BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Electric Integrated Resource Planning and Related Procurement Processes.	Rulemaking 20-05-003

REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) ON ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENTS ON BACKSTOP PROCUREMENT AND COST ALLOCATION MECHANISMS

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Pursuant to the *Administrative Law Judge's Ruling Seeking Comments on Backstop Procurement and Cost Allocation Mechanisms*, dated June 5, 2020 ("Ruling") and Administrative Law Judge Fitch's Email Ruling granting the Joint Utilities' request for a three-week extension for opening and reply comments, dated June 23, 2020, Southern California Edison Company ("SCE") respectfully submits these reply comments to the California Public Utilities Commission ("Commission").[1]

I. INTRODUCTION

As discussed in opening comments, SCE generally supports the overall structure of the proposed backstop procurement mechanism set forth in the Ruling; however, SCE recommends some modifications to ensure that load-serving entities ("LSEs") are making meaningful progress in meeting their procurement requirements on a realistic development path towards Decision ("D.") 19-11-016's required online dates, while also giving the investor-owned utilities

[1] SCE is replying to opening comments on the Ruling submitted by Alliance for Retail Energy Markets ("AReM"); California Community Choice Association ("CalCCA"); Constellation NewEnergy, Inc. ("CNE"); Green Power Institute ("GPI"); Pacific Gas and Electricity Company ("PG&E"); Protect Our Communities Foundation ("PCF"); San Diego Gas & Electric Company ("SDG&E"); and Shell Energy North America (US), L.P. ("Shell Energy").

("IOUs") the needed time to conduct backstop procurement and bring backstop resources online as close to the timelines required by D.19-11-016 as possible to maintain system reliability.[2] Specifically, SCE suggests additional resource milestones to provide the Commission with better information regarding whether LSEs' contracted resources are on a successful trajectory to coming online by August 1, 2021, 2022, or 2023, as applicable; a January 1, 2021 trigger point for Tranches 2 and 3 of procurement (instead of September 1, 2021 or 2022); and that Milestone #2 and #3 have check-in points for the Commission to evaluate whether LSEs' contracted resources are making reasonable progress towards satisfying required online dates, rather than immediately proceeding to backstop procurement, by giving LSEs who do not satisfy the milestone requirements an opportunity to demonstrate that they have an acceptable remediation plan to satisfy them in a reasonable time period. In these reply comments, SCE emphasizes the importance of the Commission establishing a clear backstop procurement mechanism and the IOUs' need for certainty and full cost recovery for any required backstop procurement.

With respect to cost allocation, SCE recommends that the Commission adopt a modified cost allocation mechanism ("Modified CAM") approach for allocating the costs and benefits of the system reliability procurement required by D.19-11-016 with the following key elements: (1) procurement costs to serve both bundled service customers and opt-out LSE customers will be pooled in one bucket;[3] (2) incremental administrative costs associated with the procurement will be pooled in one bucket and recovered from bundled service customers and opt-out

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[2] *See* SCE Comments at 5-23.

[3] For deficient LSEs, if the IOU can use excess procurement to meet any backstop procurement need, deficient LSE customers should be assigned the costs of the Commission-approved contract(s) in the IOU's portfolio with the lowest Net Present Value ("NPV"). If the IOU is required to procure additional resources to meet the backstop procurement need, then the IOU should have the flexibility to either pool such procurement costs with the existing pool of procurement costs serving bundled service and opt-out customers and allocate deficient LSE customers their share of that pool, or to create a separate pool of procurement costs that will only be allocated to deficient LSE customers.

customers;[4] (3) the resource adequacy ("RA") benefit allocations will be fixed based on the original procurement requirements adopted in D.19-11-016; however, to receive the RA benefits, the IOUs and opt-out LSEs must pay for their allocation at the System RA Adder market price benchmark ("MPB") published pursuant to D.19-10-001;[5] (4) any benefits associated with Renewables Portfolio Standard ("RPS")-eligible energy such as renewable energy credits ("RECs") will be treated the same way as RA benefits except payment will be at the RPS Adder MPB published pursuant to D.19-10-001 instead of the System RA MPB; (5) in the Integrated Resource Planning ("IRP") process, the greenhouse gas ("GHG") attributes of the procurement will be allocated to bundled service, opt-out, and deficient LSE customers by applying the relevant LSE's prior year's load share to determine the proportion of GHG attributes attributable to the LSE's customers; (6) all remaining net costs will be recovered from bundled service, opt-out, and deficient LSE customers via a non-bypassable charge; and (7) net costs follow bundled service, opt-out, and deficient LSE customers in the event they switch LSEs to mitigate cost shifting among customers due to migration.[6]

