

**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.

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

**COMMENTS OF THE INDEPENDENT ENERGY  
PRODUCERS ASSOCIATION ON THE ASSIGNED  
COMMISSIONER AND ADMINISTRATIVE LAW JUDGE  
RULING SEEKING COMMENT ON POLICY ISSUES AND  
OPTIONS RELATED TO RELIABILITY**

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In response to the Ruling of the Assigned Commissioner and Administrative Law Judge (Ruling) seeking comment on policy issues and options related to reliability (dated November 16, 2018), the Independent Energy Producers Association (IEP) is pleased to provide these comments addressing emerging electricity market issues in the near-to-medium term that may affect overall electric system reliability.

The Ruling seeks parties' comments on what the Commission or others such as the California Independent System Operator (CAISO) should be doing that is not currently being done to address the emerging electricity market issues related to ensuring near-to-medium term electric system reliability. In describing the issues related to this matter, the Ruling notes that California is currently entering an era of tighter generation supplies than has been experienced in recent years,<sup>1</sup> and the Ruling poses the question whether the market structure is equipped to meet the electric resource needs given various public policy goals, particularly ambitious greenhouse

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<sup>1</sup> Ruling, p. 3.

gas (GHG) reduction goals.<sup>2</sup> The Ruling notes various factors that exacerbate the problem of maintaining near- and medium-term reliability, including (a) the scheduled retirements of existing capacity over the near- and medium-term and (b) the significant increase in the amount of load being served by community choice aggregation (CCA) and electric service providers (ESPs) resulting in load once served by the utilities now being served by multiple load-serving entities (LSEs).

The Ruling concludes that the market is characterized increasingly as having many buyers and few sellers to support grid reliability, and this phenomenon may lead to a situation where certain resource owners may have the ability to exercise market power.<sup>3</sup> Importantly, while the Legislature, the Governor, and the Commission have historically supported a market-oriented solution to meet energy needs (capacity and energy), the Ruling makes the observation that the Commission appears to be moving away from a market-oriented approach and looking more like an administratively-planned model as parties identify in the Integrated Resource Planning (IRP) process specific resources needed to maintain reliability.<sup>4</sup>

## **I. General Comments on Ruling**

IEP provides below some general observations regarding emerging electricity market issues and reliability. Next, we make recommendations about what should be done to address reliability in the near-to-medium term. Finally, we respond to the specific questions posed by the Ruling.

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<sup>2</sup> Ruling, p. 4.

<sup>3</sup> Ruling, p. 5.

<sup>4</sup> Ruling, p. 5.

### **A. Capacity Additions Are Dependent on Commission Action**

Gaps in needed capacity to meet near- and medium-term needs are primarily a function of Commission decision-making or lack thereof over the past five years.<sup>5</sup> Over the years, the Commission repeatedly has chosen to not institute a centralized capacity market through which needed capacity is “cleared” to meet identified needs. Rather, the Commission has adopted a model in which capacity is procured through a bilateral contract market in which Buyers and Sellers contract for capacity via power purchase agreements (PPAs) supplemented by capacity derived through utility-programs and/or utility-owned generation the cost of which is recovered directly in rate-base.

Under the Commission’ model, if the Commission does not in a timely manner direct jurisdictional LSEs to procure capacity forecast to be needed in the near- and medium-term, then jurisdictional LSEs are not likely to enter into contracts to procure that capacity. If jurisdictional LSEs avoid contracting, then the requisite investment in needed capacity is not likely to occur.<sup>6</sup> This is the situation in which California finds itself today.

### **B. The Commission Has Authorized Little Procurement Over the Past Five Years to Address Emerging Reliability Concerns**

The emergence of a looming supply-shortage should be no surprise. Currently, the primary vehicles for obtaining new capacity to meet long-term capacity needs are the

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<sup>5</sup> The Commission cannot and should not rely on CAISO administered markets to incent new capacity needed in the near- and medium-terms. CAISO markets are short-duration and focused on energy and ancillary services, and CAISO markets are increasingly impacted by the growth in preferred resources typically characterized by low, zero or even negative going-forward marginal costs that tend to lower the market clearing price (MCP) in CAISO markets in many hours of the day to undermine investors’ ability to recover.

