

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

Order Instituting Rulemaking To Develop an Electricity
Integrated Resource Planning Framework and to
Coordinate and Refine Long-Term Procurement
Planning Requirements.

Rulemaking 16-02-007
(Filed February 11, 2016)

**COMMENTS OF THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION ON THE RULING OF
ASSIGNED COMMISSIONER AND ADMINISTRATIVE
LAW JUDGE REQUESTING COMMENTS ON
DISADVANTAGED COMMUNITIES AND OTHER
ASPECTS OF SENATE BILL 350**

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In compliance with the schedule set forth in the Assigned Commissioner and Administrative Law Judge's Ruling issued December 21, 2016 (Ruling) Requesting Comments on Disadvantaged Communities and Other Aspects of Senate Bill 350, the Independent Energy Producers Association (IEP) is pleased to provide these comments.

Overview:

Over the past decade, the Commission developed a biennial long-term planning process known as the Long-Term Procurement Plan (LTPP) Proceeding. The goal was minimizing costs to ratepayers while meeting the reliability needs of the electric grid and pursuing diverse policy objectives and/or mandates. The LTPP necessitated a balancing of load forecasts derived from the California Energy Commission (CEC) Demand Forecasts with various resource policy mandates and objectives (e.g. resource adequacy, RPS, EE, DR, CHP, and Storage). This integrated planning approach has proven successful.

As a result of the passage of SB 350 and its incorporation in PU Code 454.52(a)(1), the Commission has the responsibility to adopt a process for *each* jurisdictional Load-serving Entity (LSE) , as defined in PU Code Section 380, to file an integrated resource plan (IRP).¹

Furthermore, the Commission’s IRP process is “to ensure that load-serving entities do the following”:

(A) Meet the greenhouse gas emissions reduction targets established by the State Air Resources Board, in coordination with the commission and the Energy Commission, for the electricity sector and each load-serving entity that reflect the electricity sector’s percentage in achieving the economy wide greenhouse gas emissions reductions of 40 percent from 1990 levels by 2030.

(B) Procure at least 50 percent eligible renewable energy resources by December 31, 2030, consistent with Article 16 (commencing with Section 399.11) of Chapter 2.3.

(C) Enable each electrical corporation to fulfill its obligation to serve its customers at just and reasonable rates.

(D) Minimize impacts on ratepayers’ bills.

(E) Ensure system and local reliability.

(F) Strengthen the diversity, sustainability, and resilience of the bulk transmission and distribution systems, and local communities.

(G) Enhance distribution systems and demand-side energy management.

(H) Minimize localized air pollutants and other greenhouse gas emissions, with early priority on disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code.²

Importantly, PU Code Section 454.52(a)(1) delineates seven discrete policy objectives; yet, the legislature did not explicitly prioritize the seven policy goals. Only three of the seven policy objectives reference the need to address “local” impacts, i.e. Section 454.52(a)(1)(E), (F), and

¹ PU Code Section 454.52(a)(1): “Commencing in 2017, and to be updated regularly thereafter, the commission shall adopt a process for each load-serving entity, as defined in Section 380, to file an integrated resource plan, and a schedule for periodic updates to the plan...”

² Ibid, subsections (A)-(H).

(H), respectively. Only one policy objective addresses “disadvantaged communities,” i.e. Section 454.52)(a)(1)(H).

PU Code Section 380 defines load-serving entity as utility electrical corporations, energy service providers (ESPs), and community choice aggregators (CCAs).³

PU Code Section 454.52(b)(1) gives the Commission the authority to review each IRP filed by a load-serving entity. Additional authorities were given to the Commission with regards to the various types of LSEs. For example, the Commission has the authority to approve IRPs filed by electrical corporations pursuant to Section 454.52(b)(2); and, the Commission has the authority to certify IRPs filed by CCAs pursuant to Section 454.52(b)(3).

Beyond these specified authorities, the Commission’s roles related to designing and implementing individual LSE IRPs are unclear. For example, what is the Commission’s authority if a jurisdictional LSE files an IRP inconsistent with the statutory obligations? What is the Commission’s authority if an LSE files an IRP falling short of the Commission’s standards of review? What happens if the Commission declines to certify an IRP filed by a CCA? Questions such as these raise concerns about the effectiveness of the IRP process overall, yet they also raise uncertainties as to whether the IRP process envisioned in Section 454.52 will be effective in meeting the future resource needs of an ever-changing electric grid in a timely manner.

³ PU Code Section 380 (k) states the following: “For purposes of this section, load-serving entity means an electrical corporation, electric service provider, or community choice aggregator. Load-serving entity does not include any of the following:

- (1) A local publicly owned electric utility.
- (2) The State Water Resources Development System commonly known as the State Water Project.
- (3) Customer generation located on the customer s site or providing electric service through arrangements authorized by Section 218, if the customer generation, or the load it serves, meets one of the following criteria:
 - (A) It takes standby service from the electrical corporation on a commission-approved rate schedule that provides for adequate backup planning and operating reserves for the standby customer class.
 - (B) It is not physically interconnected to the electrical transmission or distribution grid, so that, if the customer generation fails, backup electricity is not supplied from the electrical grid.
 - (C) There is physical assurance that the load served by the customer generation will be curtailed concurrently and commensurately with an outage of the customer generation.

