

**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

Rulemaking 12-03-014
(Filed March 22, 2012)

**MARIN ENERGY AUTHORITY
COMMENTS ON TRACK III ISSUES**

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I. INTRODUCTION

In accordance with the instructions set forth in the *Administrative Law Judge’s Ruling Seeking Comments on Track III Issues* (“Ruling”) filed on March 21, 2013, the Marin Energy Authority (“MEA”) submits these responses to the questions propounded in the Ruling.

MEA thanks the Commission for reviewing the parameters surrounding Investor-Owned Utility (“IOU”) procurement and for including the issue of procurement an IOU undertakes on behalf of other Load-Serving Entities (“LSEs”) such as Community Choice Aggregators (“CCAs”). MEA is a CCA – a not-for-profit government agency – which serves load in the County of Marin and the City of Richmond. Several of the questions posed in the Ruling relate to how IOU procurement and other LSE procurement work together to meet the needs of all customers within an IOU’s footprint. MEA is the first – and currently only – operating CCA in California, and its procurement is substantially different from other competitive providers, such as Electricity Service Providers (“ESPs”). These differences are important to the issues raised in this proceeding, and MEA believes that up to now, CCA procurement practices have not been well understood or adequately accommodated in IOU procurement planning and that unnecessary costs have been incurred as a result. In these comments MEA provides an overview of CCA procurement and offer suggestions for how IOU procurement can be reformed to better

mesh with the procurement responsibilities undertaken by CCAs. We believe that a more sophisticated planning approach for CCA departing load is needed and that adoption of MEA's recommended reforms will reduce costs for all ratepayers. In light of the successful launch and rapid growth of MEA - including the ongoing expansion to the City of Richmond - and the new CCA programs that will soon be underway in San Francisco and Sonoma County, the issue of CCA departing load is growing in significance, and the Commission's thoughtful consideration of these issues in this proceeding is well-timed.

II. SUMMARY OF MEA'S COMMENTS

MEA's comments can be summarized with three basic policy recommendations for refining IOU procurement as it relates to CCA departing load. These policies should be incorporated in the IOU's development of their procurement plans and the Commission's consideration of the proposed plans, as well as any IOU procurement made pursuant to those plans. MEA recommends that IOU long-term procurement should be evaluated based on the following objectives that would be in addition to the factors currently considered:

1. Limit CAM-Type Allocations to Unique and Critical Reliability Circumstances

While there may be many benefits associated with a particular generation project under consideration for IOU procurement, the legislative authority for Cost Allocation Mechanism ("CAM") treatment is explicit that CAM can only be used to address system or local reliability issues. CAM is a reliability backstop mechanism – a tool available to the Commission to address legitimate threats to reliability - that is increasingly in danger of becoming a standard feature of the IOU long term procurement process. This misuse of the CAM mechanism is contrary to legislative intent and inappropriately diminishes the procurement autonomy of CCAs.

Identification of CAM needs and requests for CAM treatment of resources should be required to pass a high hurdle, with the burden of proof on the IOU to demonstrate that the CAM resource is necessary to meet a significant reliability need that cannot be met with other options.

2. Accommodate CCA Procurement

IOU procurement plans must recognize that CCAs have long-term generation resource commitments and demand side resources, and this information should be considered before any new CAM resources are procured and CAM costs allocated to LSEs. MEA has several long term contracts (20-25 years) with renewable generators that should both reduce the need for new CAM resources and allow for a reduction in the CAM costs allocated to MEA's customers. MEA recommends that a CCA be able to provide certain resource information to the Commission that would offset the CAM cost allocation for customers of the CCA. CCAs should also be allowed to self-provide, through additional resource procurement, a portion of an identified CAM-eligible reliability need.