These reply comments include SCE's comments on PG&E's and SDG&E's cost allocation mechanism proposals; explain that requiring direct LSE billing of opt-out and/or deficient LSE procurement costs should be rejected because it violates the Public Utilities Code, exposes IOU bundled service customers and customers of other opt-out and deficient LSEs to potentially significant credit risk, does not address customer migration, and is likely to result in statutorily-prohibited cost shifting; discuss why it is appropriate to apply the Modified CAM to

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[4] To the extent the IOU can use excess procurement to meet any backstop procurement need, deficient LSE customers would also pay their share of the incremental administrative costs from this pool of administrative costs. However, if the IOU is required to conduct a separate solicitation or other separate bilateral procurement activities to meet the backstop procurement need, deficient LSE customers may not be included in this pool of administrative costs and the IOU would recover the full incremental costs of those separate procurement activities from the deficient LSE customers.

[5] Allocation of RA benefits to any deficient LSEs would work the same way, except that deficient LSEs would receive a fixed RA allocation from the IOU allocation at the time the IOU is required to backstop the deficient LSE.

[6] *See* SCE Comments at 23-37.

bundled service customers; and address how costs of excess procurement above the exact procurement requirements should be recovered from all applicable bundled service, opt-out, and deficient LSE customers.

II.

BACKSTOP PROCUREMENT MECHANISM ISSUES

A. The Commission Should Establish a Clear Backstop Procurement Mechanism

Both GPI and PCF argue that a backstop procurement mechanism is not needed for all or some of the tranches of procurement required by D.19-11-016, and that the Commission should instead rely on existing system RA procurement reporting requirements and the RA citation program to enforce D.19-11-016's procurement requirements.[7] SCE disagrees.

The Commission determined that "[t]here is a significant possibility of a system resource adequacy shortfall in California by Summer 2021 if the Commission does not act to authorize the procurement of additional electric capacity resources to address system reliability," and that in addition to extension of once-through cooling capacity, "another minimum of 3,300 MW of incremental system resource adequacy and renewable integration resources will be needed by Summer 2021, as a 'least regrets' amount necessary to ensure system reliability."[8] As such, there are real consequences to system reliability if the procurement requirements are not met.

Because the Milestone #1 requirements are foundational requirements to ensure the LSE has executed contracts for resources that meet basic viability criteria, SCE recommends that failure to satisfy those requirements by the trigger point should immediately trigger backstop procurement. SCE proposes that Milestone #2 and #3 be check-in points that would give the LSE an opportunity to provide an acceptable remediation plan and cure any deficiency before triggering backstop procurement. However, if an LSE does not satisfy Milestone #1 requirements or cannot provide an acceptable remediation plan for failure to meet Milestone #2

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7 *See* GPI Comments at 1-18; PCF Comments at 2-6.

8 D.19-11-016 at Finding of Fact ("FOF") 5, 16.

and #3 requirements (or does not satisfy that remediation plan), then backstop procurement is necessary.

Although backstop resources may not be able to come online by D.19-11-016's required online dates depending on when a backstop procurement need is triggered, such resources are still necessary to meet the system reliability need identified in D.19-11-016. Indeed, the Commission's Reference System Portfolio identified new generation capacity needs in the 2024-2026 timeframe,[9] and SCE recently completed its preliminary system-wide production cost modeling and reliability analysis of a 38 million metric ton-compliant plan using the 2019 Integrated Energy Policy Report demand forecast and identified a residual need in 2024 after potential once-through cooling compliance deadline extensions have expired, and additional system capacity needs in 2025 and 2026 after Diablo Canyon has retired. Thus, in addition to meeting the 2021-2023 system reliability need addressed in D.19-11-016, the procurement is also needed to allow any extended once-through cooling units to retire after 2023 and to meet system capacity needs in 2024-2026.