Below, IEP provides some general observations regarding how the Commission may approach implementation of PU Code Section 454.52. Following these observations, we respond to the specific questions posed in the Ruling related to disadvantaged communities, the transmission system, the distribution system, and demand-side management.

I. The IRP Necessitates Flexibility and a Balancing of Policy Objectives

IEP urges the Commission to recognize the necessity of *balancing* the seven policy objectives delineated in Section 454.52(a)(1). Given the diversity of load-serving entities subject to Section 454.52(a)(1), one single reality will govern the IRP: no one size fits all. As noted above, the individual subsections (A)-(H) are not prioritized and no single policy prescription reign supreme. Moreover, the attainment of one goal (e.g. minimizing localized pollutants) may conflict with another (e.g. minimizing impacts on ratepayer bills).

In response to how the IRP statute was drafted, the Commission of necessity will have to provide a measure of flexibility to jurisdictional LSE's where possible rather than impose rigid standards of review and/or compliance. As a practical matter, only one of the seven IRP policy directives prescribed in Section 454.52(a)(1) is readily measured, i.e. the directive to procure at least 50 percent eligible renewables resources by December 31, 2030. The other six policy directives are not candidates for accurate measurement, particularly given the diversity of LSE geographic and demographic domains over which the policies are to be applied. As a result, Section 454.52(a)(1)(A), (C)-(H) related to local and/or localized impacts should be treated as policy objectives that are qualitative in nature for purposes of IRP planning.

II. The RPS Framework Provides A Useful Model for Balancing All the Policy Prescriptions, Particularly Impacts on Disadvantaged Communities

Overall, the Commission's RPS framework provides a reasonable model for balancing the policy prescriptions of Section 454.52(a)(1), including subsection (H) related to disadvantaged communities. The Commission's general RPS approach has imposed planning and procurement standards "up-front" in the integrated RPS and/or LTTP planning process. Upon final approval of resource plans, the Commission directed the utilities to manage the actual procurement of needed resources in a manner to achieve least-cost and best fit (LCBF) outcomes. The utilities are directed to employ a Commission-approved LCBF bid-evaluation methodology and the Procurement Protocols require each bidder to address the impact, if any, on disadvantaged communities. Finally, regarding assessing impacts on disadvantaged communities, PU Code Section 399.13(a) prescribes the following goals with regards to the RPS:

"(7) In soliciting and procuring eligible renewable energy resources for California-based projects, each electrical corporation shall give preference to renewable energy projects that provide environmental and economic benefits to communities afflicted with poverty or high unemployment, or that suffer from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases."

In response to Section 399.13(a)(7), the Commission directed the utilities to include in their RPS Procurement Plans a description of their methodology for preferring projects that provide the benefits described in Section 399.13(a)(7). Moreover, the utilities are directed to treat impacts on disadvantaged communities as a qualitative factor in bid-evaluation.

The general RPS LCBF framework to planning and procurement provides many advantages with regards to IRP implementation. First, the general LCBF framework provides a useful and familiar tool by which the Commission can address and balance, up-front in the IRP planning and procurement process, each of the policy prescriptions in Section 454.52(a)(1), including those addressing impacts on local and disadvantaged communities. Second, the

general RPS LCBF framework directs the utilities to quantify those factors that can be readily quantified and, alternatively, treats as qualitative factors those factors that are not easily quantifiable. Third, by employing the general RPS LCBF approach to assessing impacts on local and/or disadvantaged communities, the Commission will have developed a common framework across both the RPS and IRP procurement platforms, and this consistency will help ensure continuity and a measure of regulatory certainty that is helpful to all parties as the Commission moves forward. Fourth, the general RPS LCBF framework is familiar to stakeholders and has been determined to be just and reasonable by the Commission.

IEP appreciates that the existing RPS framework generally and the LCBF methodology specifically have been developed and employed in the context of electrical corporations; while the Commission's authority over ESPs and CCAs with regards to procurement and planning may be more limited than that which exists for electrical corporations. To the extent the Commission does not have the authority to explicitly impose a LCBF framework on ESPs and/or CCAs, the Commission can exercise its review and/or certification authorities granted in statute to ensure that each ESP and CCA's IRP explicitly addresses how each of the requirements specified in Section 454.52(a)(1), including subsections (F)-(H), are properly addressed and balanced to achieve an integrated outcome. Similar to the approach taken with regard to electrical corporations, the ESPs and CCAs should be incented to apply quantitative measures for those policy objectives that are readily quantified (e.g. 50 percent renewables) and they should apply qualitative factors to those policy objectives that are not readily quantified. Ultimately, the ESP and CCA IRPs should represent a balance of each and all of the various policy prescriptions imposed on them through various statutes, rules, and regulations.