3. Minimize Stranded Costs

IOU bundled procurement should be planned so that new stranded costs are not created when customers join CCA service. Stranded cost charges in the form of the Cost Responsibility Surcharge and CAM-type charges impede CCA formation, depriving local communities the benefits of greater use of renewable energy, local economic development, and more effective energy efficiency programs. These stranded cost charges also weaken the incentives for IOUs to procure on the most competitive basis because IOUs can take comfort in their ability to pass along the costs of non-competitive procurement to their competitors. The weakened incentives translate into higher costs for bundled and CCA customers alike. Through reasonable forecasting of current and potential departing load and through an additional element of

procurement flexibility that is explicitly built -in to the procurement plan, stranded costs can be avoided for CCA departing load within reasonable planning ranges. This type of flexibility should be an explicit criterion for the Commission's evaluation of IOU bundled procurement plans.

III. OVERVIEW OF COMMUNITY CHOICE AGGREGATION PROCUREMENT

Customers in a CCA's service territory receive default generation service from the CCA, and receive transmission, distribution, billing and other services from the IOU. A CCA customer can decide to "opt out" of CCA service and instead receive generation service from the IOU. If the customer receives service from a CCA they are considered an "unbundled" customer, and if they receive generation service from an IOU, they are considered a "bundled" customer. It should be understood that the CCA is the default generation service provider within its service territory and that among the CCA's responsibilities is resource planning and procurement to meet the energy requirements of its customers. This procurement is undertaken under the authority of the local governing board of the CCA.

1. The Commission sets certain basic procurement targets for all LSEs, including CCAs

The Commission sets certain basic procurement requirements for all LSEs. Various other requirements are required by the California Energy Commission ("CEC") or the California Independent System Operator ("CAISO"). Procurement requirements set by the Commission include Resource Adequacy ("RA"), the Renewables Portfolio Standard ("RPS") and the Emissions Performance Standard ("EPS"). MEA provides ongoing reporting to the Commission, the CEC and the CAISO in accordance with these requirements.

2. The CCA's governing body determines the specific procurement plan for the agency

Similar to municipal utilities and IOUs, CCAs procure on a long-term basis. A CCA's procurement decisions – long-term procurement planning and specific contracting for resources – are made under the authority of the governing board of the CCA. MEA's Board of Directors, for example, is comprised of one representative from each member city, town or county that is part of the joint powers authority. Each Director is a city or town council member or county supervisor who has been chosen by her or his elected peers to serve on MEA's Board of Directors to represent the interests of the community.

In the case of MEA, this procurement can be broken into two distinct pieces. First is the annual update and adoption of MEA's Integrated Resource Plan ("IRP"). MEA's most recent Integrated Resource Plan is included as Attachment A. This IRP provides a forecast of MEA's electric sales, an analysis of the existing and needed resources to meet customer demand, and the ways in which MEA will procure to meet those needs.

Second is MEA's implementation of the Integrated Resource Plan. MEA uses a variety of procurement methods pursuant to the Board approved IRP. These include an open season process for evaluating bids for energy and resource adequacy; bilateral negotiations to contract for its unmet needs; and periodic request for proposal processes. MEA also offers a feed-in tariff to encourage local development of renewable resources. These contracts are entered into under the authority of the Board of Directors, as is the case with procurement of a municipal utility.

3. The one significant exception to this procurement structure is "on behalf of" procurement

However, there is one significant area of departure from this independent CCA procurement model. The exception is "on behalf of" procurement, and the most important

example for purposes of this proceeding is the CAM. In the case of CAM procurement under the current structure, the Commission orders an IOU to procure from a generation resource. The IOU then passes through the net capacity costs of that resource to all customers, including CCA customers. The CCA then receives a pro rata share of the capacity value. As a result, the IOU is procuring the resource “on behalf of” the CCA, but without the consent of or involvement by the CCA. This method of procurement creates significant problems for CCAs as discussed in MEAs responses to the specific CAM questions below.

IV. SPECIFIC TRACK III PROCUREMENT RULES AND QUESTIONS FOR PARTIES

1. Maximum and minimum limits on IOU forward purchasing of energy, capacity, fuel, and hedges

a. Should the Commission modify the Assembly Bill (AB) 57 bundled procurement guidelines to indicate minimum and maximum limits for which the three IOUs must procure for future years? If so, should these minimum and maximum limits address energy, system resource adequacy (RA), local RA, and/or flexibility?

