

Rulemaking
Exhibit
Date
Witness
ALJ

R.20-11-003

September 10, 2021

Marie Y. Fontenot

Brian Stevens and Sarah R. Thomas

REPLY TESTIMONY OF
MARIE Y. FONTENOT
ON BEHALF OF
CALIFORNIA COMMUNITY CHOICE ASSOCIATION



1 **ORDER INSTITUTING RULEMAKING TO ESTABLISH POLICIES, PROCESSES, AND**
2 **RULES TO ENSURE RELIABLE ELECTRIC SERVICE IN CALIFORNIA IN THE EVENT**
3 **OF AN EXTREME WEATHER EVENT IN 2021.**

4 **R.20-11-003**

5
6 **REPLY TESTIMONY OF**
7 **MARIE Y. FONTENOT**
8 **ON BEHALF OF**
9 **CALIFORNIA COMMUNITY CHOICE ASSOCIATION**

10
11 **TABLE OF CONTENTS**

12 I. INTRODUCTION1

13 II. THE COMMISSION SHOULD RECOGNIZE LSES’ ONGOING EFFORTS TO
14 PROCURE ON AN EXPEDITED BASIS WITHOUT PENALIZING LSES IF
15 THEY CANNOT MEET NEW PROCUREMENT TARGETS GIVEN THE
16 ABBREVIATED TIMELINE OF THIS RULEMAKING.....1

17 III. THE COMMISSION SHOULD ENCOURAGE EXPEDITED PROCUREMENT OF
18 RESOURCES AVAILABLE AT NET PEAK TO A LEVEL EQUIVALENT TO A
19 17.5 PERCENT PRM3

20 IV. THE COMMISSION SHOULD ADOPT A SYSTEM RA WAIVER PROCESS FOR
21 LSES WHO DEMONSTRATE REASONABLE EFFORTS TO PROCURE.....6

22 V. IF THE COMMISSION ADOPTS A PROCUREMENT MECHANISM IN WHICH
23 THE IOUS PROCURE ON BEHALF OF ALL BENEFITING CUSTOMERS, THE
24 METHOD FOR ALLOCATING COST AND BENEFITS MUST BE CLARIFIED
25 FOR THIS PHASE 2 PROCUREMENT AND PROCUREMENT MANDATED IN
26 D.21-03-0567

27 VI. CONCLUSION.....8

28

1 **I. INTRODUCTION**

2 California Community Choice Association (CalCCA) appreciates the creative demand-
3 side and supply-side solutions proposed by parties in opening testimony to enhance summer
4 reliability in 2022 and 2023. In response to testimony submitted on supply-side proposals,
5 CalCCA recommends:

- 6 • The California Public Utilities Commission (Commission) should recognize load-
7 serving entities' (LSEs') ongoing efforts to procure on an expedited basis without
8 penalizing LSEs if they cannot meet new procurement targets given the
9 abbreviated timeline of this rulemaking;
- 10 • The Commission should encourage expedited procurement of resources available
11 at net peak to a level equivalent to a 17.5 percent planning reserve margin (PRM);
- 12 • The Commission should adopt a system Resource Adequacy (RA) waiver process
13 for LSEs who demonstrate reasonable efforts to procure; and
- 14 • If the Commission adopts a procurement mechanism in which the investor-owned
15 utilities (IOUs) procure on behalf of all benefiting customers, the method for
16 allocating costs and benefits must be clarified for this Phase 2 procurement and
17 procurement mandated in Decision (D.) 21-03-056.