Moreover, the existing system RA reporting requirements and RA citation program are not sufficient to enforce the D.19-11-016 procurement requirements. In D.19-11-016, the Commission required LSEs to procure ***incremental*** RA capacity,[10] which in most cases requires the procurement of new resources. The Commission also limited LSEs' procurement of fossil-fueled resources to meet the D.19-11-016 procurement requirements.[11] However, an LSE could meet its individual system RA requirements at a lower price with existing natural gas generation resources while not developing the cleaner incremental RA capacity required by D.19-11-016 and leaving an overall system RA capacity shortfall in 2021-2023. Further, the penalties for failure to meet a system RA requirement may be lower than the cost of procuring the incremental RA capacity required by D.19-11-016, and do not require that such incremental RA capacity ever

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9 *See* D.20-03-028 at 41, 46.
10 *See* D.19-11-016 at Ordering Paragraph ("OP") 6.
11 *See id.* at OP 7; D.20-03-028 at OP 16.

be developed. Therefore, the system RA reporting requirements and the RA citation program are not a substitute for the clear and robust backstop procurement mechanism that is required for the D.19-11-016 procurement and potential future IRP procurement.

B. The IOUs Need Certainty and Full Cost Recovery for Any Required Backstop Procurement

AReM argues that "[a]n LSE with a contracted resource that has failed to meet a trigger point, but then successfully comes on-line before any backstop procurement by the IOU becomes operational should be credited for its delayed resource and the IOU backstop procurement cancelled."[12] This proposal should be rejected.

As noted above and in opening comments, SCE suggests that Milestone #2 and #3 have check-in points for the Commission to evaluate whether LSEs' contracted resources are making reasonable progress towards satisfying required online dates, instead of immediately proceeding to backstop procurement. LSEs should be required to meet Milestone #2 and #3 by the check-in points or demonstrate that they have an acceptable remediation plan to satisfy the milestone requirements in a reasonable time period. The Commission should assess whether it is more expedient to allow an LSE who fails to meet the milestone requirements to continue to develop their resources and attempt to bring them online or whether a delayed notification to the relevant IOU to perform backstop procurement would result in bringing resources online faster.

Once an IOU has been notified to commence backstop procurement, however, all costs associated with the backstop procurement must be allocated to the deficient LSE's customers regardless of whether the deficient LSE ultimately develops the resource. An IOU cannot be ordered to conduct backstop procurement and then not recover the cost of such backstop procurement from the deficient LSE's customers. That would result in unlawful cost shifting to IOU bundled service customers and/or opt-out LSE customers,[13] and is contrary to

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[12] AReM Comments at 5.

[13] *See* Cal. Pub. Util. §§ 365.1(c)(2), 365.2, 366.2(a)(4), 366.3, 380(b)(3), 454.51(c).

D.19-11-016's statement that "the Commission will take the appropriate steps to … ensure that all costs incurred by the IOUs to undertake procurement on behalf of customers of other LSEs will be compensated."[14]

While AReM acknowledges that "such LSEs should be obligated to reimburse the IOUs for any costs incurred by the IOU in cancelling the backstop procurement,"[15] having the IOUs enter into backstop procurement contracts that can be terminated if the deficient LSE's original contracted resource ultimately comes online is not an adequate solution. It is unlikely that a contract for a new resource that can be terminated at any time if another party's delayed resource comes online would be financeable. Even if it was, such a termination right would be extremely costly. Furthermore, the cost of reimbursing the IOU for any costs in cancelling the backstop procurement would likely be very high, particularly if the backstop resource was far along in the development process when cancelled. The better solution is to provide LSEs with a reasonable opportunity to cure any deficiencies in meeting the milestone requirements, but if they do not do so, have them terminate their contracts before the IOU undertakes any backstop procurement to avoid having customers pay double procurement costs.

III.

COST ALLOCATION MECHANISM ISSUES

SCE continues to advocate that the Commission use a Modified CAM approach for allocating the costs and benefits of the system reliability procurement required by D.19-11-016, and recommends the adoption of SCE's proposal as outlined in opening comments.[16]
SCE's proposal fairly allocates the costs and benefits associated with the procurement on a non-bypassable basis to customers, best minimizes the potential for cost shifting as customers migrate

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[14] D.19-11-016 at 38.
[15] AReM Comments at 5.
[16] *See* SCE Comments at 23-37.

among LSEs, and avoids the need for LSE-specific rates, which would be a significant departure from how SCE bills departing load customers.

