

**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.

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R.13-12-010
(Filed December 19, 2013)

**OPENING COMMENTS OF MARIN CLEAN ENERGY ON
ALJ E-MAIL RULING DATED DECEMBER 19, 2013**

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I. INTRODUCTION

These opening comments of Marin Clean Energy (“MCE”) are submitted in accordance with the e-mail ruling of Administrative Law Judge (“ALJ”) Gamson, dated December 19, 2013 (“December 19 Ruling”). MCE is a Community Choice Aggregator that has been serving customers within the Pacific Gas and Electric Company (“PG&E”) service territory since May 7, 2010, and currently serves the City of Richmond and all of the communities comprising Marin County.¹

The December 19 Ruling includes an attachment consisting of key questions in response to a workshop held on December 18, 2013. Herein, MCE addresses Question 1: “Is the current range of scenarios sufficient to cover current policy issues facing the CPUC?” As briefly

¹ On December 5, 2013, the Marin Energy Authority adopted the name Marin Clean Energy for its legal entity name. For purposes of clarity, Marin Clean Energy has always been the name of the community choice aggregation (“CCA”) program created by the Marin Energy Authority to purchase cleaner, renewable energy. The Board of Directors of the Marin Energy Authority voted to change the official entity name to Marin Clean Energy to match the name of its CCA program. Thus, Marin Clean Energy is now also the name of the not-for-profit, joint powers public agency formed by the City of Richmond, the County of Marin, and eleven Marin cities and towns.

discussed below, the current scenarios are not sufficient since they do not address a key policy issue, specifically: what is the degree to which departing load associated with CCA should be reflected in the planning assumptions? In these opening comments, MCE frames the basic requirement to incorporate CCA departing load in planning scenarios, and the implication of doing so. In subsequent pleadings in this proceeding, MCE will provide factual and legal support for specific exclusions of CCA departing load.

II. THE PLANNING ASSUMPTIONS AND SCENARIOS FAIL TO ADDRESS COMMUNITY CHOICE AGGREGATION LOADS

Left to their own accord, the investor-owned utilities (“IOUs”) have consistently failed to reflect CCA load in their planning assumptions, scenarios and modeling. This omission contravenes specific Commission directives on this point. In this proceeding, the Commission will need to ensure that its decisions are fully complied with, and that CCA load is appropriately reflected in the planning assumptions.

There are various regulatory directives that obligate the IOUs to reflect CCA departing load in their planning assumptions and future procurement plans, perhaps none more directly and succinctly than Decision (“D.”)04-12-048:

In future procurement plans, the IOUs shall incorporate reasonable anticipated CCA departing load. The assumption of the Commission is that the IOUs shall acknowledge potential CCA departing load and identify which city and/or county has expressed intent to pursue aggregation, including MW estimates of this departing load, in future procurement plans.²

In a concurrent, foundational CCA decision, D.04-12-046, the Commission also mandated that CCA loads be appropriately reflecting in forecasting and planning:

² D.04-12-048 at 239. *See also* D.07-11-051; Ordering Paragraph 1.h. (modifying D.06-07-029) (“As noted in D.04-12-048, Ordering Paragraph 9, IOUs are required to forecast and plan for departing load as they file their biennial long-term procurement plans which establish each IOU’s long-term resource needs.”)

The objective of AB 117 in requiring CCAs to pay a CRS it to protect the utilities and their bundled utility customers from pay for the liabilities incurred on behalf of CCA customers. Our complementary objective is to minimize the CRS (and all utilities liabilities that are not required) and promote good resource planning by the utilities.³

The Decision continued:

Utility resource plans will need to balance supply security with enough flexibility to accommodate many market contingencies in addition to those associated with the CCA program. [...] We understand the utilities face a difficult balancing act by assuring adequate and reliable power supplies in amounts that reflect forecasts that are changing constantly. However, the utilities are accustomed to using available information to forecast customer demand and should incorporate CCA load losses into their planning efforts, just as they would include any other forecast variable related to expected changes in supply or demand.⁴

In addition to these regulatory directives, there is also a key legislative directive that compels the IOUs to reflect CCA departing load in their planning assumptions. Assembly Bill (“AB”) 1723 added Section 25302.5 to the Public Resources Code, which deals with forecasting departing load.⁵ AB 1723 requires each IOU to provide “its forecast . . . of the amount of its forecasted load that may be lost or added by . . . a community choice aggregator...”⁶ The relevance of the forecast provided by an IOU is described in the final legislative analysis of AB 1723:

According to the author, the purpose of this bill is to make public the IOUs' forecasts to determine whether the IOUs pre-purchased electricity on behalf of exiting or departing customers. By requiring the IOUs to provide CEC with this information and requiring CEC to perform the assessment, the bill would provide a third-party opinion of the number of customers for whom the IOU should procure resources.⁷

³ D.04-12-046 at 29; emphasis added.

⁴ D.04-12-046 at 29-30.

⁵ Stats. 2005, ch. 703.

⁶ Pub. Res. Code § 25302.5.

⁷ Assembly Bill Analysis of AB 1723, August 2005; emphasis added.

The implication of including reasonable forecasts of CCA departing load is fairly straight-forward. In D.08-09-012, the Commission described “guiding principles” related to the allocation of non-bypassable charges (“NBCs”). A hallmark of these guiding principles is the “fair share” principle, which in part states that “if no costs are incurred on [a customer’s] behalf, then the customer’s fair share can be determined to be zero.”⁸ Thus, exclusion of departing load from an IOU’s forecast should necessarily reduce NBCs for the departing load since the IOU will not have procured resources for this load. This approach has been taken with respect to Municipal Departing Load (“MDL”) and Customer Generation Departing Load (“CGDL”). In D.08-09-012, the Commission acknowledged that MDL and CGDL were implicitly excluded from system load forecasts and were therefore reflected in the long-term procurement plans (“LTPP”). Accordingly, the Commission concluded that the IOUs had not procured for MDL and CGDL. For reasons to be further developed as part of this proceeding, a similar approach for CCA departing load should now be adopted. MCE’s CCA program has been in place for several years, and there is a reasonable expectation that CCA programs will continue to expand.

III. LTPP AND TPP REFLECT TWO DISTINCT NEEDS WITH REGARD TO CCA LOAD

In this proceeding, the Commission will concurrently address LTPP and Transmission Planning Process (“TPP”) issues. With respect to CCA load, the assumptions for the LTPP and for the TPP are distinct. The LTPP relates to generation procurement for which the IOUs are responsible within their service territory footprints, while the TPP relates to transmission needed to serve the IOU territories. In the case of CCA, CCA generation is similar to generation serving MDL, since the Community Choice Aggregator conducts long-term procurement planning for its

⁸ D.08-09-012 at 11 (referencing (*See* Pub. Util. Code § 366.2(d); D.03-07-028 at 61; D.04-12-046 at 38-39; and D.04-12-059 at 13-14.)

own loads. However, unlike MDL, the IOU continues to provide transmission service to CCA load.

As such, the LTPP should appropriately back out CCA loads, and the TPP should continue to include all transmission needs of the IOUs, including CCA load. MCE will further address this matter in subsequent portions of this proceeding.

IV. CONCLUSION

MEA thanks the Commission, ALJ Gamson and Commissioner Florio for their attention to the issues discussed herein, and asks that the planning assumptions and scenarios in this proceeding be revised to reflect CCA loads.

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Respectfully submitted,



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