18 **II. THE COMMISSION SHOULD RECOGNIZE LSES' ONGOING EFFORTS**
19 **TO PROCURE ON AN EXPEDITED BASIS WITHOUT PENALIZING**
20 **LSES IF THEY CANNOT MEET NEW PROCUREMENT TARGETS**
21 **GIVEN THE ABBREVIATED TIMELINE OF THIS RULEMAKING**

22 CalCCA supports a procurement mechanism in which LSEs make best efforts to procure
23 additional supply side resources to support summer reliability in 2022 and 2023. Such an
24 approach would maximize the likely expedited procurement and a more diverse range of
25 solutions. CalCCA and other LSEs have demonstrated efforts already underway to expedite

1 procurement to the extent possible above existing procurement mandates to support summer
2 reliability. However, parties, including CalCCA, also highlight the many challenges with
3 expediting procurement under such narrow timeframes. CalCCA supports a best-efforts standard,
4 similar to the one applied to procurement authorized in D.21-03-056, given the uncertainty
5 around how much additional supply is available or can be accelerated to come online by 2022 or
6 2023. This standard should apply to all LSEs to procure or expedite their own procurement of
7 resources available to summer 2022 and 2023 needs without penalties.

8 Many parties, including CalCCA, oppose introducing penalties for D.19-11-016
9 procurement delays or increasing penalties for RA deficiencies.¹ CalCCA agrees with Pacific
10 Gas and Electric Company (PG&E)² and Southern California Edison Company (SCE)³ that
11 applying penalties retroactively to procurement already underway or complete could have
12 negative impacts, including the need to amend contracts to account for the new penalty
13 framework. This could result in increased pricing to account for risks outside the LSE's control
14 or risk the development of the project by opening the contract to renegotiation. Additionally,
15 there is no evidence LSEs are not taking reasonable efforts to procure to the D.19-11-016
16 requirements or that LSEs will be short on their 2022 or 2023 obligations. In fact, as PG&E and
17 SCE note, Energy Division's (ED's) recent update on D.19-11-016 progress found that all 25
18 LSEs demonstrated effort to meet their Tranche 1 obligations, collectively over-procuring for

¹ *Direct Testimony of Lauren Carr, Fred Taylor-Hochberg, and Marie Y. Fontenot on Behalf of California Community Choice Association*, Sept. 1, 2021 (CalCCA), at 8-10.

² *Pacific Gas and Electric Company Emergency Reliability Order Instituting Rulemaking Errata Testimony*, Sept. 1, 2021 (PG&E), at 9-1 to 9-2.

³ *Direct Testimony of Southern California Edison Company – Phase 2*, Sept. 1, 2021 (SCE), at 76-78.

1 August 1, 2021.⁴ Further, in its opening testimony, CalCCA provided data on procurement
2 efforts for 2022 and 2023 among CalCCA members that demonstrated a similar trend for 2022
3 and 2023.⁵ CalCCA also agrees with parties that it is premature to increase penalties for RA
4 deficiencies given the Commission recently adopted a new RA penalty structure for 2022 that
5 has yet to be evaluated.⁶ For the reasons stated above, the Commission should not adopt
6 penalties for delays to D.19-11-016 procurement or increase penalties for RA deficiencies.

7 **III. THE COMMISSION SHOULD ENCOURAGE EXPEDITED PROCUREMENT**
8 **OF RESOURCES AVAILABLE AT NET PEAK TO A LEVEL EQUIVALENT**
9 **TO A 17.5 PERCENT PRM**

10 The California Independent System Operator Corporation (CAISO) submitted two
11 proposals that would increase RA requirements for LSEs in 2022 and 2023. The first of CAISO's
12 proposals recommends the Commission set the system RA requirements to meet demand and the
13 PRM at 8:00 p.m. for June through October, in addition to the current system RA requirement
14 based on the gross monthly peak.⁷ The second proposal would increase the PRM from 15 percent
15 to 17.5 percent to account for forced outages and the increased potential for extreme weather
16 events.⁸ The CAISO states its proposals will incent LSEs to procure sufficient resources to meet
17 system needs during net-peak. CalCCA supports expediting procurement to meet emergency
18 needs for 2022 and 2023 and has demonstrated in opening testimony CalCCA members remove'
19 commitment to bringing new resources online above existing mandates.⁹ However, CalCCA

⁴ See Status Update on Procurement in Compliance with D.19-11-016 (IRP Procurement Order), August 2021, available at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltp/ed_staff_review_of_feb2021_data_in_compliance_with_d1911016.pdf.

⁵ CalCCA at 4.

