BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local and Flexible Procurement Obligations for the 2019 and 2020 Compliance Years.	Rulemaking 17-09-020 (Filed September 28, 2017)

JOINT OPENING COMMENTS OF CPOWER, ENEL X NORTH AMERICA, INC., AND THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL ON THE PROPOSED DECISION ON CENTRAL PROCUREMENT OF THE RESOURCE ADEQUACY PROGRAM

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CPower, Enel X North America, Inc. (Enel X), and the California Efficiency + Demand Management Council (CEDMC) (collectively, "Joint Parties") respectfully submit these Joint Opening Comments on the Proposed Decision on Central Procurement of the Resource Adequacy Program (Proposed Decision) mailed in this proceeding on March 26, 2020. These Joint Opening Comments are timely filed and served pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure and the instructions accompanying the Proposed Decision.

I. BACKGROUND

CPower and Enel X, participating as the Joint Demand Response (DR) Parties,[1] have been active participants in the consideration of a Central Procurement Entity (CPE) in this proceeding. On July 10, 2018, the Joint DR Parties served opening prepared testimony in Track 2 to address, among other things, "Central Buyer, Central Procurement Agent, and Central Administrator of a Multiple Year Forward Local RA Procurement Obligation."[2] In addition, on August 8, 2018, as instructed by the Administrative Law Judge (ALJ), the Joint DR Parties served comments inclusive of that testimony and in response to the Track 2 opening testimony

[1] During most of this participation, EnergyHub joined in the submission of testimony and comments, but is no longer participating on this issue at this time.
[2] Proposed Decision, at p. 3.

served by other parties. Both the Joint DR Parties as well as CEDMC filed Comments in December 2018 raising objections to a Proposed Decision that represented the Commission's first attempt to adopt a CPE, which was later not adopted in a final decision (D.19-02-022) to permit additional examination parties to develop "workable central buyer and central procurement structure proposals."[3]

The Joint DR Parties also served Comments contesting a proposed Settlement Agreement on the issue of a CPE served on September 30, 2019. Finally, the Joint DR Parties participated in the Workshop on the proposed settlement held by the Commission on November 1, 2019, as well as several workshops to discuss the various CPE Proposals.[4]

Throughout this participation on the CPE proposals, the primary concern of the Joint DR Parties and CEDMC, is, and has been, to ensure that the introduction of a CPE does not interfere with or discourage decisions by Load Serving Entities (LSEs) to enter into local resource decisions with third-party providers, such as Enel X and CPower, for purposes of receiving system or local resource adequacy (RA) value and to promote the use of preferred resources, including energy efficiency, demand response, renewable technologies, and energy storage. As stated in the Proposed Decision, the Joint DR Parties had specifically objected to the proposed Settlement Agreement for "mak[ing] no reference to the procurement of preferred resources, or reducing GHG emissions" and "failing to demonstrate that the CPE will provide an opportunity for and investment in procurement of local preferred resources," as directed by D.19-02-022.[5]

In addition, the Joint DR Parties and CEDMC have consistently sought to ensure that the market and process for procuring local capacity resources is fair and competitive, without undue influence or without concentrating buyer-side market power into too few hands. Both have also

[3] D.19-02-022, at p. 45.
[4] Proposed Decision, at pp. 3, 9.
[5] *Id*., at p. 14.

called for cost recovery associated with the procurement of local capacity resources that is fair and reflects proper cost causation.

Unfortunately, the Proposed Decision achieves none of the goals and objectives espoused above. Instead, it adopts an outcome that is seriously flawed and, in turn, must be significantly modified before it can, or should, be adopted by the Commission. Those changes may require an Alternate Proposed Decision, but, whatever form the revisions take, failure to make those changes poses serious markets risks and harm that may be irreparable.

II.
THE PROPOSED DECISION ERRS BY DISCOURAGING LOCAL CAPACITY PROCUREMENT DECISIONS, INCLUDING PREFERRED RESOURCES, BY LOAD SERVING ENTITIES.

A. The Proposed Decision Errs by Discouraging Local Capacity Procurement by Load Serving Entities (LSEs).

In recent history, for RA purposes and at the direction of the Commission resulting from decisions in R.16-02-007 (Integrated Resource Planning (IRP)), the Community Choice Aggregators (CCAs), as well as other LSEs, including the investor-owned utilities (IOUs), have conducted request for offer (RFO) processes for RA capacity. Behind the meter resources, whether for demand response (DR) or energy storage (ES) services, have met with obstacles in terms of expanding services beyond IOU DR programs, primarily because of changing and increasingly restrictive RA rules. IOU programs or mechanisms in which DR and ES resources can participate have become increasingly limited in terms of budget or program requirements.