<sup>6</sup> Except in the case of when utility owned generation (UOG) is afforded cost recovery through rates outside of markets or, alternatively, resources are afforded cost recovery through alternative, legislatively mandated subsidies.

Commission's LTPP/IRP and the RPS Plans proceedings. The Commission authorizes procurement as well through various feed-in tariff mechanisms (e.g. RAM, BioRAM, BioMat, ReMAT); yet, these procurement mechanisms are relatively small in scope and scale and targeted to specific technologies.

In the context of the LTPP/IRP planning process,<sup>7</sup> the Commission has authorized little procurement in since 2014-2015. The most recent LTPP/IRP decision authorizing procurement occurred in 2014 to replace the capacity of the San Onofre Nuclear Generating Station (SONGS) when it unexpectedly shut-down.<sup>8</sup> While important, the SONGS Replacement procurement appears to have been more of an anomaly than a pattern in LTPP/IRP decision-making.

Similarly, in the context of RPS implementation, the Commission last directed one or more utilities to conduct a general RPS solicitation in 2014 in response to LSE submitted RPS Plans, i.e. the solicitation was above and beyond that which was authorized in the context of various renewable feed-in tariffs which also are part of the LSE RPS Plans.<sup>9</sup> Since that 2014 authorization, little if any procurement of RPS-eligible renewables has been authorized to help meet state RPS and GHG policy objectives although the Commission has the authority to

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<sup>7</sup> Public Utilities Code Section 454.52(a)(1) directs the Commission to adopt a process for each load-serving entity to file an integrated resource plan, and a schedule for periodic updates to the plan to ensure that load-serving entities do the following: a) meet GHG targets; b) procure 50% eligible renewables by 2030 (subsequently increased to 60% by SB 100); c) enable just and reasonable rates; d) minimize impacts on ratepayer bills; e) ensure system and local reliability; f) strengthen the diversity, sustainability and resilience of the bulk power system and local communities; g) enhance distribution systems and demand-side energy management; and h) minimize localized air pollutants with early priority on disadvantaged communities.

<sup>8</sup> Decision 14-03-004 (issued March 14, 2014).

<sup>9</sup> D.14-11-042 (issued November 20, 2014). This decision conditionally accepted the 2014 Renewables Portfolio Standard Procurement Plans; directed Pacific Gas & Electric Company (PG&E) and Southern California Edison Company (SCE) to initiate the RPS solicitation process for 2014; and accepted San Diego Gas & Electric Company's (SDG&E) request to not hold a 2014 RPS solicitation. See D.14-11-042, at p. 2.

increase RPS procurement quantities on load-serving entities above statutory minimums (other than that which is procured through various renewable feed-in tariffs).<sup>10</sup>

As a practical matter, the Commission over the past four years has declined to authorize the procurement of resources outside of one-year RA arrangements and relatively targeted renewable feed-in tariffs. Given that many of the emerging issues and trends raised by the Ruling have been raised in one or more Commission proceedings, the lack of procurement appears to be a function of on-going integrated resource planning authorized under SB 350 enacted in 2015. As noted in the Ruling, the Commission appears hamstrung by the need to administratively determined outcomes through complex, litigious planning in order to “get it correct.” Yet, resource planning (particularly medium- to long-term resource planning) is inherently uncertain. The Commission will never “get it correct” nor make decisions with absolute certainty as to outcomes. The Commission at best can act prudently and reasonably in a timely manner to achieve, at a minimum, grid reliability in the near-, medium-, and long-term while cognizant of long-term policy objectives (e.g. RPS, GHG reduction).

### **C. The CPUC Has Existing Authority to Direct Timely, Cost-effective Procurement to Address Emerging Trends**

The lack of timely procurement is not a function of unclear or ambiguous Commission authority.<sup>11</sup> The Commission has clear and broad jurisdiction over all jurisdictional LSEs in the

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<sup>10</sup> PU Code Section 399.15(a): “In order to fulfil unmet long-term resource needs, the commission shall establish a renewables portfolio standard *requiring all retail sellers to procure a minimum quantity* of electricity products from eligible renewable energy resources ...” [emphasis added.]