⁶ PG&E at 9-2 to 9-3 and SCE at 78.

⁷ *Opening Testimony of the California Independent System Operator Corporation*, Sept. 1, 2021 (CAISO), at 2.

⁸ CAISO at 12.

⁹ CalCCA at 4.

1 cautions the Commission against making modifications to RA requirements within this Phase 2
2 of the proceeding, given its expedited timeframe. Given the tightly constrained RA market and
3 short timeframe to bring RA-eligible resources online, carrying the higher procurement needs
4 into the RA program through higher RA requirements could effectively penalize LSEs for failing
5 to show enough RA resources despite LSEs best efforts. This is because enough new supply will
6 likely not yet be available or circumstances beyond the control of the LSE prevent resources
7 from coming on-line in an expedited manner. These penalties could come in the form of RA
8 penalties administered by the Commission or capacity procurement mechanism costs for
9 individual deficiencies. The Commission should not adopt new RA requirements but instead
10 encourage LSEs to use best efforts to expedite procurement of resources available at net peak to
11 effectively meet a 17.5 percent PRM without penalizing them if they are unable to do so given
12 the tight timeframe.

13 Given the timeframe of this effort, it is not clear LSEs will be capable of adjusting their
14 RA portfolios or existing contracts to account for higher RA requirements on such a narrow
15 timeline. In opening testimony, several parties representing developers, including the California
16 Energy Storage Association (CESA),¹⁰ LS Power,¹¹ and Independent Energy Producers
17 Association (IEP),¹² emphasize that it will be difficult to procure new resources or accelerate
18 existing planned resource build by Summer 2022. Additionally, several parties, including the

¹⁰ *Opening Testimony of Jin Noh on Behalf of the California Energy Storage Alliance*, Sept. 1, 2021 (CESA), at 9-11.

¹¹ *Prepared Phase 2 Opening Testimony of Sandeep Arora on Behalf of LS Power Development, LLC*, Sept 1, 2021, (LS Power), at 2-5.

¹² *Prepared Testimony of Scott Murtishaw on Summer 2022 and 2023 Reliability Enhancements on Behalf of the Independent Energy Producers Association*, Sept. 1, 2021 (IEP), at 1-2.

1 ED,¹³ CESA,¹⁴ and LS Power,¹⁵ proposed ways to count resources ineligible for RA in
2 procurement ordered in this phase of the proceeding given they could provide additional
3 megawatts (MWs) more quickly. This indicates new procurement that may result from this phase
4 of the proceeding may not be eligible to count towards the new requirement the CAISO
5 proposes. Therefore, the Commission should direct LSEs to make their best efforts to procure
6 resources that can meet net peak needs at a level equivalent to a 17.5 percent PRM but should
7 not adopt a new RA requirement.

8 CAISO’s analysis of available RA during net peak hours demonstrates a review of the
9 RA program’s ability to meet net-peak needs is necessary.¹⁶ However, this review should take
10 place in the RA proceeding, where parties are examining how to ensure the RA program meets
11 net-peak load needs. This will allow time for parties to take necessary efforts to comply with any
12 new RA rules adopted to ensure resource sufficiency at net peak. Additionally, the Commission
13 should perform a loss-of-load expectation (LOLE) analysis immediately within the RA
14 proceeding to inform the PRM required to meet the desired level of reliability. The Commission
15 established RA requirements for 2022 and declined to adopt a 17.5 percent PRM in D.21-06-029.
16 In that decision, the Commission supported conducting a LOLE study to inform a new PRM.¹⁷
17 This robust analysis has yet to be performed under the context of informing the PRM, but it is
18 critical in both ensuring the RA program plans for the target level of reliability and informs the
19 level of expenditure of rate payer funds for new procurement needed to meet that target.

¹³ *Energy Division Staff Concept Paper Proposals for Summer 2022 and 2023 Reliability Enhancements*, Aug. 16, 2021, at 22-25.

¹⁴ CESA at 27-34.

¹⁵ LS Power, at 5-6.

¹⁶ CAISO at 8.