However, SCE recognizes that differences in the make-up of the LSE mix within each IOU's service territory and in billing system structures and capabilities results in the IOUs having different preferences regarding cost allocation and recovery. While PG&E's and SDG&E's cost allocation proposals would not be SCE's preferred implementation method, for the reasons discussed below, any one of the IOU approaches of using a non-bypassable charge to recover costs directly from customers is preferable to proposals for direct LSE billing, which violates the requirements of Public Utilities Code Sections 454.51(c) and 365.1(c)(2) that the net procurement costs be allocated on a fully non-bypassable basis to customers, exposes IOU bundled service customers and customers of other opt-out and deficient LSEs to potentially significant credit risk, does not address customer migration, and is likely to result in statutorily-prohibited cost shifting.

A. SCE's Comments on PG&E's and SDG&E's Proposals

Of the other IOU proposals, SCE prefers PG&E's approach based on its relative simplicity and ease of implementation. The main advantages of PG&E's proposal[17] (i.e., recovering procurement costs from bundled service customers via generation rates using the 2019 vintage Power Charge Indifference Adjustment ("PCIA") and from customers of opt-out and deficient LSEs using the new Backstop Allocation Mechanism ("BAM")[18]) are that it can be implemented without billing system changes and that it uses the existing PCIA vintaging

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[17] *See* PG&E Comments at 12-18.

[18] SCE notes that implementation of PG&E's proposal would result in different revenue allocation and rate design among customer groups to recover the procurements costs. For bundled service customers, SCE would allocate revenues based on generation allocators and recover the costs via time-differentiated generation demand and energy charges, depending on a customer's underlying rate schedule. In contrast, for the customers of opt-out and deficient LSEs, SCE would use a 12-CP allocation and the recovery would be via a flat energy charge. SCE does not see this as a significant issue but wanted to be clear on how this would be implemented.

structure to mitigate cost shifting resulting from bundled service customer migration.[19] SCE's concerns with PG&E's proposal relate primarily to the BAM, which would only apply to the customers of opt-out and deficient LSEs. Under the BAM, migrating customers would shift costs to the remaining customers of the opt-out or deficient LSE since PG&E is not proposing to track these customers as they migrate.[20] If significant load departure occurred, this could leave the remaining customers with a BAM charge that becomes unwieldy and that could then shift costs back to bundled service customers if opt-out or deficient LSE customers are unable to pay.

SCE finds SDG&E's proposal potentially the most difficult of the IOU proposals for SCE to implement and manage on an ongoing basis. SCE's understanding of SDG&E's proposal is that it would result in LSE-specific rates and would require annual load forecasting and rebalancing of RA benefits between the IOU and each of the opt-out and deficient LSEs.[21] While this may be workable for an IOU that has a relatively smaller number of opt-out and potentially deficient LSEs, SCE is concerned that the process could become unworkable for an IOU that has a larger numbers of LSEs in its service territory. Additionally, the implementation of LSE-specific rates would require significant billing system changes for SCE, and the recovery of those costs solely from the customers of opt-out and deficient LSEs could prove to be challenging. SDG&E's proposal also raises the same cost shifting concerns as PG&E's proposal since SDG&E is not proposing to fully track customer migration.[22] Finally, SCE notes that it did not conduct its bundled service and opt-out procurement using separate solicitations, as SDG&E's proposal advocates.[23] Therefore, SCE has not proposed to allocate higher costs to the customers of opt-out LSEs compared to bundled service customers (SCE agrees that the customers of deficient LSEs should be subject to the lowest NPV contract(s) in the IOU's

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[19] By utilizing the 2019 PCIA vintage, this will apply the procurement costs to existing bundled service customers and departing load customers who departed between July 2019 and June 2020.
[20] *See* PG&E Comments at 16.
[21] *See* SDG&E Comments at 32.
[22] *See id.*
[23] *See id.* at 12.

portfolio and/or potentially a different pool of costs depending on whether excess procurement or separate procurement activities are used to fulfill a backstop procurement need).

For these reasons, SCE advocates that the Commission allow the IOUs to implement the cost recovery approach that is best suited to their service territory and/or billing system. If the Commission desires consistency across the IOUs, SCE's proposal should be adopted for the reasons outlined above and in opening comments.