III. A Myopic Focus on Local Communities and/or Disadvantaged Communities Risks Undermining the Integrity of Section 454.52(a)(1)

The Ruling poses a significant number of questions addressing how the Commission ought to define and assess impacts on local communities and disadvantaged communities in light of Section 454.52(a)(1). Notably, the legislature did not define the term “local” in PU Code Section 454.52. Moreover, it is not defined anywhere in the Public Utilities Code or the Public Resource Code. On the other hand, “Local” is generally defined as:

” 1. Characterized by place or position in space; having a defined spatial form or location... 3a. primarily serving the needs of a particular limited district.”⁴

In the context of assessing localized impacts in the IRP, the Commission should not undermine the flexibility it needs to conduct an IRP by defining “local” in too prescriptive or geographically narrow manner. Assessing localized impacts based on too narrow geographic boundaries (e.g. neighborhoods, census tracts, etc.) risks creating a barrier to meeting local reliability needs and ultimately risks undermining timely and effective Commission decision-making.

On the other hand, the Commission has experience defining “local areas” in the context of energy planning and procurement. In the context of its Resource Adequacy (RA) program, the Commission has identified local areas for purposes of assessing local RA needs which are based on detailed quantitative and policy analysis (e.g. electrical/engineering/power-flow assessments) across a relatively contiguous “local” geographic area. The methodology for determining local area capacity needs in the RA context seems like a logical first step in developing an approach to identifying local areas for purposes of assessing localized impacts in the context of the IRP.

⁴ Merriam-Webster Dictionary.

Unlike the term “local,” the Legislature did define the term “disadvantaged community.” The term disadvantaged community appears only once in Section 454.52, in subsection (a)(1)(H), “Minimize localized air pollutants and other greenhouse gas emissions, with early priority on disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code.”⁵ Health and Safety Code Section 39711 relates to identifying communities for purposes of investing funds obtained as a result of the implementation of the California Air Resource Board (CARB) Cap and Trade regulations. The legislation specifically did not dictate nor necessarily encourage in the IRP a broader consideration of disadvantaged communities.

In summary, PU Code Section 454.52(a)(1) necessitates a balancing of a myriad of policy objectives in the context of an IRP. No single subsection of Section 454.52(a)(1) reigns supreme. Certainly, the Commission should not undermine the flexibility it will need to successfully implement the IRP by imposing too restrictive a definition to the term local nor too broad a definition for disadvantaged communities. To ensure the necessary flexibility to achieve the myriad of policy objectives over time, the Commission should define local areas and assess local impacts using a broad geographic domain similar to that employed in the context of determining local RA needs. Furthermore, the Commission should address the impacts on disadvantaged communities in subsection (H) through focused investments of EE, EV, etc. in those areas.

⁵ PU Code Section 454.52(a)(1): “(H) Minimize localized air pollutants and other greenhouse gas emissions, with early priority on disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code.”

IV. The Commission Should Not Expand Review of Power Purchase Agreements (PPAs) To Include Environmental Impacts

The Ruling notes that the Commission has provided recent guidance on some of the issues that have arisen in the past related to impacts on local communities in general and prioritizing disadvantaged communities with regards to minimizing localized air pollutants. Specifically, the Ruling references Decision (D.) 16-05-050 and D.16-20-030 (modifying D.16-05-050). In these Decisions, the Commission stated its intent to “endeavor to more explicitly consider environmental justice issues in our [the Commission’s] review of proposed procurement contracts.” Moreover, the Commission stated that “Additional environmental justice rules or guidance should delineate the role of this Commission in evaluating the reasonableness of a procurement contract, as opposed to the role of the CEC for purposes of its [California Environmental Quality Act] CEQA-equivalent environmental review.”⁶

Notably, in these two Decisions cited by the Ruling, the Commission recognized, as a matter of efficiency and effectiveness, that “utility procurement applications should include sufficient information regarding the consideration of these criteria [i.e. environmental justice issues] in the RFO process.” Moreover, in these decisions, the Commission stated that “guidance should be developed concerning the *appropriate balance* between issues such as: the policy favoring Brownfield sites; environmental justice considerations; other economic considerations, and grid reliability.”⁷ [Emphasis added] This perspective pertains equally to all the new IRP planning and procurement prescriptions embedded in Section 454.52(a)(1).

The Commission has developed a long tradition in which it determines the reasonableness of cost (for purposes of cost recovery) and administration of power contracts.

⁶ D.16-12-030, p. 29.

⁷ Ibid, p. 29.