Although MEA has no comments at this time, MEA reserves the opportunity to make comments as Track III progresses.

b. How may the Commission best balance issues regarding departing load in any future requirements or procurement?

MEA believes the Commission should direct the IOUs to incorporate reasonable estimates for CCA departing load in their bundled procurement plans. The IOU procurement plan should be evaluated, in part, on its resilience to varying levels of departing load without creation of stranded costs. Like all planning assumptions the forecast of CCA departing load involves uncertainty; however, the IOUs should use all available information to account for CCA departing load within their procurement plans. Such information could include draft and final

CCA Implementation Plans, CCA resource plans, annual load forecasts prepared for the Resource Adequacy compliance process, and any other relevant information about future CCA activity.

There is adequate publicly available – or easily requested – information regarding currently operational and soon -to-launch CCAs that the Commission and the IOUs should leverage to inform their estimates for CCA departing load. First, all CCAs must submit Implementation Plans to the Commission for certification prior to offering service to communities. These Implementation Plans are publically available. Second, CCAs have long-term procurement planning documents. As discussed above, MEA has a long-term IRP which provides great detail into MEA’s projected load growth. This plan is publicly available through MEA’s website and is updated annually.

Third, any current or soon -to-launch CCA must establish a Service Agreement with the IOU who serves the same territory as the CCA, thus the IOUs are well aware when a new CCA is about to launch resulting in CCA departing load. Fourth, CCAs are required to file Load Forecasts annually with the Commission. All of these listed sources should and could easily be leveraged by the Commission and the IOUs to account for CCA departing load during the IOUs’ Bundled Procurement Planning process.

The IOU should adjust its procurement to reflect the removal of the projected CCA load from the bundled resource needs. The IOU should also include a flexibility margin in its procurement by using short-term market purchases for a percentage of its projected bundled load (net of projected CCA load) so that additional CCA departing load can be accommodated without creation of new stranded costs. Setting aside a specified percentage (5% to 10%) of

bundled load for unspecified future CCA activity would provide flexibility for additional CCA departing load beyond the level reflected in the base case load forecast.

2. Impacts of transparency on forward procurement

a. Should the Commission require the three major electric IOUs to provide more public transparency into the levels of future procurement for which each has entered into a contract? What confidentiality rules could be changed or removed? In particular how can IOUs provide visibility to the California Independent System Operator (CAISO) regarding their midterm procurement contracts?

MEA strongly encourages increased transparency in the IOUs' procurement. MEA procurement information is publicly available and transparent. The Commission should require that IOU procurement be similarly publicly available and non-confidential. One benefit of this transparency is to allow for all IOUs and other LSEs to be able to cross reference other entities' procurement to ensure the reasonableness of their own procurement.

This is also particularly important in the CAM context for CCAs. Under the current CAM methodology, a pro rata share of the net capacity costs of a facility are passed on to CCA customers, and a pro rata share of the resource adequacy capacity is similarly passed through to the CCA. However, MEA has knowledge of neither the price for this procurement, nor the proportion that is being allotted to its customer base until very late in the process. Additional transparency once a proposed contract is executed but before Commission approval will help those entities paying the costs of the IOU procurement to evaluate its reasonableness and to plan in advance for the allocated capacity. Information on CAM resources and how the capacity will be allocated to LSEs should be easily available so that LSEs can adjust their forward procurement. This is particularly important for CCAs such as MEA that contract for capacity on a multi-year forward basis.

b. How can bids and offers into request for offers (RFOs) be released publically? What other information could be released?

Although MEA has no comments at this time, MEA reserves the opportunity to make comments as Track III progresses.

3. Long-term contract solicitation rules

a. Should the Commission adopt a rule that explicitly indicates that existing power plants may bid upgrades or repowers into new-generation RFOs?

i. How should the existing and upgraded components of the repowers be valued differently in an RFO? How can additions such as energy storage be added to existing facilities and be valued against other types of offers?