¹⁷ D.21-06-029 at 16-19.

1 **IV. THE COMMISSION SHOULD ADOPT A SYSTEM RA WAIVER PROCESS**
2 **FOR LSES WHO DEMONSTRATE REASONABLE EFFORTS TO PROCURE**

3 SCE suggests that if the Commission increases RA penalties, the Commission should
4 allow LSEs to file waivers demonstrating commercially reasonable efforts to meet RA
5 obligations, including for system resource adequacy, citing market-level scarcity during summer
6 months. CalCCA has long advocated for a system RA waiver process similar to the existing local
7 RA waiver process given RA market tightness. In Track 3B.1 of the RA proceeding (R.19-11-
8 009), CalCCA proposed a system RA waiver process because penalizing LSEs who, despite
9 commercially reasonable efforts, are unable to meet their requirements will not add capacity to
10 the market in the near term.¹⁸ Until the supply margin increases in the RA market, it will remain
11 difficult if not impossible to obtain RA contracts that fulfill obligations at a reasonable price.

12 CalCCA agrees with SCE that there is merit in a system RA waiver process and supports
13 its adoption independent of new penalties or RA requirements. In this phase of the proceeding,
14 the Commission should not modify the RA penalty structure because additional time is needed to
15 assess the one recently adopted. Similarly, the Commission should not adopt new RA
16 requirements or PRM beginning in 2022 because additional time is needed for new resources to
17 come online. However, given current RA market tightness, the Commission should adopt a
18 system RA waiver process that follows the same waiver process that exists for local regardless of
19 the Commission's decision on penalties and RA requirements in this phase of the proceeding.
20 This proposal presents little risk, given the Commission would not grant a waiver unless the LSE
21 demonstrated reasonable actions were taken to meet RA obligations. As such, CalCCA proposes
22 a system waiver be a permanent element of the RA program.

¹⁸ See *California Community Choice Association Comments on the Proposed Decision*, R.19-11-009, June 10, 2021, available at: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M387/K446/387446261.PDF>.

1 **V. IF THE COMMISSION ADOPTS A PROCUREMENT MECHANISM IN**
2 **WHICH THE IOUS PROCURE ON BEHALF OF ALL BENEFITING**
3 **CUSTOMERS, THE METHOD FOR ALLOCATING COST AND BENEFITS**
4 **MUST BE CLARIFIED FOR THIS PHASE 2 PROCUREMENT AND**
5 **PROCUREMENT MANDATED IN D.21-03-056**

6 SCE suggests the most effective solution to increase peak and net-peak supply consistent
7 with the Emergency Proclamation is to maintain the IOUs' existing procurement authority
8 authorized in D.21-03-056.¹⁹ CalCCA continues to support a best-efforts approach that allows all
9 LSEs to procure or expedite their own procurement of resources available to meet peak and
10 net-peak needs in summer 2022 and 2023 without penalties if they cannot comply given the
11 expedited timeframe of this procurement. Such an approach would maximize the likely
12 expedited procurement and a more diverse range of solutions.

13 However, if the Commission adopts a procurement mechanism similar to that in
14 D.21-03-056 in which the IOUs procure on behalf of all benefiting customers as SCE suggests,
15 the Commission must provide limitations on the modified cost allocation mechanism (CAM)
16 treatment like that used in D.21-03-056 for resources procured for longer than 2022 and 2023.²⁰
17 If the Commission adopts an IOU-only procurement mechanism, CalCCA recommends the
18 modified CAM treatment for these resources during the period of emergency procurement
19 through 2023. Thereafter, the Commission must determine how costs for those resources should
20 be recovered. This is true of the procurement authorized in D.21-05-036 as well. Within that
21 decision, the Commission authorized the IOUs to procure up to 17.5 percent PRM and to allocate
22 those costs through CAM, but the RA credit would be retained by the IOUs to meet the desired

¹⁹ SCE at 56-59.