A few examples of this tightening DR market include the reduction of the Demand Response Auction Mechanism (DRAM) budget beginning in the 2020 delivery year, closure of the Aggregator Managed Program, and a cap on reliability DR services. Participation in RA

RFOs has now become one of the few ways in which these resources, DR and ES, can expand beyond current participation levels by providing resource adequacy.

The CCAs have given consideration to both DR and ES for that purpose: it is a local resource that can assist the CCA in meeting local or system RA requirements, and it is a preferred resource to help with reducing local greenhouse gas emissions. However, if an LSE enters into an agreement with a DR or ES provider, the provider gives assurances that the resource will meet RA requirements. That is the basis upon which the LSE agrees to buy the resource. If there is uncertainty as to whether or not the LSE can count the resource toward its local RA requirement, the LSE will not enter into the agreement. It is pretty straightforward.

However, the "hybrid" construct adopted by the Proposed Decision and the role it identifies for the CPE create risks in the arrangement between a DR or ES service provider and the LSE for many reasons. First, the CPE does not have to select the LSE's resource in its RFO procurement process. Or, if the CPE does select the LSE's resource, it may not be at the same cost at which the LSE procured it. If the CPE does procure the resource at a lower cost, the LSE has the price risk associated with the delta between the procurement cost by the LSE and the procurement price paid by the CPE.

Further, the LSE does not receive one-for-one credit for any of the resources it brings forward into the CPE's RFO. Rather, the resources that the LSE brings forward reduce the overall local RA requirement of all LSEs in the local, or sub-local, capacity area (LCA), of which the purchasing LSE receives a share of the local RA credit. Again, the LSE pays the full price for the contract, but only receives partial credit for the purchase. This also means that the LSE will be allocated additional costs for the balance of its portion of the LCA requirement, and,

in essence, will pay twice for local RA capacity: once through its own purchase decision and once through the costs allocated by the CPE.

The Proposed Decision's rationale in adopting its "hybrid" construct is that the collective good outweighs the individual good. Thus, according to the Proposed Decision, if the local capacity area need is met through a collective procurement mechanism, that will produce a better result in terms of effectiveness, reduction in market power, least cost, etc., relative to the individual decisions of LSEs, which have made supply delivery commitments on behalf of their customer constituencies.[6]

However, this assertion is mere conjecture at this point where there are no facts to support that assertion. No one knows how the CPE will perform or function to substantiate the claims. It is also notable that the "good" identified as justification for the CPE does not include GHG emissions reductions. The CPE does not have that same mandate or obligation to the local customer base that the CCAs or the ESPs have.

In many ways, the adopted CPE is disenfranchising the CCAs from their mission in forming the CCA in the first place, not to mention undercutting the statutory authority granted to the CCAs in having autonomy to make their own resource decisions.[7] The Proposed Decision states that one cannot read Public Utilities (PU) Code Sections 380(c) or 380(d) in isolation without also taking into consideration PU Code Section 380(i), which permits the Commission to consider a centralized resource adequacy mechanism.[8] However, when this resource adequacy code section was enacted, the reference to a centralized resource adequacy mechanism meant a centralized capacity market, not a central procurement entity.

[6] Proposed Decision, at p. 24.
[7] PU Code §380(h)(5).
[8] Proposed Decision, at pp. 33-34.

The Proposed Decision's attempted justification for this outcome is simply not supported by the facts or law that govern CCAs. Thus, the Proposed Decision states that, if the LSE bids its resource into the CPE's RFO, and it is not selected, then the LSE can use that resource for system or flexible RA purposes.[9]

However, that was not the intent of the LSE's purchase in the first place. An LSE does not buy a local capacity resource, a higher value resource, for the purpose of meeting a system RA requirement, a lower value service. Further, while the Proposed Decision provides for a working group to discuss existing local RA contracts in this proceeding, the solution will only address existing contracts and does not resolve the ongoing discouragement of LSEs making local capacity resource decisions for themselves.[10] For all of these reasons, the Joint Parties propose that LSEs receive direct credit, on a one-for-one basis, for any investments that they make for local RA purposes in preferred resources.

B. The Proposed Decision Errs by Undermining Greenhouse Gas Reduction Goals.

The Proposed Decision identifies the selection criteria that will be used by the CPE in making resource decisions.[11] The criteria includes: "(a) Future needs in local and sub-local areas; (b) Local effectiveness factors, as published in the CAISO's LCRTS; (c) Resource costs; (d) Operational characteristics of the resources (efficiency, age, flexibility, facility type); (e) Location of the facility (with consideration for environmental justice); (f) Costs of potential alternatives; and (g) Greenhouse Gas Adders."[12]

What is interesting about this list is that it is essentially the same list that Energy Division Staff proposed, with the addition of Greenhouse Gas (GHG) Adders. In other words, in the

[9] Proposed Decision, at p. 35.
[10] *Id*., at p. 36
[11] *Id*., at pp. 41-42.
[12] *Id*., at p. 40.

attributes proposed by Staff, there was no recognition of GHG "attributes." That was added by the Proposed Decision.