The Commission has repeatedly deferred to various local, state, and federal agencies lawfully empowered to consider, review, and litigate environmental and land-use permitting issues associated with new/repowered resources. These agencies have the staff, expertise, and statutory authorities to address and mitigate, as necessary, impacts on the environment and local communities, including disadvantaged communities. As recently as March 2015, the Commission reiterated its policy on this matter:

[O]ur review and approval of the PPA is a [sic] separate from any required land use permitting process and related environmental reviews. In addition, it is not a [sic] required for Commission approval.⁸

In denying rehearing on this point, the Commission stated:

PPA approvals do not entail approving a proposed project or granting any rights to develop property. The Commission merely finds that should a project become operational, the utility may account for energy deliveries from the facility as a renewable resource, and recover certain costs in rates. We have repeatedly affirmed that CEQA review and environmental status are not determinative of whether a PPA should be approved.⁹

Moreover, in response to the contention that the Commission cannot make a discretionary decision on whether to approve a power purchase contract unless and until environmental review has been completed, the Commission stated the following:

Commission approval of a purchase power contract does not confer a lease, permit, license, certificate, or any other entitlement on the seller. Rather, it is an assurance that the utility will recover through its rates the costs that it incurs under the contract. It is well-settled that “[s]uch a ratemaking order is not ‘project’ under CEQA. All Commission orders concluding that CEQA does not apply to a ratemaking proceeding have been upheld. (*E.g.*, *Samuel C. Palmer, III v. Public Utilities Commission* SF#

⁸ Res. E-4707, p. 21.

⁹ D.15-06-065, p. 3 (footnotes omitted).

23980, writ denied 5/10/79.)" (D.86-10-044 at 16-17, 1986 Cal. PUC LEXIS 642, 16-17 (Cal. PUC 1986).)¹⁰

Overall, the Commission's approval of the cost-recovery of a procurement contract does not and should not trigger at the Commission an environmental review of the facility's impact on the environment. In addition to the Commission's process, the California Energy Commission (CEC) employs an exhaustive permitting process in which all matters related to the California Environmental Quality Act (CEQA) are raised, addressed and mitigated as appropriate under the law. Similarly, local governments have a long and extensive history assessing in a public forum compliance with CEQA prior to authorizing permits to construct and operate. The Commission does not need to impose an additional regulatory forum to review these same issues. Moreover, the Commission should not provide a forum for parties to re-litigate permit issues if they were dissatisfied with the outcomes of the exhaustive permit review and approval process properly conducted by other state or local entities authorized to consider such matters.

V. Responses to Specific Questions Posed by the Ruling

Provided below are IEP's responses to specific questions posed by the Ruling. If IEP has no response at this time, we have so noted.

2.1. Questions related to disadvantaged communities in IRP

- 1. Should the Commission expand the definition of "disadvantaged communities" to include underserved communities who do not currently qualify under Section 39711 of the Health and Safety Code as specified in SB 350? If so, what metrics should be used to identify these communities?**

¹⁰ D.15-05-051, p. 30 (footnotes omitted). The Commission reiterated this conclusion in response to applications for rehearing (D.15-11-024), and the California Court of Appeal affirmed the Commission's decisions in an unpublished opinion.

No. The Commission risks unintended consequences if it were to expand the definition of disadvantaged communities to include underserved communities who do not currently qualify under Section 39711 of the Health and Safety Code. First, no statutory basis exists to expand the definition. Second, expanding the definition to include a broader group of communities risks creating an unnecessary barrier to the timely implementation of the IRP, because the Commission will need to initiate a process to define “underserved communities” distinct from disadvantaged communities. Third, the resource commitment from staff, stakeholders, and the Commission that would be triggered in an effort to define “underserved communities” appears unwarranted given that the only reference to disadvantaged communities in Section 454.52 resides in subsection (a)(1)(H), and this definition relates to the narrow issue of investment in disadvantage communities rather than the broad purposes of the IRP.

- a. Is it appropriate to use different definitions depending on the context (for example, in some low-income energy programs such as the California Alternative Rates for Energy, program eligibility is determined by individual factors; in contrast, the IRP requirements identify a broader community scale for which a tool such as CalEnviroScreen may be useful)? Why or why not?**

There is no legal basis to use the CalEnviroScreen in the context of IRP planning and procurement risks unintended consequences. The CalEnviroScreen by statute is an investment/planning tool designed by the California Environmental Protection Agency for the purpose of identifying investment opportunities in disadvantaged communities. The investment funds derive from the state’s cap-and-trade program revenues, and their purpose is directed solely on lowering GHG emissions. On the other hand, the Commission’s core purpose in the IRP is much broader. The Commission’s core function is to ensure the requisite energy infrastructure necessary to maintain grid reliability while ensuring just and reasonable rates. It would be an improper expansion of the CalEnviroScreen to apply it in the context of the IRP.

Moreover, it would be imprudent to do so given that the core purpose of the CalEnviroScreen is unrelated to the core function of the IRP.

b. Should “local communities” referenced in Public Utilities Code Section 454.52(a)(1)(F) be defined differently from “disadvantaged communities” generally? Why or why not?