B. The Commission Should Reject Proposals to Directly Bill LSEs for Opt-Out and/or Deficient LSEs' Procurement Costs

CalCCA proposes that the IOUs directly bill opt-out and deficient LSEs for all incremental procurement costs incurred on their behalf, using an EEI Master Agreement and Confirmation transaction structure, instead of billing their customers through a non-bypassable charge.[24] PCF and Shell Energy also argue that procurement costs on behalf of opt-out and/or deficient LSEs should be directly billed to those LSEs, rather than billed to their customers.[25] As explained below, the Commission should reject these proposals to require IOUs to directly bill opt-out and deficient LSEs for procurement costs incurred on their behalf. Requiring direct LSE billing violates Public Utilities Code Sections 454.51(c) and 365.1(c)(2), which specifically require opt-out and deficient LSE net procurement costs to be allocated on a fully non-bypassable basis to customers. It also exposes IOU bundled service customers and customers of other opt-out and deficient LSEs to potentially significant credit risk, does not address customer migration, and is likely to result in statutorily-prohibited cost shifting.

In accordance with statute, the Commission gave community choice aggregators ("CCAs") and electric service providers ("ESPs") the option to opt-out of self-providing their D.19-11-016 procurement requirements and required the IOUs to procure on behalf of any opt-

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[24] *See* CalCCA Comments at 2-8.
[25] *See* PCF Comments at 7-10; Shell Energy Comments at 4-10.

out LSEs.[26] The IOUs were not given this option to opt-out or permitted to choose whether to procure on an opt-out LSE's behalf. The Commission also required the IOUs to procure on behalf of deficient LSEs who elect to self-procure but fail to meet their obligations.[27] As SDG&E explained, "[t]he non-bypassability of the modified CAM charge functions to protect bundled service customers from financial risk related to procurement decisions made by LSEs who do not serve them…. CalCCA's proposal that the Commission weaken the cost recovery protection afforded to bundled service customers in D.19-11-016 in order to improve the competitive position of its CCA members is unlawful and improper, and should be soundly rejected."[28] Indeed, it would be unfair, unreasonable, and unlawful for the Commission to mandate that IOUs provide backstop procurement for CCAs and ESPs and then require IOU bundled service customers to take the credit risk of recovering the costs of that procurement from those LSEs. Accordingly, any requirement that the IOUs direct bill opt-out and/or deficient LSEs should be rejected.

1. Requiring Direct LSE Billing Violates the Public Utilities Code

In requiring the IOUs to conduct procurement on behalf of other LSEs who elected not to self-provide their procurement or fail to perform, the Commission relied on its authority under Public Utilities Code Section 454.51(c).[29] Section 454.51(c) expressly requires the Commission to "[e]nsure that the net costs of any incremental renewable energy integration resources procured by an electrical corporation to satisfy the need identified in subdivision (a) ***are allocated on a fully nonbypassable basis consistent with the treatment of costs identified in***

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[26] *See* D.19-11-016 at OP 5.
[27] *See id.*
[28] SDG&E Comments at 40.
[29] *See* D.19-11-016 at 37-38 ("[W]e clarify that we will utilize the authority given us in § 451.51(c) to require IOU procurement on behalf of non-performing LSEs, or those that elect not to self-provide renewable integration resources, with associated non-bypassable cost allocation to that LSE's customers for that procurement, should it become necessary."); FOF 21 ("The Commission has the authority, articulated in Section 454.51(c), to direct the IOUs to procure renewable integration resources on behalf of the electricity system as a whole, and to allocate those costs on a non-bypassable basis to all benefiting customers.").

paragraph (2) of subdivision (c) of Section 365.1."[30] Moreover, Section 365.1(c)(2)(A) provides that the Commission shall:

> Ensure that, in the event that the commission authorizes, in the situation of a contract with a third party, or orders, in the situation of utility-owned generation, an electrical corporation to obtain generation resources that the commission determines are needed to meet system or local area reliability needs for the benefit of all customers in the electrical corporation's distribution service territory, the net capacity costs of those generation resources ***are allocated on a fully nonbypassable basis consistent with departing load provisions as determined by the commission, to all of the following:***
>
> ***(i) Bundled service customers of the electrical corporation.***
>
> ***(ii) Customers that purchase electricity through a direct transaction with other providers.***
>
> ***(iii) Customers of community choice aggregators***.[31]

Thus, together Sections 454.51(c) and 365.1(c)(2) require that the net costs of any IOU procurement for opt-out and deficient LSEs pursuant to D.19-11-016 ***be allocated on a fully non-bypassable basis to customers, including the relevant benefitting bundled service customers, CCA customers, and ESP customers***. Proposals to require direct billing of IOU procurement costs to the opt-out and/or deficient LSEs, which do not allocate costs on a fully non-bypassable basis and do not allocate costs to customers, violate the Public Utilities Code.