However, it is clearly last on the list, and no direction is given to the CPE as to how to weigh one criterion relative to another. There is no direction to the CPE to minimize GHG emissions or to prioritize low or GHG-free resources. There is no preferred resource guidance, despite clear direction in statute to procure all cost-effective EE and DR first, a statutory mandate ignored by the Proposed Decision.[13] It would seem to give carte blanche to the CPE to make just about any decision it wishes to make, perhaps with the exception of ignoring the impact of price.

The IOUs have undertaken RA and IRP procurement for a long time. Least cost and best fit have been the almost exclusive guidance for that purpose until the passage of SB 350, which required the consideration of GHG emissions. It is difficult to see how California can meet its mandate for GHG emission reductions when procurement processes adopted by the Commission continue to ignore, much less prioritize, GHG emission reductions. As CEDMC recommended in its Opening Comments on the Proposed Decision on 2019-2020 Electric Resource Portfolios in R.16-02-007 (IRP) filed on March 12, 2020, the Commission should revisit its treatment of third-party providers in the context of their role in reducing GHG emissions.[14] In order to provide LSEs with the right incentives to make local procurement decisions that take GHG emissions into consideration, LSEs should receive one-for-one credit for all preferred resources procurements.

In addition, the Proposed Decision states that DR resources, including DRAM resources, will be counted as capacity resources at the value determined by the Load Impact Protocol (LIP)

[13] PU Code §454.5(b)(9)(c)(i).
[14] R.16-02-007 (IRP) CEDMC Opening Comments on Proposed Decision Regarding 2019-2020 Electric Resource Portfolios to Inform Integrated Resource Plans and Transmission Planning, at p. 3.

methodology, which the Proposed Decision claims "is the current practice."[15] However, contrary to that claim, while the Commission only recently lifted an exemption for DR resources qualifying capacity from being determined by the LIP methodology in D.19-06-026, by a later order, and as anticipated by D.19-06-026, the Commission confirmed and determined that DRAM itself is not subject to the LIP methodology.[16] Further, that "current practice" of using the LIP methodology has traditionally only been adopted for and applied to IOU programs, and not to DRAM. In addition, Track II of R.19-11-009 (the current RA rulemaking) is exploring appropriate counting methodologies for resources like DR, including alternatives to the LIP. Given these circumstances, it is clearly premature, until the Track II process is concluded, to state that the LIP is the appropriate counting methodology for DRAM.

C. The Proposed Decision's Failure to Consider the Diminution of Resource Adequacy Value for Local Capacity Purposes Will Also Adversely Affect the Commission's Microgrids/Resiliency Rulemaking.

By R.19-09-009 (Microgrids/Resiliency), the Commission is implementing SB 1339, which requires the Commission, in consultation with the California Energy Commission (CEC) and the California Independent System Operator (CAISO) "to take a number of specific actions to facilitate the commercialization of microgrids for distribution customers of large electrical corporations."[17] According to the Rulemaking, "these actions include developing standards, protocols, guidelines, methods, rates, and tariffs that serve to support and reduce barriers to microgrid deployment while prioritizing system, public, and worker safety, and avoiding shifting costs between ratepayers."[18] On December 20, 2019, the Commission issued a Scoping Ruling in R.19-09-009 that has divided that Rulemaking into 3 tracks, the first of which is to address

[15] Proposed Decision, at p. 38.
[16] D.19-06-026, at p. 64, Ordering Paragraph 18; D.19-12-040.
[17] R.19-09-009 (Microgrids-Resiliency) Order Instituting Rulemaking (September 12, 2019), at p. 2.
[18] R.19-09-009 (Microgrids-Resiliency) Order Instituting Rulemaking (September 12, 2019), at p. 2.

resiliency needs in fire-prone areas with the intent of putting projects into place by summer 2020.[19] Party proposals, comments, and reply comments on those Track 1 proposals have been submitted to the Commission in R.19-09-009.

The purpose of Track 1 in R.19-09-009 is to provide relief to customers exposed to Public Service Power Shutoffs (PSPS) that can cause health and safety risks, interfere in the provision of essential services, and impose adverse economic impacts. In addition, wildfires destroy electricity delivery infrastructure. By segmenting the delivery system with microgrids, wide-area outages can be reduced. This distributed method of supporting the grid is important in this time where the effects of climate change and catastrophic wildfires are occurring with more regularity.