<sup>11</sup> Questions regarding the extent of the Commission’s general authority under SB 350 appear misplaced in the context of addressing the emerging trends highlighted in the Ruling. The Commission has ample authority pursuant to its RA and RPS authorities, i.e. outside of SB 350, to authorize procurement to help meet near- and medium-term capacity needs while moving forward to realize long-term public policy goals (RPS and GHG reduction).

context of resource adequacy (RA).<sup>12</sup> Moreover, the Commission has adopted a capacity allocation mechanism (CAM) to enable the proper allocation of costs incurred to maintain reliability to all beneficiaries. The CAM mechanism, while controversial, has been a fixture of the Commission’s Long-Term Procurement Policy and is based on the principle that the costs and benefits of new generation should be shared by all benefitting customers in an investor-owned utility’s service territory.<sup>13</sup>

The Commission also has broad authority over all retail sellers subject to the Commission’s jurisdiction (e.g. investor-owned utilities (IOUs), CCAs, and ESPs) with regards to the timely, minimum procurement of renewable resources to meet long-term public policy RPS and GHG goals.<sup>14</sup> Furthermore, the Commission has the means to allocate the cost/benefits of renewable procurement to all beneficiaries through the non-bypassable, Procurement Cost Indifference Adjustment (PCIA) mechanism.

The Commission has adopted and employed procurement mechanisms to help ensure that, whatever resources are procured by the regulated utilities, those resources match reasonably

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<sup>12</sup> The Commission adopted an RA policy framework (PU Code section 380) in 2004 to ensure the reliability of electric service in California. PU Code Section 380 states: (a) The commission, in consultation with the Independent System Operator, *shall establish resource adequacy requirements for all load-serving entities*. (b) In establishing resource adequacy requirements, the commission shall achieve all the following objectives: (1) *Facilitate development of new generating capacity and retention of existing generating capacity that is economic and needed*. (2) *Establish new or maintain existing demand response products and tariffs* that facilitate the economic dispatch and use of demand response that can either meet or reduce an electrical corporation’s resource adequacy requirements, as determined by the commission. (3) *Equitably allocate the cost of generating capacity and demand response* in a manner that prevents the shifting of costs between customer classes. (4) Minimize enforcement requirements and costs.

<sup>13</sup> *Cost Allocation Mechanism*, California Public Utilities Commission Policy and Planning Division, September 24, 2014, p. 3.

<sup>14</sup> PU Code Section 399.15(a): “In order to fulfil unmet long-term resource needs, the commission shall establish a renewables portfolio standard *requiring all retail sellers to procure a minimum quantity* of electricity products from eligible renewable energy resources ...” [emphasis added.]

well with forecast needs while being procured in a competitive, least-cost framework. As a result, any costs allocated through a non-bypassable charge mechanism will be a function of resources procured pursuant to a least-cost and best-fit (LCBF) procurement framework.<sup>15</sup>

#### **D. Lack of Timely Procurement Exacerbates the Risk of Market Power**

Somewhat surprisingly, the Ruling raises the concern that the increasing growth of the number of Buyers and the decreasing presence of Sellers heightens concerns about the exercise of market power.<sup>16</sup> First and foremost, IEP notes that the scarcity of Sellers does not necessarily equate to the exercise of market power, let alone the risk of the exercise of market power. We note this because the Ruling suggests relatively dramatic changes in procurement rules to mitigate an event (i.e. the *exercise* of market power) for which wholesale markets have abundant remedies.

