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
REPLY 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 reply comments to the questions propounded in the Ruling.

II. MEA AND ITS CUSTOMERS ARE HARMED BY CURRENT CAM USAGE

1. Current CAM Methodology does not Reflect CCA Resource Adequacy Procurement

In its opening comments, MEA indicated that it already engages in long-term procurement for resource adequacy, which is detailed in its Integrated Resource Plan; thus, the Cost Allocation Mechanism ("CAM") Resource Adequacy ("RA") requirements imposed by the Commission add an extra and duplicative layer on top of an already robust RA portfolio.

The Western Power Trading Forum ("WPTF") explains these issues:

> First, allowing the IOUs to lay off their procurement and its costs onto the customers of their competitors, – customers who neither want or need utility supply service – hampers the ability of their Community Choice Aggregator ("CCA") and Electric Service Provider ("ESP") suppliers to build their own supply portfolios that meet their customer needs. This undercuts the development of a more competitive wholesale market that has multiple sellers AND BUYERS, and destabilizes retail competition in California. S econdly, this forced acceptance of utility procurement into their portfolios leads to improper subsidization by CCA and direct access ("DA") customers of bundled service customers. This is

contrary to the Commission's historical commitment to rates based o n principles of cost causation. (WPTF Comments *at 10.*)

In addition to imposing additional RA costs onto Community Choice Aggregators ("CCAs"), the current process raises significant competitive neutrali ty concerns. The California Environmental Justice Alliance ("CEJA") indicates, "[b]y blindly including CCAs in the CAM calculus, the Commission could be effectively shutting the door to CCAs." (CEJA Comments *at 10.*) Similarly, a ccording to the City and County of San Francisco ("CCSF"), "the current approach by the Commission places CCAs in an untenable situation because they cannot predict the capacity resources that will be allocated to them over time from IOU [investor-owned utility] CAM purchases and energy efficiency expenditures. This problem severely undermines retail competition and needs to be corrected." (CCSF Comments *at 6.*)

2. IOUs Should Account for Departing Load from CCAs in their Forecasts

Conversely, i n its opening comments, P acific Gas & Electric Company ("PG&E") suggests, "If CCAs… are given an opportunity to avoid cost responsibility by claiming that they have a different business model or portfolio… [this will require] Commission review of each CCA's… business model or portfolio to determine if there is any basis for an exception from CAM cost allocation." (PG&E Comments *at 22.*)

PG&E's concerns on this matter are easily addressed. The Commission already reviews a CCA's long-term procurement obligations through the annual Emissions Performance Standard ("EPS") Advice Letter filing , which is required for all Load -Serving Entities ("LSE"). Additionally, MEA's Integrated Resource Plan ("IRP"), which in-part establishes MEA's long-term capacity procurement, is reviewed annually by MEA's Board of Directors and is made publically available for review by others, such as the Commission and the IOUs.

PG&E continues, "With no objective criteria to make this determination, this will likely result in protracted litigation concerning the type of business model or portfolio that would be eligible for a CAM cost exception, and then further litigation regarding whether a specific CCA or ESP has that business model or portfolio." (*Id.*) PG&E is correct in that there is no objective criteria to establish what kind of portfolio should be exempt from CAM. Indeed, that is arguably one of the goals of Track III of this proceeding. The Commission should indicate that CCAs who engage in long-term procurement should either be exempt from CAM or allowed to offset their share of CAM determined need through their own procurement mechanisms. This would allay PG&E's fears about costly and prolonged litigation on definitions and specific business models.

Interestingly, Southern California Edison ("SCE") indicates that it "does not forecast [CCA departing load] *unless a CCA has filed an implementation plan with the Commission* …" (*Emphasis added*, SCE Comments *at 3*.) Therefore, if a CCA has filed an implementation plan with the Commission, such as MEA's own Implementation Plan that has been reviewed and approved by the Commission, SCE would forecast its departing load. PG&E, similar to SCE, should be able to forecast departing load when a CCA has filed an implementation plan with the Commission.