Microgrids can be comprised of one or several combinations of technologies, including low-to-no GHG resources, which can be utilized to provide local reliability and resiliency services. Microgrids, depending upon the purpose and configuration, can meet multiple needs of a facility, a community or a larger geographic area. Access to multiple revenue streams, consistent with the Multiple Use Application Process, also enhances the ability for the microgrid to become economic resources. However, for the reasons discussed above, if LSEs cannot fully receive RA credit for the microgrid investment, which would be the result if the Proposed Decision's construct were adopted, the desire to enter into contracts for microgrid services will also be negatively affected.

[19] R.19-09-009 (Microgrids-Resiliency) Scoping Ruling (December 20, 2019), at p. 3.

III.
THE PROPOSED DECISION'S RECOMMENDED ADOPTION OF THE HYBRID CENTRAL PROCUREMENT ENTITY PROPOSAL DISTORTS THE COMPETITIVE MARKET IN SEVERAL WAYS AND MUST BE MODIFIED.

A. Very Little Guidance Is Given to the IOUs, Serving as the CPE, to Protect Against Market Abuse and to Ensure Reasonable Procurement Decisions Are Made.

The Proposed Decision gives a lot of latitude to the IOUs, in their role as the CPE, to make procurement decisions on behalf of LSEs. For example, IOUs can bid their own generation into the RFO, and those resources can be counted first, before the CPE issues an RFO.[20] The only guidance on utility-owned generation bidding into a CPE-administered auction is that the CPE must adhere to least cost/best fit selection criteria.[21] The CPE can procure for a longer period of time than the 3-year local forward procurement requirement, without specification as to how long is too long.[22] The only caveat is that it be in the ratepayers' best interest.[23]

A forward procurement decision does not come with guarantees that it will be a better decision than any other myriad procurement decisions. In other words, it is very hard to prove, at the time, what is the best procurement decision because it impossible to know the future. Therefore, making procurement decisions that go beyond the RA requirement in term or capacity obligation could be risky and costly for ratepayers. The CPE should be required to meet the requirement and not go above and beyond.

In this regard, the Proposed Decision does not require its adopted CPE to sell its excess capacity if it buys more than the designated percentages or if its procurement extends beyond the

[20] Proposed Decision, at p. 38, Ordering Paragraph 8, at pp. 65-66.
[21] *Id*., at p. 40.
[22] *Id*., at p. 39.
[23] *Id*.

required forward procurement timeframe (3 years).[24] The Commission will deem a procurement action by the CPE to be approved if it meets the LCR requirement; if it has been reviewed by the Procurement Review Group (PRG), which will be expanded to include a non-market participant CCA representative; and if it is deemed reasonable by the Independent Entity (IE).[25] However, with the lack of direction to the CPE in terms of how to apply selection criteria identified above, and with no direction on how to weigh resource attributes, the CPE and the review committees have a great deal of latitude in which to make procurement decisions and to have them approved.

The Joint Parties strongly believe that the Proposed Decision must be revised to provide more specific direction on how and what procurement is undertaken by the CPE to include no preference for utility-owned generation, no procurement above or beyond the local RA forward procurement requirement and to provide greater weight to GHG emissions reductions and low-to-no emitting resources in the procurement selection process. Otherwise, California's GHG emission reduction goals will never be achieved.

B. Cost Allocation Mechanism Will Distort Market Comparisons of Procurement Costs.

The Proposed Decision adopts the Cost Allocation Mechanism (CAM) as the means for recovering the CPE's procurement costs on a non-bypassable basis through distribution rates.[26] Recovery of procurement costs in distribution rates undermines the ability for LSEs' customers to reasonably compare the procurement costs of alternative providers against what would appear to be a subsidized cost of the IOUs.

This proposed methodology minimizes the procurement costs of the LSEs. Procurement costs can be non-bypassable without being buried in transmission and/or distribution rates. This was proven during the implementation to the restructured market that occurred in 1998 and

[24] Proposed Decision, at p. 39.
[25] *Id*., at p. 49
[26] Proposed Decision, at pp. 42-44.

continues today through the procurement charge indifference adjustment (PCIA). The Joint Parties strongly recommend that the Proposed Decision be revised to adopt a procurement-related non-bypassable charge as opposed to allocating costs using the CAM. Such an approach is further needed where cost recovery through the CAM will discourage EE investment because the amount of avoided procurement costs will be artificially reduced.