“Local communities” and “disadvantaged communities” should be interpreted as separate and distinct; otherwise, the Legislature would have employed the same term in both instances. Given the close proximity of the two terms in a common section of PU Code Section 454.52(a)(1), one can only infer that the Legislature used the two terms to clarify its intent to distinguish the two concepts. In the context of Section 454.52(a)(1)(F), the term “local community” applies much more broadly across California than the reference to “disadvantaged communities” in Section 454.52(a)(1)(H), which is tied to investment opportunities associated with cap-and-trade revenues.

2. How should the Commission coordinate the IRP and procurement-related requirements related to impacts on disadvantaged communities with the other statutory requirements in other energy resource areas?

The Commission should seek to balance the specific policy objectives prescribed in Section 454.52(a)(1) in the context of an overall, single plan. To the extent that the legislature has prescribed actions affecting disadvantaged communities, these need to be reasonably balanced in the IRP against the myriad of policy objectives imposed on LSEs. To the extent “other energy resource areas” are directed by statute to accomplish certain outcomes with regards to disadvantaged communities, IEP recommends the Commission focus on actual verified outcomes.

3. How should disadvantaged communities be considered in the context of the IRP statutory requirements and process?

The Commission should seek to ensure that individual LSE IRPs reasonably balance the myriad policy objectives and statutory prescriptions. Notably, PU Code Section 454.52(a)(1) delineates seven policy objectives in the IRP. The reference to disadvantaged communities occurs in only subsection (H) related to minimizing localized air pollutants. Disadvantaged communities are to be afforded an early priority in accessing investment opportunities for revenues derived from the cap-and-trade program. While lowering emissions in disadvantaged communities should be afforded some weight, the IRP process should not afford this sector undue weight in light of all the other important goals such as minimizing ratepayer costs, ensuring grid reliability, achieving a 50 percent RPS, etc. As noted elsewhere, the Commission can reasonably realize the intent of subsection (H) by directing early investment in EE, EVs, etc., into disadvantaged communities.

4. How should the Commission identify, track, and measure the effectiveness of its activities with respect to disadvantaged communities?

One size will not fit all when identifying, tracking and measuring the effectiveness of IRP activities performed by multiple, unique LSEs. Nor are the impacts likely to be verifiable and measurable. Thus, the Commission would be well advised to recognize the need for flexibility in the development and review of LSE IRPs, particularly in the early years until IRP planning becomes more routine. Importantly, the localized air pollutants referenced in Section 454.52(a)(1)(H) are likely to derive from non-electric sector emissions, particularly the transportation sector. The Commission can best address the goal of lowering localized air emissions by electrifying the transportation sector in local communities, particularly disadvantaged communities.

5. What should be the relationship between the activities of the other agencies and entities (CEC, CARB, and CAISO) and our work on disadvantaged community's issues? To the extent possible, please be specific about what activities are underway that should be coordinated. For example, the CEC

adopted a “Low Income Barriers Study” at its December 14, 2016 business meeting that contains several recommendations that could relate to our activities in this IRP proceeding.

To the extent that other agencies and entities have formalized decisions in their own processes (e.g. rulemakings, tariffs, etc.), then the impacts and conclusions from these decisions should be integrated into the IRP to the extent practical.

6. How should the Commission’s jurisdictional utilities be required to consider impacts on disadvantaged communities during their procurement activities?

Currently, the Commission applies least-cost and best-fit principles to RPS procurement as part of RPS Procurement Plans. More generally in all-source solicitations and other procurement vehicles, the Commission typically targets needs to localized areas of need (“best fit”) while procuring through competitive solicitations (“least cost”). Thus, as a general rule, the Commission nearly universally applies the LCBF framework to its procurements. Importantly, the general LCBF framework enables the Commission to prescribe up-front in the planning and procurement process, respectively, the precise standard(s) of review that will apply when considering and selecting resources. IEP supports this approach. Certainly with regard to an electrical corporation, the Commission should (a) maintain the LCBF-approach to planning and procurement; (b) transparently place a qualitative value in the bid-evaluation protocols for matters that are not easily measured or quantified; and, (c) convey such information to the marketplace and prospective bidders well in advance of actual bidding.

7. What specific requirements should the Commission impose on its jurisdictional entities to address air quality, environmental, and/or economic impacts on disadvantaged communities associated with energy sector activities? Be as specific as possible.

While the Commission should impose on jurisdictional LSE’s reasonable standards or guidance for balancing the various policy prescriptions of Section 454.52, the Commission should not impose additional requirements related to air quality, environmental, or economic

impacts on that process. A well- established body of law and regulatory practices ensures that federal, state, and local laws and regulations are followed. Importantly, generating facilities are developed, constructed, and operate in compliance with all local, state and federal environmental permits and requirements, including air quality permits. Accordingly, any environmental requirement imposed by the Commission in the context of regulating rates for electric corporations will be additional to the statutory requirements already imposed on resource developers. It would be wholly inappropriate to foster additional uncertainty and delay to infrastructure investment by adding a new, additional layer of environmental review and litigation at the Commission when no direct statutory authority exists to do so. Moreover, IEP assumes that the Commission does not currently have in-house the staffing expertise to conduct the extensive and proper environmental analyses needed to re-consider environmental and land-use impacts associated with power purchase contracts.