On the other hand, the scarcity of Sellers is primarily a function of the lack of procurement that would bring additional sellers and/or resources into the market. As a practical matter, the CAISO markets are inadequate in supporting new merchant Sellers absent capacity contracts. To the extent that the California market is characterized (or will soon be characterized) by a scarcity of Sellers (or a scarcity of available capacity), the scarcity is primarily a result of a lack of procurement in the RA, RPS, and/or LTPP/IRP proceedings governed by the Commission. Commission procurement decisions drive the competitiveness of

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<sup>15</sup> The RPS statute, for example, requires utilities to select renewable resources that are least-cost and best-fit. Costs include the cost of the renewable energy generation as well as any indirect costs due integration of the resource and needed transmission investment. In addition, IOUs consider the benefits of the energy and capacity value. “Best fit” criteria address their system needs and RPS portfolio needs. See D.04-07-029, D.08-12-058, D.11-04-030, D.12-11-016, and D.14-11-042 for more information.

<sup>16</sup> Ruling, p. 5-6.



the market: no procurement, then less competition, less capacity additions, and increasing risk of market power.

## **II. What Steps Should the Commission Take to Address Emerging Capacity Issues?**

The Ruling seeks feedback on how to address the emerging electricity market issues in the near-to-medium term that may affect overall electric system reliability.<sup>17</sup> The Commission does not need to dramatically change its long-term planning activities (e.g. the IRP, RPS) to address the issues identified as emerging in the near- and medium-terms, nor must the Commission dramatically alter the market. Any dramatic change, no matter how warranted, likely will unsettle the financial markets, thereby undermining the investment needed to ensure near- and medium-term grid reliability.

Rather, the Commission should take a more nuanced and measured approach in the immediate future (e.g. 2019) to foster the timely procurement of capacity needed to ensure near- and medium-term grid reliability while moving forward to meet longer term goals such as the RPS and GHG reduction by 2026-2030. To the extent that the Commission pursues more significant changes in the overall market model, this consideration should take place in parallel with the exercise of the Commission's existing authorities needed to ensure grid reliability in the near- and medium-term capacity needs.<sup>18</sup>

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<sup>17</sup> Ruling, p. 1.

<sup>18</sup> Viable alternatives to the existing market model are available, e.g. a centralized capacity market. Yet, their design and implementation will be contentious, litigious, and drain significant amounts of time and resources. Were the Commission to open a proceeding to consider significant change in the existing market model, one would not optimistically expect resolution to the myriad questions for another 3-5 years at best. Thus, this strategy may not assist in resolving near- and medium-term market issues.

Specifically, the Commission should employ its existing RA authorities in 2019 to address resource adequacy concerns over the near- and medium-term. Moreover, the Commission should employ existing authorities to direct the procurement necessary to meet long-term, 2026-2030 policy objectives related to the RPS and GHG reduction. Specifically, the Commission should take the following action in 2019:

- Adopt a Multi-year RA Framework beginning in 2020 of minimum 3 years duration, and set the Year 3 obligation at no less than 90% of the forecast need based on CAISO studies. The multi-year RA framework applies to all jurisdictional LSEs.

*[A RA Track 2 Decision is expected to be on the agenda of the January 10, 2019 Business Meeting]*

- Increase the RPS Minimum Procurement Requirement to begin the process of procuring the thousands of MWs of incremental, new renewables needed to meet public policy goals (RPS, SB 350).<sup>19</sup> The RPS minimum procurement quantity will apply to all jurisdictional retail sellers.

*[A Decision adopting the LSE's 2018 RPS Plans is expected in the first quarter of 2019]*

- Address remaining issues in the 2018-2019 IRP proceeding by, among other options, directing the investor-owned utilities to fill remaining capacity and/or public policy needs through an all-source, LCBF competitive procurement and allocate costs to all beneficiaries through the CAM or PCIA cost-allocation mechanism as appropriate.

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<sup>19</sup> Preliminary results from RESOLVE modeling indicate that, under the 42 MMT GHG target and a 50% RPS by 2030, incremental new renewables total approximately 10,000 to 11,000 MWs. See *Preliminary RESOLVE Modeling Results for Integrated Resource Planning at the CPUC*, CPUC Energy Division Staff Presentation, July 19, 2017. While preliminary, these results provide an illustration of the scope and scale of needed procurement to meet the 2030 goals.