Although MEA has no comments at this time, MEA reserves the opportunity to make comments as Track III progresses.

ii. Should contracts for repowering or upgrading of facilities be restricted to the same length of contracts as new facilities? If not, please explain why there would be different contract lengths or different terms, and how these differences would be reflected in the valuation of the bids.

Although MEA has no comments at this time, MEA reserves the opportunity to make comments as Track III progresses.

iii. Is there any information (additional or subtracted) from the RFO or application templates that would need to be changed? Would Energy Division review the RFO differently?

Although MEA has no comments at this time, MEA reserves the opportunity to make comments as Track III progresses.

iv. How should cost allocation issues be addressed?

Preexisting facilities which have undergone an upgrade or repower should not be considered for CAM treatment. Since the facility is already existing and currently meeting a

bundled procurement need, simply because it upgrades or repowers does not change its use in serving bundled customers. As a result, such a facility would not be CAM-eligible.

- v. How would bilateral negotiations for upgraded or repowered facilities be reviewed?

Although MEA has no comments at this time, MEA reserves the opportunity to make comments as Track III progresses.

4. Specification of the rules that, if followed, would allow the IOUs to execute bundled procurement contracts without additional review by the Commission

a. Please comment on the following potential new or modified rules to ensure competitive bundled procurement transactions:

- i. The IOUs must submit an advice letter or application if they follow their established AB 57 bundled procurement plan authorization, and
 - (1) The contract unit price is higher than a particular percentage (such as 80%) of the CAISO Capacity Procurement Mechanism or other administratively or market established price,
 - (2) The RFO did not attract sufficient participants, or
 - (3) The total megawatts (MW) procurement is over a specified level of MW.

MEA does not support these modified rules unless such transactions are excluded from stranded cost treatment ; *i.e.* no costs associated with such transactions would be paid by CCA customers. MEA believes there would be insufficient consumer protection if the IOU is provided with additional procurement discretion without CPUC oversight and without the discipline imposed by competitive generation service options in the marketplace. If such transactions were to be allowed, they should not be subject to stranded cost treatment. In that case, competitive forces, such as the potential for CCA service, would help ensure competitive bundled procurement transactions.

ii. Any bilateral contract for a facility that did not make the shortlist of an RFO or an offer that has subsequently been negotiating with the utility for longer than six months since making the shortlist of an RFO must seek Commission approval through a tier III advice letter or application.

Although MEA has no comments at this time, MEA reserves the opportunity to make comments as Track III progresses.

b. What rules are needed to determine whether an IOU transaction is reasonable and therefore does not require additional review and Commission action?

MEA believes the Commission should review and approve any IOU transaction with a term of 12 months or longer and any transaction that could impose costs on CCA customers.

5. Changes to the Commission's adopted Cost Allocation Mechanism (CAM) per Senate Bill (SB) 695, SB 790, Decision 11 -05-005 and relevant previous decisions

a. Is the CAM currently implemented in a manner that is sufficiently transparent or least cost?

MEA does not believe the CAM is currently implemented in a transparent or least cost manner.

i. CAM is not currently implemented in a transparent manner

First and foremost, the Commission has not established the criteria for when CAM does or does not apply. This is a requirement of California Public Utilities Code¹ Section 365.1(c)(2)(B), which states “the commission shall ensure that [CAM] resources meet a local or system area reliability need in a manner that benefits all customers of the electrical corporation.” To date the manner in which the Commission has “ensured” that the IOU proposed generation resources are CAM-eligible has been anything but transparent. MEA urges the Commission to

¹ All further references herein are to sections of the California Public Utilities Code unless otherwise noted.

utilize this track of the current LTPP proceeding to clearly outline the criteria necessary for ensuring CAM-eligibility.