C. Insufficient Protections are Contained in the Proposed Decision to Ensure Competitive Neutrality.

The Proposed Decision recognizes that there can be a conflict of interest to have the CPE role provided by the IOUs. In other words, how does the Commission level the playing field by putting an IOU in charge of making procurement decisions on behalf of its competitors, while the IOU is also making procurement decisions for its customers? The DRAM process has long recognized, and accounted for this disparity, by prohibiting IOU participation in bidding in a procurement mechanism in which the IOU is in the position of selecting winning bids. Having the IOU form a separate function within the IOU that will sign competitive neutrality agreements or preventing the passage of information from the CPE to the IOU procurement function does not wholly correct for or prevent the potential for anti-competitive advantages arising for the IOU over third party providers.[27]

The Proposed Decision references Rule 24, which was developed to guide the role of utility personnel who are charged with facilitating third-party DR participation in the wholesale market.[28] The concern in having the IOUs in the position of facilitating third-party DR transactions into the wholesale market, while also administering its own DR programs, was that these IOU facilitators could gain competitive market knowledge and pass that information onto their IOU DR Program administrators to the detriment of the competitive market place. Rule 24

[27] Proposed Decision, at pp. 51-52.
[28] *Id*.

was put into place not only to describe the role of the IOU personnel in facilitating third-party wholesale market access to the CAISO, but also to create a "firewall" between those individuals and the regulated DR personnel.

While such a structure would be helpful in minimizing data transfers, it is also important to ensure that personnel do not move between those two separate positions of CPE personnel and IOU procurement personnel. By allowing this process to go forward, third parties will need to review the competitive neutrality proposal that will be submitted in this docket to ensure that the possibility of data transfers between those two functions are minimized in order to safeguard the market.

Further, the problem with lax rules to govern this relationship is that the IOU will be in a position of having superior market knowledge relative to any other market participant. Such a concentration of knowledge can, in and of itself, create market power and market distortions that the rest of the market will have difficulty in uncovering, simply by the fact that the access to information is inferior to the IOU. The other serious concern about this kind of market concentration of information is that it can be used to harm other participants in the market by providing inferior resources or increased costs that could drive out competition for LSE services in the market, without adequate oversight. Due to the lack of guidance to the CPE, it is not clear that the review of the CAM PRG or the Independent Evaluator is adequate oversight for anti-competitive behavior.

Lastly, the Proposed Decision states that the CPE will protect from disclosure information provided by generators, independent marketers and LSEs, in accordance with D.13-02-029.[29] However, this list excludes DR or ES or other resource providers that are not

[29] Proposed Decision, at p. 52.

"generators" in the traditional sense. This list of resources that will be kept confidential should be expanded to include all resource types, not just generators.

D. The CPE Should Not Have Preferential Treatment Relative to Any Other LSE.

The Proposed Decision states that the CPE should not be penalized for failure to meet the local RA requirement, if the CPE shows good cause exists to support its decision.[30] Further, the CPE should not be required to procure resources if the cost of procurement exceeds $6.31/kW-month.[31] The CPE should not have terms that are any more favorable than the terms for any other LSE in meeting its RA requirement. The CPE should seek a waiver for any exemption to meeting the local RA requirement and should be subject to penalties on the same basis as any other LSE. If the CPE is not able to meet its obligation to procure local capacity to meet the local capacity requirement, it is not clear that this structure is any better than the current structure.

The Joint Parties are concerned about an absolute limit on the cost of capacity per month, especially when DR being cost effective is based upon the avoided cost of capacity that is greatest in the August/September timeframe, and may have little to no value in other months. High avoided capacity value in peak summer months should be taken into consideration when establishing a cap for procurement that may be lower than those avoided capacity values.

Further, in total, the cost of capacity across a year, $75.72/kW-yr is lower than the cost of new entry. It should be reasonable for the CPE to procure capacity that reflects the cost of new entry and is not merely tied to the cost of older, depreciated fossil fueled power plants. In addition, if market transformation is important, and it should be in order to meet GHG emission reduction goals and to meet the SB 100 goals, using depreciated gas plant as the limit for new resource entry will not result in the type of market transformation that the State is expecting.

[30] Proposed Decision, at p. 54.
[31] *Id*., at p. 53.

IV.
CONCLUSION

CPower, Enel X, and CEDMC (Joint Parties) believe that modification of the Proposed Decision is required for the reasons stated above and potentially an Alternate Proposed Decision, if deemed necessary to achieve those changes. Those needed modifications to the Proposed Decision are also reflected in Appendix A (Proposed Modifications to Findings of Fact, Conclusion of Law, and Ordering Paragraph) attached and incorporated by reference hereto.

Respectfully submitted,

April 15, 2020

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APPENDIX A

JOINT PARTIES
PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS FOR THE PROPOSED DECISION ON CENTRAL PROCUREMENT OF RESOURCE ADEQUACY PROGRAM

CPower, Enel X North America, Inc. (Enel X), and the California Efficiency + Demand Management Council (CEDMC) (collectively, "Joint Parties") propose the following modifications to the Findings of Fact, Conclusions of Law, and Ordering Paragraphs in the Proposed Decision on Central Procurement of Resource Adequacy Program mailed in R.17-09-020 on March 26, 2020 (Proposed Decision).