*[A Decision adopting the 2018-2019 IRP Reference Plan is expected in the first quarter of 2019.]*

IEP elaborates on the rationale for these recommendation as it responds to the Questions posed in the Ruling.

### **III. IEP Response to Questions Posed in Ruling**

The Ruling presented a series of questions addressing electricity market issues. IEP provides below its answers to each of the questions posed in the ordered presented.

#### **1. Does the California electricity system face a near-or medium-term reliability challenge? If so, describe how you see the nature of the problem.**

Yes. The California electricity system faces near- *and* medium-term challenges to maintain grid reliability. IEP views near-term to cover the 2019-2021 timeframe. We view the medium-term to cover the 2022-2026 timeframe. The challenges include historically high levels of retirements of existing generation (e.g. OTC, Diablo Canyon Generating Facility) that collectively represent 9,000-11,000 MW of capacity, much of which is “flexible capacity”; relatively little incremental procurement of any kind since 2015 to replace the capacity that is retiring or will soon retire, other than small amounts of capacity procured through feed-in tariffs; and, an inadequate RA program to ensure that needed resources remain available during the near- *and* medium-term.

The primary problem is the lack of timely procurement of needed capacity to meet the near- and medium capacity needs of the system, including increasing amount of flexible capacity. This problem is a function of an inadequate RA framework and the lack of any significant procurement in the RPS and LTPP/IRP context addressing long-term policy goals and objectives.

To the extent that any investment in new resources is occurring in California under the auspices of the Commission (in addition to the limited feed-in tariff mechanisms), most of the investment today is targeted toward distributed resources (EE, BTM Solar, and storage) of unknown viability in terms of meeting local, system, and flexible capacity requirements at the scope/scale needed over the near- and mid-term.

**2. Is the resource adequacy or the IRP proceeding (or a mix of both) the appropriate venue for addressing these types of reliability concerns? Explain your rationale.**

The current RA program is designed to ensure that the local, system, and flexible capacity resources need to ensure reliability over the next year are procured by LSEs in a timely manner. The current RA program is inadequate, however, at providing assurances today that the resources needed to meet capacity requirements in the near-term (e.g. 2019-2021) or in the mid-term (2022-2026) will be available.

**3. Are potential solutions to the problems you describe in answer to Question 1 already under consideration? If so, where?**

The current RA proceeding (R.17-09-020) is considering refinements to the existing multi-year RA framework in Track 2, including the duration of the framework and the annual obligations. A proposed decision (PD) has been released for comment. The matters are scheduled to be discussed at the January 10, 2019 Commission's Business Meeting.

The current RPS proceeding (R.18-07-003) is reviewing the 2018 RPS Plans submitted by jurisdictional retail sellers. A PD is scheduled for late 2018/early 2019.

The current IRP proceeding (R.16-02-007) is reviewing jurisdictional LSEs IRP filings. A decision is expected in the first quarter of 2019.

**4. If your preferred solutions are not already under consideration, describe what else is needed, why, and where. In making your recommendations, please address issues of cost allocation, cost minimization, environmental justice, impacts on existing LSE procurement processes, ability to support achievement of state policy goals, and any other topics relevant to your recommendations.**

IEP's preferred solution generally is to have the Commission direct needed procurement in a timely manner (as discussed above).

In addition, IEP's preferred solution is to extend the multi-year RA framework to cover a full 3 years, while setting the Year 3 obligation at no less than 90% of the forecast need based on CAISO studies. The Commission should impose the obligation to cover Local, System, and Flexible Capacity. This will ensure that the existing resources needed for local, system, and flexible reliability over the near- and medium term will be procured in the forward markets in an efficient, least-cost and best-fit manner.

The Commission should impose the RA obligation on all LSEs. If they are deficient in their annual showings, then authorize the investor-owned utilities to procure additional resources and allocate the costs to deficient LSEs. Alternatively, the CAISO will fill deficiencies through its Backstop Procurement Mechanisms (e.g. CPM) on an annual basis (i.e. one-year procurement covering the following year), and those costs should be allocated to those LSEs shown to be deficient in Local, System, and Flexible RA via the CAM (or PCIA) mechanism.