Once a generation resource is deemed CAM -eligible, the Commission, pursuant to the modifications made to Section 365.1(c)(2)(B) by SB 790, must ensure that that customers of all LSEs receive their “fair share of the benefits that flow to them”. To date the manner in which the Commission has determined the “fair and equitable” application of CAM related costs and benefits to CCA customers is mostly opaque. In the case where a CCA is meeting its own RA requirements with medium- and long-term capacity contracts, the CCA would not be contributing to the need associated with this CAM allocation and thus its customers should not be subjected to the related costs and benefits because such an allocation would unfairly impose excess capacity over -procurement costs on these customers. The Commission must propose clear methodology for determining the “fair share” of CAM benefits and costs so that customers of a CCA are not subjected to paying over-procurement costs.

Furthermore, this lack of transparency creates significant procurement uncertainty for CCAs. Because CAM is applied without clear parameters and certainty of timing or load, it is difficult to predict how much CAM capacity will be allocated to LSEs in future years . As a result, as CAM treatment is approved and MEA is allocated the resource adequacy share on a year-ahead basis , MEA has in its portfolio both (1) its already -existing resource adequacy procurement pursuant to the RA requirements and the MEA IRP, and (2) the CAM RA allocation. Thus, MEA’s RA procurement is higher than necessary and must be liquidated in the market, subjecting MEA to additional cost uncertainty . This clearly does not maximize the ability of CCAs to determine their own generation resources as required by Section 380(b)(4)

because CCAs are subject to unforeseen resource adequacy added to their already robust energy portfolios.

ii. CAM is also not currently being implemented in a “least cost” manner

CAM is not currently being implemented in a “least cost” manner . First, there is a structural issue. Since CCAs are market participants, they are unable to participate in the evaluation of CAM or RA resources in the IOU portfolio. Thus, it is unclear whether the RA passed onto CCA customers is actually cost-effective or more expensive than typical to the IOU portfolio. It is possible – and in fact probable – that because of the closed current process, a higher proportion of more expensive RA commitments are borne by all customers under CAM, whereas the less expensive RA commitments are reserved for PG&E’s bundled customers.

Second, from a quantitative perspective , the costs of capacity passed through to CCA customers under the CAM greatly exceed capacity costs MEA has seen in its solicitations and in its own procurement.

Third, the CAM also externalizes additional costs to CCAs. As discussed above, due to the lack of transparency regarding the CAM, MEA ends up in a position of RA over - procurement and must re-adjust its portfolio accordingly. This creates significant inefficiency in RA procurement.

b. *Should the Commission reform the CAM energy auctions? If so, how?*

The CAM energy auctions were intended to serve as a mechanism for decoupling the procurement of the electricity products from the capacity products of a CAM-eligible resource and to help ensure a fair price is received for the product . Whether or not the Commission

decides to reform the CAM energy auctions, MEA believes the Commission ought to ensure that CAM-eligible procurement is driven solely by reliability needs.

c. How does the capacity allocation interact with other allocated costs such as energy efficiency and demand response funding?

Both energy efficiency and demand response have impacts on the RA needs of a LSE, both from a peak load perspective and from an average demand perspective. The Commission can draw on policies and lessons learned from decisions made by the Commission in these areas to inform best practices going forward on resource adequacy and CAM.

Energy Efficiency. In the case of Energy Efficiency, the funds to run energy efficiency are collected from all customers of the IOU, bundled and unbundled alike. However, notwithstanding these funds being collected from all customers, it is not “on behalf of” procurement. Instead, CCAs and IOUs are on equal footing to administer energy efficiency programs, which benefit all customers. For example, under MEA’s 2013-2014 energy efficiency programs, MEA serves both MEA’s CCA customers and bundled customers within MEA’s service territory.

Demand Response. Demand response, on the other hand, is a more complicated matter. The Commission has determined that for the time being, demand response costs will be collected from all IOU customers (bundled and unbundled) but run solely by the IOUs. The Commission will be re-evaluating whether this is appropriate cost allocation. (See Decision 12-04-045 at 204.) However, from the perspective of CCA, this structure stifles the opportunity of CCAs to offer similar programs; were a CCA to do so, its customers would be paying twice for demand response activities: once for demand response programs run by the IOU (for which they are not eligible) and once for the CCA’s demand response program.