Please note the following:

- A page citation to the Proposed Decision is provided in brackets for each Finding of Fact, Conclusion of Law, or Ordering Paragraphs for which a modification is proposed.
- Added language is indicated by **bold type**; removed language is indicated by **bold strike-through**.
- A new or added Finding of Fact, Conclusion of Law, or Ordering Paragraph is labeled as "**NEW**" in **bold underscored** capital letters.

PROPOSED FINDINGS OF FACT:

5. [57] The Commission continues to seek to designate a central procurement entity and framework that allows for targeted procurement necessary to address local and sub-local reliability needs**, while recognizing the preferred resource procurement of LSEs**.

8. [58] A hybrid central procurement framework strikes a reasonable balance between the residual and full procurement models and best addresses the known challenges identified in the local RA market**, as long as LSEs receive one-for-one local RA recognition of preferred resource procurement**.

9. [58] The distribution utilities are the central procurement entity candidates with the resources, knowledge and experience to procure local reliability resources on behalf of all LSEs in the near term. **However, the Commission must ensure that information obtained by the**

CPE is protected from disclosure, including from the IOUs' and their utility procurement function.

12. [59] It is appropriate for the CPE to use a solicitation process for local RA procurement because it gives the CPE flexibility to select resources based on targeted criteria, in addition to costs and local needs. **However, this solicitation process need not be limited to RFO processes only and may consider other mechanisms for an all-source solicitation.**

13. [59] ~~**The requirements pertaining to an a**~~**A**ll-source solicitations **conducted by the CPE should utilize the same Commission guidance as is applied for Integrated Resource Proceedings, which takes into consideration greenhouse gas emissions and requires procurement of low-to-no GHG emitting resource first** ~~**process adopted in past Commission decisions are reasonable guidance for procurement by a CPE**~~.

14. [59] It is reasonable and consistent with the current RA program that RA attributes should remain bundled and LSEs should receive credit for procured system or flexible capacity, based on coincident peak load shares. **In addition, LSEs will receive credit for all preferred local resource adequacy procurement on a one-for-one basis.**

18. [59] The least cost best fit methodology and **emphasis on preferred resource procurement and low-or-no GHG emitting resources** ~~**other selection criteria adopted in past Commission decisions**~~ serve as useful guidance for the selection of local RA resources by the central procurement entity.

19. [59] The cost recovery mechanism for the central procurement framework should facilitate the CPE's efficient procurement of local resources and provide necessary recovery of costs incurred by the CPE **without creating market distortions or making customer comparisons of procurement costs among LSEs opaque**. **As such, the Commission should establish a non-bypassable procurement related charge, similar to the PCIA.**

20. [59] The CAM methodology is a cost recovery mechanism that allows the CPE to efficiently procure local resources and recover costs incurred**; however, this methodology would distort procurement costs by combining RA costs in transmission and/or distribution rates**. **The use of a CPE and a cost recovery mechanism should not create market distortions or make customer comparisons of procurement costs among LSEs**

opaque. As such, the Commission should establish a non-bypassable procurement-related charge, similar to the PCIA.

24. [60] The Commission seeks a portfolio approval process that gives the CPE achievable standards for cost recovery, authorizes procurement decisions that incorporate the Commission's policy direction, and eliminates the need for after-the-fact reasonableness review of procurement actions. **However, the CPE should be directed to meet state policy goals of GHG reductions and preferred resource procurement and should not be exempted from review that other LSEs are subject, especially since this role is new and should require some initial scrutiny to ensure it is working and treating LSEs fairly.**

27. [60] To mitigate anti-competitive concerns, it is reasonable to require that confidential, market-sensitive information received by the distribution utilities through the solicitation and procurement process is adequately protected**, including from the distribution utilities own procurement group**.

28. [60] It is reasonable to give the CPE discretion to defer procurement of a local resource to the CAISO's backstop mechanisms if bid costs are deemed unreasonably high**, with an appropriate request for waiver from the Commission**.

29. [60] It is unnecessary to assess penalties or fines on the CPE for failing to procure resources to meet local RA requirements, so long as the CPE exercised reasonable efforts to secure capacity. **However, the CPE should be subject to the same requirements as any other LSE in terms of seeking a Commission waiver.**

PROPOSED CONCLUSIONS OF LAW:

4. [61] A hybrid central procurement framework should be adopted for the central procurement of local resources beginning for the 2023 RA compliance year**, with the exception that preferred local capacity resource procurement by the LSEs will receive one-for-one local RA recognition**.

10. [62] CAM resources and IOU local DR resources should reduce the local RA amount that the CPE must procure. **Preferred resource procurement by the LSEs will receive one-for-one recognition and reduce the LSE's local RA requirement**

11. [62] IOU local DR resources should be counted based on the three-year period of the applicable load impact protocol studies after any Energy Division adjustments**, unless modified by the Track II Decision in R.19-11-009 (RA)**.