Issues of environmental justice (EJ) should be addressed in bid-evaluation under an LCBF procurement mechanism. To the extent that EJ and public policy objectives are valued in bid-evaluation, those values should be known in advance by bidders so that project development can align with policy goals and objectives.

IEP's recommended approach is consistent with the Commission's current bilateral market model. One key change we recommend is to provide certainty to market participants, particularly developers of new resources, that RA, RPS, and IRP procurement will be timely and

periodic (e.g. annual or bi-annual). An up-front commitment by the Commission to direct procurement on a timely, consistent, and periodic basis will assist in moving new development forward in a more cost-effective manner. Currently, project development in California often takes 5 years or more to complete due to costly siting requirements, litigation, etc. Because of these expenses, many developers will await a power purchase agreement before investing significant sums.

**5. Is the CAISO market structure equipped to handle the challenges you identified in response to Question 1? Why or why not?**

The CAISO market structure currently is not equipped to handle the emerging challenges as discussed above for several reasons. First, the Commission repeatedly has chosen over the past decade a procurement model that relies on bilateral contracting rather than a centralized capacity market. As a result, the CAISO market structure is designed to serve as the procurer of last resort, i.e. the CAISO's market structure is designed to incent LSEs to procure the needed capacity in the forward markets by setting relatively high prices that it is willing to pay to fill deficiencies in forward, LSE procurement. Second, the CAISO markets are short-term, i.e. Day-Ahead and Real-Time, and focused on procuring energy and ancillary services to ensure grid reliability and meet load requirements in real-time. The CAISO has an ability to procure capacity via its CPM and RMR procurement mechanisms, but this procurement is of short-duration (e.g. no more than one year forward) and, therefore, the CAISO markets cannot ensure that the capacity needed to ensure near- and medium-term reliability is being procured today.

**6. Are there more global solutions available via Commission coordination with the CAISO and/or beyond the reach of the Commission on its own? What are they and how should they be addressed?**

At this point, the Commission's bilateral contract model likely will have to suffice to meet near- and medium-term reliability needs, due to the time it would take to consider, adopt, and implement an alternative solution.

On the other hand, the Commission could and perhaps should consider the utility of a centralized capacity model to clear all needed local, system, and flexible capacity needed over the next 3-5 years. While the CAISO may be perfectly positioned to administer such a model, third-party providers may also be capable of administering a centralized capacity market. Key considerations will be (a) market independence, (b) credit-worthiness, and (c) cost-allocation. Importantly, the details of a centralized procurement model are complex and warrant extensive discussion and review prior to implementation.

**7. How can the Commission and the public monitor market behavior by generation owners? For example, offering capacity in LSE solicitations, receiving contracts in any Commission-mandated or LSE-sponsored venue, making public data on CAISO market bid prices, or requests for special designation by the CAISO. What types of reporting should be required and what types of entities should report? Should generators seeking contracts be required, via the Commission's procurement rules, to attest that they have or will offer their other available capacity into any solicitations from Commission-jurisdictional LSEs?**

Ample institutions exist today to monitor market behavior of sellers. These include the Commission, the CAISO (Department of Market Monitoring), and the Federal Energy Regulatory Commission (FERC). Competitive wholesale markets administered throughout this country have similar market monitoring structures.

As noted in the Ruling, a key contributor to the concerns of an increasing risk of market power is the phenomenon of diminishing numbers of sellers. In the California market today, few if any generators (indeed, any resources) are developed as "merchant" facilities willing to risk

cost recovery solely on the basis of CAISO-administered energy markets, because these markets are increasingly dominated by low, zero, and often negative-priced bids which tend to drive the MCP downward to the point where revenue insufficiency is an obvious problem. As a result, resources in the California markets are dependent on capacity payments to supplement their revenues. In the absence of a centralized capacity market, the primary means in California to obtain a capacity payment is through a bilateral contract and/or an out-of-market subsidy.

In effect, the risk of the exercise market power in the California markets today is as much a function of inadequate supply as any other factor. Inadequate supply is a function of inadequate procurement; and, inadequate procurement is a function of untimely decision-making by the authorities governing procurement.