²⁰ In D.21-03-056, the Commission established an effective PRM of 17.5 percent for the IOUs in which the costs of the incremental procurement were allocated to all LSEs and the IOUs received the RA credit for the resources. It provided for CAM cost recovery of these costs but did not expressly address treatment of longer-term resources. Any resolution here for the new order should apply equally to the Commission's earlier order.

1 17.5 percent level. This was authorized for procurement in 2021 and 2022. However, the
2 decision is not clear about how such costs and benefits should be treated after 2022 if an IOU
3 contracted with a resource for a term ending after 2022. The Commission must clarify what
4 should happen with the costs and benefits of the resource procured subsequent to D.21-05-036
5 after 2022. The simple options would be to either make the resource a bundled load asset or to
6 use a traditional CAM where not only the costs are allocated but so are all the benefits. Such
7 clarification would be necessary in this proceeding if the Commission opts for any form of
8 modified CAM treatment for the period of this expedited procurement in 2022 and 2023. In such
9 a case, the Commission should clarify what happens to such costs in 2024 in addition to what
10 will happen to cost allocation of the authorized D.21-05-036 procurement.

11 **VI. CONCLUSION**

12 This concludes our Reply Testimony.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

ATTACHMENT A: QUALIFICATIONS OF MARIE Y. FONTENOT

1 **ATTACHMENT A: QUALIFICATIONS OF MARIE Y. FONTENOT**

2 **Q1.** Please state your name and business address.

3 **A1.** My name is Marie Y. Fontenot. 1999 Harrison St, Suite 800 Oakland, CA 94612.

4 **Q2.** Please state your qualifications to offer this testimony.

5 **A2.** I received a BS in Journalism and an MBA from the University of Colorado. From 2008
6 to 2012 I worked as a NERC-certified Power Systems Trader at Xcel Energy, operating
7 generation resources and managing load for balancing areas in the Southwest Power Pool (SPP)
8 and Mid-Continent Independent System Operator (MISO). From 2012 to 2014 I worked as a
9 Senior Market Design Analyst for PG&E, evaluating CAISO market design changes including
10 the FERC 764 Market Design enhancements, Flexible Resource Adequacy and Must Offer
11 Obligation (FRAC-MOO), and the introduction of the Energy Imbalance Market (EIM). From
12 2014 to 2018 I was a Principal Renewable Transactor then Manager of Competitive Solicitations
13 for PG&E, negotiating and executing long term RPS-eligible contracts and PG&E’s first energy
14 storage contracts; I also worked on the Local Sub-Area Energy Storage RFO through which
15 PG&E sought energy storage resources to obviate the need for a Reliability Must Run
16 designation for a gas-fired generating resource and through which the cost allocation mechanism
17 (CAM) would be utilized to spread costs of PG&E’s procurement to all load serving entities in
18 the service territory. From 2018 to 2020 I served as Chief of Staff to PG&E’s General Counsel
19 and Executive Vice President. Since 2020, I have been Senior Director of Power Resources for
20 East Bay Community Energy (EBCE). In my current role I am responsible for EBCE’s Resource
21 Adequacy and RPS portfolios and compliance and for energy hedges for the organization. The
22 Power Resources team develops strategies to comply with regulatory and legislative mandates
23 while providing reliable, clean, and cost-effective energy to EBCE’s 630,000 customers.

- 1 **Q3.** What testimony are you sponsoring in this proceeding?
- 2 **A3.** I am sponsoring the Reply Testimony on Behalf of the California Community Choice
3 Association.
- 4 **Q4.** Was this material prepared by you or under your supervision?
- 5 **A4.** Yes, it was.
- 6 **Q5.** Insofar as this material is factual in nature, do you believe it to be correct.
- 7 **A5.** Yes, it was.
- 8 **Q6.** Insofar as this material is in the nature of opinion or judgment, does it represent your best
9 judgment?
- 10 **A6.** Yes, it does.
- 11 **Q7.** Do you adopt this testimony as your sworn testimony in this proceeding?
- 12 **A7.** Yes, I do.
- 13 **Q8.** Does this conclude your qualifications and prepared testimony?
- 14 **A8.** Yes, it does.