14. [62] To guide the selection of local resources, the CPE should evaluate resources using the least cost best fit methodology and including the following criteria: (1) future needs in local and sub-local areas, (2) local effectiveness factors, (3) resource costs, (4) operational characteristics of the resources, (5) location of the facility, (6) costs of potential alternatives, and (7) greenhouse gas adders. **However, the Commission will direct the CPE to weight GHG emissions reductions and preferred resources more heavily to encourage selection of these resources, consistent with state policy.**

15. [62] The CAM methodology should **not** be adopted as the cost recovery mechanism to cover procurement costs associated with serving the central procurement function **as it combines procurement costs into transmission and/or distribution rates**. **Rather, it is preferable to create a non-bypassable fixed procurement charge. Instead, the Commission should adopt a non-bypassable procurement-related charge, similar to the PCIA.**

16. [62] The administrative costs incurred by the CPE in serving the central procurement function should be recoverable**, if reasonable,** under the **above** cost allocation mechanism.

21. [63] The CPE should establish a rule that will govern how confidential, market-sensitive information will be protected to prevent the sharing of information outside of personnel involved in the central solicitation and procurement function **that will be submitted into R.19-11-009 and subject to comment**.

22. [63] The CPE should establish a strict code of conduct that governs the sharing of sensitive information beyond personnel involved in the central solicitation and procurement function (including management and officers). **The Commission should, or retain a firm to, audit compliance with the code of conduct at regular intervals, beginning in year one.**

23. [63] The CPE should have discretion to defer procurement of a local resource to CAISO's backstop mechanisms if bid costs are deemed unreasonably high. **The CPE will have to seek a waiver from the Commission, consistent with the rules that apply to any LSE.**

24. [63] The CPE should not be assessed fines or penalties for failing to procure resources, so long as the CPE made reasonable efforts to secure capacity. **The CPE will have to seek a waiver from the Commission for failure to procure resources; however, the CPE should not be excused from fines or penalties. Rather, the CPE should be subject to the same rules as any LSE.**

PROPOSED ORDERING PARAGRAPHS:

3. [64] The hybrid central procurement framework for local resources is adopted for Pacific Gas and Electric Company (PG&E) and Southern California Edison's (SCE) distribution service areas. Load serving entities in PG&E's and SCE's distribution service areas **may present preferred resource procurement and receive a one-for-one reduction in its local RA requirement,** beginning ~~for~~**with** the 2023 Resource Adequacy compliance year.

4. [64] The hybrid central procurement structure is adopted as follows:

a. If a load serving entity's (LSE) procured resource also meets a local Resource Adequacy (RA) need, the LSE may choose to: (1) show the resource to reduce the central procurement entity's (CPE) overall local procurement obligation, (2) bid the resource into the CPE's solicitation, or (3) elect not to show or bid the resource to the CPE and only use the resource to meet its own system and flexible RA needs **or (4) receive one-for-one recognition for all preferred local capacity resources**.

b. If an LSE elects to show a local resource, it may either: (1) do so in advance of the CPE's solicitation, if it does not intend to bid it into the solicitation, or (2) bid the resource into the CPE's solicitation but indicate in its bid that the resource will be available to meet local RA requirements even if it is not procured by the CPE, which may reduce the total procurement costs the CPE incurs on behalf of all LSEs**, or (3) receive one-for-one recognition for all preferred local capacity resources**.

6. [65] The central procurement entity (CPE) shall conduct a competitive, all-source solicitation for local Resource Adequacy (RA) procurement with the following requirements:

a. Any existing local resource that does not have a contract, any new local resource that can be brought online in time to meet solicitation requirements, or any load serving

entity (LSE) or third-party with an existing local RA contract may bid into the solicitation.

~~**b. If an LSE-procured local resource is not selected by the CPE, the local resource may still count towards the LSE's system or flexible RA obligations, if applicable.**~~

~~**e**~~**b**. RA attributes shall remain bundled and LSEs shall receive credits for any system or flexible capacity procured during the local RA or backstop processes, based on coincident peak load shares~~**, as is currently done with Cost Allocation Mechanism (CAM) resources.**~~

~~**d**~~**c**. CAM resources and investor-owned utility local Demand Response resources shall reduce the local RA amount that the CPE must procure. **Preferred local capacity resources will reduce the LSEs RA requirement on a one-for-one basis.**

~~**e**~~**d**. The CPE shall include dispatch rights in their solicitations as an optional term that bidders are encouraged to include.