As a result, the reporting suggested in Question #7 is neither warranted, practical, nor the answer to the emerging issues raised in the Ruling. Requiring generators through Commission procurement rules to participate in LSE procurements whenever they occur also is not the answer. IEP strongly disagrees with this proposal for the reasons discussed below:

**What types of reporting should be required and what types of entities should report?**

While not supporting this proposal, if this approach were imposed then all resources/bidders should face the same reporting requirements and obligations, the same bid standards, and the same operational standards. Increasingly, non-traditional resources (e.g. EE, DR, Storage) are eligible to bid in solicitations, and these resources should have the same reporting obligations as all other resources.

**Should generators seeking contracts be required, via the Commission's procurement rules, to attest that they have or will offer their other available capacity into any solicitations from Commission-jurisdictional LSEs?**

No, for a couple of reasons. First and foremost, this requirement would remove the opportunity for suppliers to sell to non-CPUC jurisdictional entities, e.g. municipal



utilities, public power entities, and exports. The risks are immense that such a rule would result in unintended and unknown consequences negatively impacting California energy markets. Second, the Boards of generating companies would be unlikely to agree to such a standard as it imposes unknown and unquantifiable risks on generators. Ultimately, were such a requirement imposed on generators, the effect would likely be to reduce the number of bidders in solicitations; thereby, further constricting supply and operating against the Commission's interests in mitigating the risk of market power through supply.

**8. What challenges do the advent of 40+ LSEs present for near-and medium-term reliability investments, particularly to support renewable integration?**

The advent of 40+ LSEs does not present any near- and medium-term challenges that cannot be addressed through the Commission's existing authorities. For example, the Commission has the authority to set flexible RA capacity obligations to facilitate the integration of renewables as the RPS obligations increase. Commission-adopted flexible RA obligations are imposed on all CPUC jurisdictional LSEs, including CCAs and ESPs. The Commission has the authority to establish a multi-year RA framework to help the capacity to ensure near- and mid-term reliability is contracted in a timely manner. Moreover, the Commission has the authority to schedule RPS procurements to ensure the orderly development of new RPS-eligible renewables needed to meet long-term (2026-2030) RPS and GHG reduction goals.

**9. Provide any other information you think would be relevant to the Commission's consideration of these issues.**

The reliability issues raised by the Commission are not new. Parties including IEP have raised concerns over the years about emerging trends and increasing reliability risks.<sup>20</sup> The emerging issues and concerns primarily appear to be the result of inadequate procurement to

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<sup>20</sup> See *Comments of the Independent Energy Producers Association (IEP) on the Draft Green Book on California Customer Choice*, submitted June 11, 2018.

meet the grid needs of the future, particularly during a period of relatively high retirement of existing resources. This problem can be addressed through timely procurement directed by the Commission. In this context, IEP recommends that the Commission do the following in 2019:

- **Use the RA Track 2 Decision** (expected in the first quarter of 2019) to adopt a Multi-year RA Framework of a minimum three years duration and set the Year 3 obligation at no less than 90% of the forecast need.
- **Use the 2018 RPS Plans Decision** (expected in the first quarter of 2019) to raise the RPS Minimum Procurement Requirement borne by all jurisdictional LSEs, including CCAs and ESPs, to *begin* the process of procuring the thousands of MWs of incremental, new renewables needed to meet public policy goals (RPS, SB 350).
- **Use the 2018-2019 IRP Decision** (expected in the first quarter of 2019) to direct the investor-owned utilities to procure resources to fill remaining gaps in procurement reasonably necessary to meet near- and medium-term reliability needs and begin the process of meeting long-term RPS and GHG reduction goals. Allocate the costs via the PCIA as appropriate.

Respectfully submitted December 20, 2018 at San Francisco, California.

A handwritten signature in black ink that reads "Steven Kelly". The signature is written in a cursive, flowing style with a large, sweeping flourish at the end.

INDEPENDENT ENERGY PRODUCERS ASSOCIATION  
Steven Kelly, Policy Director