8. How should the IRP process coordinate with ongoing proceedings that develop policies and programs that impact disadvantaged communities, such as energy efficiency, distributed generation, electric vehicles, research, etc.?

Because the IRP is a long-range planning process, the Commission must continue its current practice of developing a range of reasonable scenarios depicting the potential impact of energy efficiency, distributed generation, electric vehicles, etc. If progress in developing these resources is slower or faster than expected, then that fact should be taken into account in developing the next IRP Baseline Scenario against which the statutory prescribed “stretch goals” are measured.

Questions related to Public Utilities Code Section 454.52(a)(1)(F)

9. What requirements should the Commission impose on LSEs to ensure that they meet the statutory requirements that they “strengthen the diversity, sustainability, and resilience of... local communities?”

The Commission should not attempt to quantify how individual LSE IRPs will potentially strengthen the diversity, sustainability, and resilience of local communities. At best, these factors should be treated as qualitative factors in any review of an LSE's IRP. With regards to ESPs and CCAs, the Commission should defer to the individual LSEs to demonstrate how their individual IRPs address this objective. Over time, the Commission may get a better sense of how to address this matter.

Notably, the legislature did not define "local community" in the context of Section 454.52. However, the term "local" or its derivative "localized" appears three times in the context of PU Code Section 454.52.(a)(1): "(E) Ensure system and *local* reliability"; "(F) Strengthen the diversity, sustainability, and resilience of the bulk transmission and distribution systems, and *local* communities," and "(H) Minimize *localized* air pollutants and other greenhouse gas emissions, with early priority on disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code."

Because the term "local" was not defined by the legislature, the Commission may reasonably conclude that the legislature intended the term in this section of the code to be applied uniformly. IEP notes that the reference to local reliability in Section 454.52(a)(1)(E) directs the Commission's IRP process to ensure that LSEs "ensure system and local reliability." The term "local reliability" is well-known in the context of the CPUC's Resource Adequacy (RA) program referring to capacity needs in relatively specific, "local" areas of the state, each of which is identified through complex modeling and ultimately approved by the Commission.

Clearly, not all communities are located within the geographic boundaries of areas defined as "local" for purposes of RA, but many are. If the Commission were to begin with this definition of a "local community" for purposes of IRP, the Commission effectively would

implement a workable framework in which each LSE would be required to address in a separate chapter in its IRP filings the following:

- How each LSE’s IRP addresses system and local-reliability in its service territory as is the case today;
- How each LSE’s IRP strengthens the diversity, sustainability, and resilience of communities in the local-area *as defined in the RA Program*; and,
- How each LSE’s IRP works to minimize air pollutants and other greenhouse gases in communities in the local-area *as defined in the RA program*, with early priority on disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code.

For local communities impacted by an LSE’s IRP which are not located within the geographic boundaries of areas defined as “local” for purposes of RA, the Commission should apply a comparable approach in assessing local impacts, i.e. the Commission should direct LSEs to assess IRP impacts across a generally contiguous geographic area sufficient to properly and reasonably balance the factors prescribed in Section 454.52(a)(1) that relate to local impacts with all the other factor prescribed by statute.

Other chapters in the individual LSE’s IRP will need to address the other goals in Section 454.52(a)(1), including how the IRP is designed to (a) meet the greenhouse gas emission reduction targets established by the Air Resources Board; (b) procure at least 50 percent eligible renewable energy resources by 2030; (c) ensure just and reasonable rates; (d) minimize impacts on ratepayers’ bills; and (e) enhance distribution systems and demand-side energy management. Finally, each LSE’s IRP should address how it proposed to balance the myriad of goals and objectives prescribed in Section 454.52(a)(1), because no single goal prescribed in Section 454.52(a)(1) reign supreme.

10. How should an LSE be asked to demonstrate that its IRP will “strengthen the diversity, sustainability, and resilience of ... local communities?”

See answer to Question 9 above.

a. Specify whether the LSEs' activities should occur as part of a technical planning process, public engagement process, procurement process, or some other aspect of the IRP process.

IEP has no comment at this time.

b. Should LSE activity utilize an existing process or a new one? Describe in detail.

IEP has no comment at this time.

c. Should the LSEs' showings be required to be qualitative, quantitative, or both? Describe in as much detail as possible.