By forecasting this departed load, IOUs can ensure that there is no extra RA procurement in their own portfolios and the Commission can ensure that CCAs are maximizing their own ability "to determine the generation resources used to serve their customers" in accordance with California Public Utilities Code § 380(b)(4). CEJA raises this concern in its opening comments, stating, "[Senate Bill] 790 also states that 'California has a substantial government interest in ensuring that conduct by electrical corporations does not threaten the consideration, development, and implementation of community choice aggregation programs." (CEJA

Comments *at 11*.) CEJA continues, "the Commission needs to closely evaluate how CAM rules apply to CCAs. Otherwise, CAM Rules will be making the generation choices for CCAs." (*Id.*)

Similarly, in its Opening Comments, the Sierra Club California notes:

> The bundled plans should plan and account for a certain amount of departing load. This is consistent with the Track II decision of the 2010 LTPP that held IOUs should adopt realistic assumptions related to communit y choice aggregation and direct access customers. The assumptions in the bundled plans should ensure that CCAs are not over -burdened, and—even more importantly — that CCAs wishing to utilize additional higher loading order resources are supported by CPUC po licy and decisions, rather than discouraged by the requirement to pay twice for reliability capacity…. (Sierra Club Comments *at 5*.)

In addition, the Sierra Club notes that there is a need for greater procurement flexibility:

> A margin amount of procurement in each cycle should be planned as short term with the specific objective of meeting future needs with higher loading order resources and allowing for departing load. There should be sufficien t flexibility to account for the role that CCAs will play on the system. If there is a departing load, this approach results in less stranded costs. (*Id. at 13*.)

MEA agrees with the parties who have indicated a need for CAM reform, including IOU forecasts of departing load and initial load flexibility to accommodate departing load and to minimize stranded costs. IOU forecasting of departing load can be achieved through consideration of a CCA's Implementation Plan filed with the Commission, along with other publicly available load forecasting documents such as EPS filings and a CCA's IRP.

III. CCAS ARE NOT PROPERLY REPRESENTED IN THE CAM PROCUREME NT REVIEW GROUP

PG&E indicated that CCA representatives are involved in each phase of the CAM procurement process through the CAM Procurement Review Group ("PRG"). MEA contests the assertion that these rep resentatives provide adequate representation for CCAs . MEA has no knowledge of who these representatives are or what their qualifications might be. MEA did not engage the representative selection process due to restrictions on "market participants"

forbidding MEA staff and consultants from participating in the PRG. MEA has never knowingly interacted with these CCA representatives.

In its filing, PG&E assures the Commission of CCA participation in the CAM procurement process:

> First, DA and CCA representatives are involved during each phase of the CAM process through their participation in a separately established CAM PRG. The CAM PRG members are allowed to participate in the review of CAM-related procurement activities. The DA and CCA representatives' participation in the CAM PRG ensures that the process is fully transparent, subject to appropriate confidentiality limitations consistent with Section 454.5(g). The need for CAM-eligible resources is often identified through the LTPP proceeding or, in the case of the QF/CHP Settlement, in the course of the Commission proceeding approving that settlement.
>
> When CAM-eligible resources are to be procured, CAM PRG members, including CCA and DA representatives, participate in the entire procurement process, including reviewing RFO documents before they are issued, reviewing RFO offers and shortlisting, monitoring RFO negotiations, and being informed of the final, winning RFO offers. These CAM PRG members have access to confidential information so that the process is completely transparent. (PG&E Comments *at 17*.)

To MEA's knowledge, this is inaccurate. If a CCA representative is involved in each phase of the CAM process, this representative is acting purely based upon their own alleged expertise. MEA, California's first and only operational CCA, has not knowingly engaged in any dialog with this CCA representative.

Claims of transparency resulting from CCA participation in the PRG do not reflect MEA's awareness of CAM procurement. Indeed, MEA is not eligible to participate in the PRG because as a market participant, MEA – along with its staff and consultants – is excluded from the PRG. Therefore, contrary to PG&E's assertions, more transparency is necessary in CAM procurement, especially toward the treatment of CCAs and other LSEs impacted by CAM.

This viewpoint is reflected in the Comments of the Alliance for Retail Energy Markets and the Direct Access Customer Coalition ("AREM/DACC"), indicating, "The CAM process is both unclear and opaque, especially to the retail choice customers that must pay the CAM

charges and the ESPs that supply their power and must accept the allocations of net capacity that CAM creates." (AREM/DACC Comments *at 11*.)

MEA is aware of Direct Access ("DA") representatives present within the CAM PRG. These DA representatives are professionals representing the sophisticated perspectives of DA customers. These customers have large energy usage and intricate knowledge of energy procurement practices. In contrast , MEA serves predominantly residential customers. MEA has significant reservations about a CCA customer being able to meaningfully engage and vet the complexities of st atutorily enabled IOU CAM procurement practices . In fact , the concept of capacity procurement as something separate from energy procurement is probably foreign to the vast majority of the CCA customer-base. Nevertheless, representation within the PRG should not be misconstrued as transparency within CAM procurement, especially concerning how it impacts CCA long-term capacity procurement.

IV. 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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