7. [65] Investor-Owned Utility local Demand Response (DR) resources shall be counted based on the three-year period of the applicable load impact protocol studies after any Energy Division adjustments, as is the current practice for determining the qualifying capacity value of such DR resources. **However, counting methodologies are being explored in R.19-11-009 and may modify this paragraph.**

8. [65-66] A distribution utility that is serving as a central procurement entity shall bid its own resources, that are not already allocated to all benefiting customers, into the solicitation process at their levelized fixed costs. All Investor-Owned Utility bids, including utility-owned generation, shall be submitted to the Procurement Review Group and independent evaluator~~**, in advance of the receipt of bids from any other entities**~~. **Utility-owned assets will not be given any preferential treatment in the all source procurement process.**

9. [66] To guide the selection of local resources procured by the central procurement entity (CPE), the CPE shall use the all-source selection criteria and least cost best fit methodology**, modified to include consideration of greenhouse gas emissions. This** ~~**adopted in Decision 04-07-029. The least cost best fit**~~ methodology ~~**employed**~~ shall also ~~**include**~~ **consider** the following selection criteria:

a. Future needs in local and sub-local areas;

b. Local effectiveness factors, as published in the California Independent System Operator's Local Capacity Requirement Technical Studies;

c. Resource costs;

d. Operational characteristics of the resources (efficiency, age, flexibility, facility type);

e. Location of the facility (with consideration for environmental justice);

f. Costs of potential alternatives; and

g. Greenhouse Gas adders.

10. [66] In its solicitation, the central procurement entity shall direct bidders to include the following attributes for a resource: the CalEnviroScreen score of the resource location (or if unavailable, the pollution burden of the resource location), facility age, heat rate, start-up time, and ramp rate**, although not all resources have these attributes, which are typically associated with fossil fuel assets**.

11. [66] ~~**The Cost Allocation Mechanism**~~ **A non-bypassable procurement charge** methodology is adopted as the cost recovery mechanism to cover procurement costs incurred in serving the central procurement function**, including reasonably incurred**~~**. The**~~ administrative costs~~ **incurred in serving the central procurement function shall be recoverable under the Cost Allocation Mechanism**~~.

13. [67] The Cost Allocation Mechanism (CAM) Procurement Review Group (PRG), as adopted in Decision 07-12-052, is authorized to advise the central procurement entity (CPE). The CPE shall consult with CAM PRG members (including Energy Division and an independent evaluator) to outline procurement plans, draft solicitation bid documents, and collect feedback regarding the solicitation process. **The CAM PRG will be expanded to include a non-market participant representative of the CCAs and ESPs.**

15. [68] A portfolio approval process is adopted whereby a procurement action shall be deemed reasonable and preapproved if the following conditions are met:

a. The procured resource meets the established local capacity requirements and underlying data supporting those requirements, which are based on the California Independent System Operator's Local Capacity Requirements Technical Study;

b. If the Procurement Review Group was properly consulted, as described in Ordering Paragraph 13; and

c. If procurement was deemed by the independent evaluator to have followed all relevant Commission guidance, including the least cost best fit methodology **and greenhouse gas emission reduction** and other noted selection criteria.

17. [68] The central procurement entity shall establish a rule or procedure that will govern how confidential, market-sensitive information received from **third-party** market participants during the solicitation process will be protected and what firewall safeguards will be implemented to prevent the sharing of information beyond those employees involved in the solicitation and procurement process. The central procurement entity shall file and serve the proposed rule into the successor Resource Adequacy proceeding, Rulemaking 19-11-009.

18. [68-69] The central procurement entity (CPE), in collaboration with the independent evaluator, Procurement Review Group, and Energy Division, shall create a strict code of conduct, similar to that adopted in Decision 07-12-052, that prevents the sharing of confidential, market-sensitive information beyond those employees involved in the solicitation and procurement process. Personnel employed by the CPE and involved in the solicitation and procurement process (including management and officers) shall sign the code of conduct as a precondition to engaging in the central solicitation and procurement process. **The code of conduct will be filed and served into the successor RA proceeding, Rulemaking 19-11-009, and compliance with the code of conduct will be subject to an audit, beginning in year 1, and at intervals thereafter to be determined by the Commission.**

19. [69] The central procurement entity (CPE) shall have discretion to defer procurement of a local resource to the California Independent System Operator's backstop mechanisms, rather than through the solicitation process, if bid costs are deemed unreasonably high **and if the CPE seeks a waiver, through the waiver process, from the Commission, as is currently required of any LSE**. If the CPE defers to backstop procurement, the CPE shall **seek a waiver from the Commission and** provide, through the independent evaluator report and annual compliance

filing, the reason for the deferral to backstop procurement, prices offered in the solicitation, which generators did not participate in the solicitation (if any), and other relevant information.

20. [69] The central procurement entity (CPE) shall ~~not~~ be assessed fines or penalties for failing to procure resources to meet the local Resource Adequacy requirements, as **is similarly applied to any LSE**~~**long as the CPE exercises reasonable efforts to secure capacity and the independent evaluator report contains the reasons for the failure to procure**~~.