Bad data fosters bad policy. If the Commission endeavors to develop quantitative measures to assess compliance with most of the Section 454.52(a)(1) policy objectives, the Commission will be making policy from bad data. Only one of the goals prescribed in Section 454.52(a)(1) can be reliably measured, i.e. procuring at 50 percent eligible renewable resource (Section 454.52(a)(1)(B)). The other goals are essentially qualitative in nature or raise real questions as to what is the legislature's intent. For example, "Strengthening the diversity, sustainability, and resilience of the bulk transmission and distribution system" (subsection F): what does this language actually mean in practice? Because each of the LSE's will file an IRP related to its individual portfolio, service territory, load profiles, etc., the risk of bad measurement, double-counting of benefits/impacts, etc., is significant anyway, but all the more so if quantitative measurement is attempted. The Commission should only apply quantitative measurement/evaluation in those areas can be readily measured and verified. In all other areas, the Commission should apply qualitative metrics to measure compliance with IRP policy objectives.

11. Should all LSEs required to file IRPs also be required to demonstrate the conditions of 454.52(a)(1)(F) are met? If not, what criteria should the Commission use to differentiate among LSEs?

All jurisdictional LSEs should be required to demonstrate in their filed IRPs compliance with each of the subsections of Section 454.52(a)(1).

Questions Related to Public Utilities Code Section 454.52(a)(1)(H)

12. What requirements should the Commission impose on LSEs to ensure that they meet the statutory requirements to “minimize localized air pollutants and other greenhouse gas emissions, with early priority on disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code?”

The LSEs will need to balance subsection (H) with the various other subsections of Section 454.52(a)(1), including maintaining local and system grid reliability, achieving 50 percent renewables, and minimizing rate impacts. Health and Safety Code Section 39711 relates to identifying opportunities to invest cap-and-trade revenues to lower GHG emissions. Accordingly, while specific requirements that treat all LSEs the same likely will prove unmanageable, the Commission can impose on each jurisdictional LSE the requirement to address in its IRP each of the subsections prescribed in Section 454.52(a)(1) and how what they propose to do is just and reasonable in light of the statute.

13. How should an LSE be asked to demonstrate that its IRP will “minimize localized air pollutants and other greenhouse gas emissions, with early priority on disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code?”

The Commission should ensure that LSEs’ IRPs *balance* Section 454.52(a)(1)(H) with all other goals prescribed in Section 454.52(a)(1). In affecting this balancing, the Commission should ensure suitable investment in disadvantaged communities of energy efficiency (EE) and electric vehicle (EV) infrastructure to reasonably balance the criteria of subsection (H) with all the other criteria prescribed in Section 454.52(a)(1).

a. Specify whether the LSEs’ activities should occur as part of a technical planning process, public engagement process, procurement process, or some other aspect of the IRP process.

IEP has no comment at this time.

b. Should LSE activity utilize an existing process or tool such as CalEnviroScreen, or a new one? Describe in detail.

An individual LSE should not be required to use the CalEnviroScreen. The CalEnviroScreen was statutorily developed for another purpose and does not fit into the IRP statutory context. The CalEnviroScreen was developed as a tool to be used by the California Environmental Protection Agency (CalEPA) to identify investment opportunities in disadvantaged communities for the broad purposes of mitigating the effects of climate change. The communities are to be identified based on geographic, socioeconomic, public health, and environmental hazard criteria. The investment funds, determined in a Department of Finance 3-year investment plan, are to realize *additional* emission reductions [additional to those otherwise obtained via implementation of SB 32] and to mitigate direct health impacts on California's most impacted and disadvantaged communities. (SB 535, 2012). This is a very different purpose than what is called for in Section 454.52(a)(1)(H). Section 454.52(a)(1)(H) describes a factor to be used in the development of an individual LSE's IRP which has to be balanced with a number of other critical factors. Use of the CalEnviroScreen as the means to identify disadvantaged communities for purposes of IRP planning risks a host of unintended consequences, including the delay of investment in needed infrastructure to ensure grid reliability and lower ratepayers' costs.

c. Should the LSEs' showings be required to be qualitative, quantitative, or both? Describe in as much detail as possible.

As noted above, many of the policy goals prescribed in Section 454.52(a)(1) should be treated as being qualitative in nature. Only one of the goals prescribed in Section 454.52(a)(1) can be reliably measured, i.e. procuring at 50 percent eligible renewable resource (Section 454.52(a)(1)(B)). The other goals are essentially qualitative in nature or raise real questions as to

what is the legislature’s intent. For example, “Strengthening the diversity, sustainability, and resilience of the bulk transmission and distribution system” (subsection F): what does this language actually mean in practice? Because each of the LSEs will file an IRP related to its individual portfolio, service territory, load profiles, etc., the risk of double-counting impacts is significant if quantitative measured is attempted. As a bottom line, bad data fosters bad policy, and the requirement to measure impacts for most of the Section 454.52(a)(1) policy objectives will render bad data.

14. How should the Commission respond and what should be the consequences if an LSE fails to demonstrate that it has satisfied the requirements of SB 350 with respect to disadvantaged communities?

