-TERM BACKSTOP AUTHORITY.

CAISO is not requesting backstop procurement authority in this proceeding.¹²⁵ SDG&E inaccurately states that there are “concurrent procurement paths” in California,¹²⁶ and that should the Commission not accept CAISO's modeling results, “the ISO can be expected to invoke its procurement authorities to resolve any potential reliability-criteria violations unilaterally.”¹²⁷ This is incorrect since CAISO does not have authority to unilaterally procure ten years out.

¹²² Reply Brief of SCE on Track I and III Issues, R.10-05-006, at p. 23 (Oct. 3, 2011).

¹²³ *Id.* at pp. 23-24.

¹²⁴ *Id.* at p. 26 (“IEs are also not tasked with assessing the reasonableness of the IOUs' solicitation *outcomes*; they are supposed to ensure a fair, competitive procurement *process*.”) (internal citations omitted) (emphasis in original).

¹²⁵ CAISO Opening Br. at p. 55 (recommending the CAISO, the Commission, SCE and other parties develop a framework for LCR procurement).

¹²⁶ SDG&E Opening Br. at pp. 4-5.

¹²⁷ *Id.* at p. 5; *see also id.* at p. 8 (“In other words, if aggressive assumptions are made concerning the availability of certain resources such as EE and DR, and those resources are ultimately not available at the levels assumed, local reliability could be compromised and, as discussed above, costly ISO backstop procurement would be required.”).

CAISO has only been granted such authority in the year-ahead time frame,¹²⁸ and CAISO is not seeking an extension of that authority at this time.¹²⁹

Although it is possible that CAISO could seek such authority from FERC in the future, this does not mean that FERC would grant such authority. FERC has scrutinized CAISO's year-ahead procurement requests in the past. For instance, FERC rejected a CAISO proposal to compensate backstop resources, finding that "CAISO failed to demonstrate that the proposed compensation was just and reasonable."¹³⁰ Later, FERC approved a settlement on the issue, finding that after revisions by CAISO and other parties, the agreed upon price appeared to be fair and reasonable.¹³¹ Further, FERC's authorization of short-term CAISO backstop authority has been limited to a "last resort" and only for "narrow uses."¹³² Importantly, CAISO's year-ahead procurement authority also does not supersede the utility requirement to demonstrate just and reasonable rates in order to recover costs from ratepayers.¹³³

The Commission should not base procurement on a hypothetical situation that CAISO may apply to FERC for additional backstop authority. CAISO does not currently have this authority and there is no guarantee that FERC would grant this request, especially because CAISO's backstop authority is currently intended to be used only for narrow circumstances in a short-term context.¹³⁴

CONCLUSION

For all of the above reasons, SCE's request for procurement authority should be rejected. SCE has failed to meet its burden to show that its request is just and reasonable, and has failed to

¹²⁸ See Resolution E-4471, at p. 5 (March 22, 2012) ("Lastly, the FERC CPM [Capacity Procurement Mechanism] mechanism has not yet been tested or used to procure resources beyond the extant resource adequacy year. The CPM is designed to designate plants only for one year.").

¹²⁹ As of the date of this brief, CAISO appears not to have filed any request with FERC to extend its backstop procurement authority beyond its current year ahead authority.

¹³⁰ 138 FERC ¶ 61,112 (Feb. 16, 2012), citing CPM Order, 134 FERC ¶ 61,211 at pp. 55-58 (March 17, 2011).

¹³¹ 138 FERC ¶ 61,112.

¹³² 134 FERC ¶¶ 61,211 at ¶¶ 73, 125 (March 17, 2011).

¹³³ See Resolution E-4471 at pp. 13, 20 ("If the parties propose to enter into a contract, their advice letter seeking CPUC approval must explain how the contract meets the just and reasonable rates requirements under Public Utilities Code Section 454.5.").

¹³⁴ See 138 FERC ¶ 61,112; see also 134 FERC ¶ 61,132 (Feb. 18, 2011) (giving CAISO backstop authority for 30 day terms).

provide any factual support for its assertion that CAISO's modeling assumptions are reasonable. Many parties to this proceeding agree that CAISO's model is flawed and overly conservative. Allowing procurement based on an unprecedented worst case contingency that fails to consider numerous preferred resources would violate California law favoring development of preferred resources and impede climate change goals. Allowing unneeded procurement also creates a burden on ratepayers. SCE's request should be denied by the Commission.

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Respectfully submitted,

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