Learning from Experience. Taking into consideration these two data points, the energy efficiency model has been the more successful of the two. That is, under the energy efficiency model, it is acknowledged that any entity providing energy efficiency programs provides a benefit to all customers. Similarly, in the case of RA, an entity bringing on a new resource provides a benefit to all customers. However, the problem the energy efficiency model raises in the RA context is that based on statute, CAM is structured as a one-way street. That is, an IOU's procurement can "benefit all customers" but the CCA's procurement which also benefits all customers is not acknowledged under the current methodology. To correct this lopsidedness, MEA proposes two alternatives:

- 1) Each LSE is required to procure its own RA in accordance with Commission-mandated requirement and no LSE is allowed to allocate those costs to another LSE unless an exigent circumstance arises; or
- 2) To the greatest extent possible, any CAM allocation of IOU procurement is offset, in the case of CCAs, with procurement undertaken by the CCA and the value that procurement provides. To accomplish this, the Commission could adopt an optional mechanism for CCAs who are willing to provide additional documentation to the Commission such as through a notice of intent filing² so that the CAM cost and capacity allocation could be offset by the CCA's own procured resources. MEA believes an optional mechanism is appropriate in order to respect jurisdictional authority and CCA procurement autonomy.

The Commission should also allow for third party demand response and energy efficiency resources to compete in an all-source request for offers to fill the identified

² Such an advice letter filing could include copies of the CCA's resource plan and capacity contracts.

CAM resource need. This would provide a longer term pricing signal to demand side resources and support market based demand side solutions to the identified reliability need.

d. At what stage in procurement should procurement be deemed CAM eligible, and what criteria should govern Commission decision regarding CAM allocation?

i. At What Stage Should the Commission Determine CAM Eligibility

The Commission should determine specific reliability (operational and locational) needs which, if a resource filled such a need, would meet the CAM eligibility requirements in the Long Term Procurement Plan proceeding. This determination would be made prior to the evaluation of any specific facility.

To reach this determination, the Commission must evaluate the current status of RA in each of the IOUs' footprints. First, the Commission would undergo an analysis of unmet needs. Second, the Commission would determine the drivers of the unmet need; for example, if retirement of utility controlled generation is the driver of a need, then the IOU would be responsible for that procurement.

Third, the Commission would take the remaining unmet need and offset it against known RA contracted resources which may be held by IOUs or other market participants. What would remain is a unique RA attribute or various unique RA attributes which are not met by existing RA rules, and which is not driven by bundled load. This is the CAM-eligible need. The CAM-eligible need should be clearly specified in MW or a range of MWs, and the RA attribute which would meet the CAM eligibility requirements.

Any incremental procurement by an LSE could count against this MW requirement and associated RA attributes. Such procurement in the case of a non-IOU LSE should be offset

against any CAM which would otherwise be allocated to it, and if the LSE exceeds the requirement, any CAM excess could be banked for future years. In the case of an IOU, the costs of that procurement would be allocated to all benefitting customers through the CAM and all LSEs would receive their pro rata share of the procurement, in each case unless otherwise offset.

ii. Criteria for Determining CAM Eligibility

As discussed in third step above, once the MW need and the unique RA attribute has been identified, the CAM need has been identified. At that point, a resource fitting the profile of that need would then be processed through the standard procurement processes of the LSE.

e. How should the Commission address flexibility in regards to the CAM? For example, should resources built in one IOU's service territory spread costs across all the California Public Utilities Commission's jurisdictional load-serving entities?