The requirements of SB 350 with respect to disadvantaged communities relate solely to prioritizing efforts at lowering localized emissions in the context of all the other myriad policy goals, including minimizing ratepayer bills and ensuring grid reliability. To the extent that an LSE’s IRP fails to meet the requirements of Section 454.52(a)(1), then the Commission has the authority to *not approve* the IRP in the context of an electrical corporation; presumably *seek additional review* in the context of ESPs; and, *not certify* the IRP in the context of CCAs.

15. Should all LSEs required to file IRPs also be required to demonstrate the conditions of 454.52(a)(1)(H) are met? If not, what criteria should the Commission use to differentiate among LSEs?

Each LSE should be required to demonstrate in its IRP how its plan addresses each of the provisions of Section 454.52(a)(1) including subsection (H).

3.1 Questions related to the Transmission and Distribution System and Demand-side Management

1. Should the term “distribution systems” in Public Utilities Code Sections 454.52(a)(1)(F) and (G) be defined in the same manner? Or should a distinction be

made between the distribution system in subsection (F) and the distribution system in subsection (G)? Explain your rationale.

Yes. In this section of the PU Code, the legislature did not distinguish or qualify the use of the term “distribution systems” in subsections (F) and (G). One must assume the legislature seeks consistency in its prescriptions. Thus, to ensure consistency in implementing the intent of the legislature, the Commission must define the term “distribution system” used in (F) and (G) the same for purposes of implementing this section of the PU Code.

2. How should “demand-side energy management” in subsection (G) be defined, interpreted, and applied?

As the legislature did not define “demand-side energy management” in this section of the PU Code, the Commission should interpret the term “demand-side management” in subsection (G) as encapsulating those technologies, resources, or behaviors used in the California Energy Commission’s Demand Forecast which are forecast to reduce or shift load, including Energy Efficiency (EE), Demand Response (DR), storage (charging), and time-of-use (TOU) rates. Each LSE should apply demand-side management programs consistent with those assumed in the California Energy Commission’s Demand Forecast barring changed circumstances demonstrated by the LSE as part of its IRP.

3. How should the activities in the context of IRP in this proceeding be coordinated with ongoing work on ...

a. integrated distributed energy resources (IDER) in rulemaking (R.14-10-003)?

IEP has no comment at this time.

b. the distribution resources planning rulemaking (R.14-08-013)?

IEP has no comment at this time.

4. How should the requirements of Public Utilities Code Sections 454.52(a)(1)(F) and (G) relate to the Commission’s ongoing work in the areas of energy efficiency,

demand response, storage, distributed generation, and electric vehicles? Is there something additional that should be required in the context of SB 350's IRP requirements? Describe.

IRP planning and procurement represents a balancing act of a myriad of goals and objectives, some of which may be competing in nature. Goals and objectives prescribed in PU Code Sections 454.52(a)(1)(F) and (G) should be balanced with other objectives in the areas of energy efficiency, demand response, storage, distributed generation, and electric vehicles.

5. Is there a distinction to be made between ongoing program-related efforts on "demand-side energy management" and the new SB 350 related requirements? Describe your recommended approach.

IEP presumes that the legislature intended the Commission to comply with SB 350 in light of its on-going, existing programs unless otherwise stated.

Questions Related to Public Utilities Code Section 454.52(a)(1)(G)

9. What requirements should the Commission impose on LSEs to ensure that they meet the statutory requirements that they "enhance distribution systems and demand-side energy management?"

See response to Question 9 related to Section 454.52((a)(1)(F) located above.

10. How should an LSE be asked to demonstrate that its IRP will "enhance distribution systems and demand-side energy management?"

Each LSE shall be required to demonstrate that its IRP reasonably balances consideration of the impacts on the distribution systems in the area it serves in light of all its other policy objectives. However, given the importance of the distribution system to grid reliability, each LSE should also be required to demonstrate that its IRP will not undermine or degrade the reliability of the electric grid, including the transmission and distribution systems.

a. Specify whether the LSEs' activities should occur as part of a technical planning process, public engagement process, procurement process, or some other aspect of the IRP process.

IEP has no comment at this time.

b. Should LSE activity utilize an existing process or a new one? Describe in detail.

IEP has no comment at this time.

c. Should the LSEs' showings be required to be qualitative, quantitative, or both? Describe in as much detail as possible.

IEP has no comment at this time.

11. Should all LSEs required to file IRPs also be required to demonstrate the conditions of 454.52(a)(1)(G) are met? If not, what criteria should the Commission use to differentiate among LSEs?

Yes; however, as noted above, the LSE demonstration of compliance with subsection (G) is a balancing of the various goals and objectives prescribed in Section 454.52(a)(1)(A)-(H) including (G).

IEP appreciates the opportunity to provide these comments. We look forward to continue working with the Commission on developing an IRP framework and to coordinate long-term procurement planning requirements.

Respectfully submitted February 17, 2017 at San Francisco, California.

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