CAM should not reach beyond the footprint of a given IOU. MEA's primary concern here is a practical one. Small LSE's such as MEA would face a significant burden in monitoring procurement proceedings of all three IOUs in order to represent the interests of their customers. Since MEA serves customers only in PG&E's service territory, MEA becomes involved in regulatory issues only where there is an issue of general applicability or where a specific application or program relates to PG&E. Even regulatory participation on this limited basis is a significant burden on a small agency. MEA reminds the Commission that the regulatory resources available to MEA and other small LSEs pale in comparison with the enormous regulatory and legal departments of the IOUs. MEA would be extremely concerned about not having sufficient resources to sufficiently track, review, evaluate and provide meaningful input to the procurement practices of three IOUs, rather than just PG&E.

f. Should the CAM rules be differentiated to best account for benefit and cost allocation among community-choice aggregators and electric-service providers, based on their different business models or portfolio of other contracts? If so, how?

i. CAM Rules Must Differentiate between CCAs and ESPs

Not only should the CAM rules differentiate for benefit and cost allocation between CCAs and ESPs, the Commission is required to do so by Section 380(b)(4). Namely, “[i]n establishing resource adequacy requirements, the Commission shall... maximize the ability of CCAs to determine the generation resources used to serve their customers.” (Section 380(b)(4)). As it currently stands, the ability of CCAs are not maximized to determine their own generation resources because they are subject to CAM.

Furthermore, the CCA procurement model also supports the differentiation of CAM rules for CCAs since – similar to IOUs and municipal utilities – CCAs procure on a long-term basis, both in long-term procurement planning and in long-term contracting. This is discussed in Section III hereof. It appears that one of the concerns raised by the Commission when it grants CAM treatment is whether there are sufficient resources on the system on a medium- to long-term basis, a CCA’s medium- and long-term RA should be considered in offsetting or eliminating CAM for CCAs.

ii. How should the CAM rules be differentiated for CCA?

In order to maximize a CCA’s ability to determine its own procurement pursuant to Section 380(b)(4) and minimize stranded costs due to CAM-eligible procurement, CCAs that are in compliance with RA requirements should be allowed to offset their portion of any Commission determined CAM-eligible reliability needs through the CCA’s own procurement means. As discussed in the response to Question 5 c, MEA recommends that the Commission adopt an advice letter filing or some similar means through which a CCA can demonstrate the

offsetting of its portion of the reliability need. This approach would (i) minimize the creation of stranded costs due to over -procurement of capacity through an “on behalf of” mechanism, (ii) enable CCAs to maximize their own procurement, and (iii) encourage CCAs to continue to procure capacity through long -term contracts, thus further reducing the likelihood of a CAM - eligible reliability need manifesting within the CCA’s service territory.

6. Energy Resource Recovery Account compliance filing requirements

a. Should the Commission require more consistency among the quarterly compliance reports (QCR) for the three major electric IOUs? If so, what areas of the QCRs currently lack consistency?

Although MEA has no comments at this time, MEA reserves the opportunity to make comments as Track III progresses.

b. Are any changes to information filed in QCRs necessary to ensure that IOU procurement is compliant with Commission rules?

MEA finds the current QCRs to be largely useless to the public due to assertions of confidentiality over the most relevant procurement information. Consistent with MEA’s earlier comments regarding the need for greater IOU procurement transparency, the IOUs should include more substantive information in the public versions of the QCRs.

c. Should the QCR evaluation process be moved from a quarterly evaluation to an annual, semiannual (or other term) process?

Although MEA has no comments at this time, MEA reserves the opportunity to make comments as Track III progresses.

7. Refinements to the Independent Evaluator (IE) program

a. Please comment on the following proposal:

- i. The rules for whom or which entity may qualify to be in the IE pool remain the same.
- ii. The IOUs may not limit the IE's interactions with the Commission, specifically in terms of nondisclosure agreements that restriction information sharing.
- iii. IEs are positioned on particular assignments through a random selection process, removing IOU influence over which IE may be assigned
- iv. IEs may remain in the selection pool for 10 years (rather than up to 6 years), subject to evaluation every 3 years (maintain current requirement for reassessment)

Although MEA has no comments at this time, MEA reserves the opportunity to make comments as Track III progresses.

V. CONCLUSION

MEA thanks the Commission, Commissioner Florio, and Administrative Law Judge Gamson for their thoughtful evaluation of these comments.

Respectfully submitted,

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