In addition to conflicting with Public Utilities Code Sections 454.51(c) and 365.1(c)(2), directly billing procurement costs to opt-out and/or deficient LSEs exposes bundled service customers and the customers of other opt-out and deficient LSEs to potentially significant credit risk as explained below. In the event an LSE defaults, the procurement costs (net of any collateral received by the defaulting LSE) will likely be allocated to the remaining bundled service customers and the customers of other opt-out and deficient LSEs. This will result in cost

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[30] Emphasis added.
[31] Emphasis added.

shifting from customers whose LSE is in default to customers whose LSEs are not in default. Direct LSE billing would also make it very difficult for procurement costs to follow customers of opt-out or deficient LSEs who later migrate to other LSEs. This is inconsistent with Public Utilities Code Section 454.52(c)'s requirements that the Commission ensure the costs of any additional IRP procurement authorized for the IOUs "are allocated in a fair and equitable manner to all customers consistent with Section 454.51" and "that there is no cost shifting among customers of load-serving entities," as well as other statutory prohibitions on cost shifting.[32]

2. Requiring Direct LSE Billing Exposes IOU Bundled Service Customers and Other LSE Customers to Potentially Significant Credit Risk, Does Not Address Customer Migration, and is Likely to Result in Cost Shifting

First, CalCCA argues that D.19-11-016 requires more targeted cost recovery than the existing CAM allows.[33] SCE agrees that adjustments to the CAM are needed to account for the fact that procurement costs will only be recovered from bundled service customers, opt-out LSE customers, and potentially deficient LSE customers, rather than all customers in an IOU's service territory. But that is not a reason to institute direct LSE billing. CalCCA's argument that

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[32] *See* Cal. Pub. Util. §§ 365.1(c)(2)(B) ("The commission shall allocate the costs of those generation resources to ratepayers in a manner that is fair and equitable to all customers, whether they receive electric service from the electrical corporation, a community choice aggregator, or an electric service provider."), 365.2 ("The commission shall ensure that bundled retail customers of an electrical corporation do not experience any cost increases as a result of retail customers of an electrical corporation electing to receive service from other providers. The commission shall also ensure that departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load."), 366.2(a)(4) ("The implementation of a community choice aggregation program shall not result in a shifting of costs between the customers of the community choice aggregator and the bundled service customers of an electrical corporation."), 366.3 ("Bundled retail customers of an electrical corporation shall not experience any cost increase as a result of the implementation of a community choice aggregator program. The commission shall also ensure that departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load."), 380(b)(3) (The RA program shall "[e]quitably allocate the cost of generating capacity and demand response in a manner that prevents the shifting of costs between customer classes.").

[33] *See* CalCCA Comments at 2-3.

"the traditional CAM is not well suited for cost recovery"[34] is irrelevant because D.19-11-016 does not allocate costs through the current CAM, but through a modified CAM where the costs are only allocated to the IOU's bundled service customers and the customers of opt-out and/or deficient LSEs in the IOU's service territory, not to all LSEs' customers.

Second, CalCCA's assertion that an LSE-based cost recovery mechanism "aligns with a foundational principle established in D.19-11-016"[35] ignores the decision's many statements that procurement costs will be allocated to customers on a non-bypassable basis. CalCCA quotes the Commission's assertion that "we prefer to assign responsibility where we believe it should be, with the LSEs directly";[36] however, that quotation refers to assigning initial procurement responsibility and not to how costs will be allocated in the event an LSE elects not to self-provide its procurement or fails to meet its procurement requirements. Indeed, the same passage of D.19-11-016 states that "[o]ur preference is that a cost allocation framework where IOUs procure on behalf of other LSEs in their territories be used as a backup plan, in the event that the LSEs with the primary responsibility fail to fulfill their obligations," and the next paragraph notes that "we clarify that we will utilize the authority given to us in § 451.51(c) to require IOU procurement on behalf of non-performing LSEs, or those that elect not to self-provide renewable integration resources, with associated non-bypassable cost allocation to that LSE's customers for that procurement, should it become necessary."[37]

Third, CalCCA claims that "[b]illing customers, rather than the LSE, presents a risk of shifting credit risk and other administrative costs from the leaning LSE to IOU bundled customers."[38] In fact, CalCCA's proposal to directly bill opt-out and deficient LSEs for their procurement costs exposes IOU bundled service customers (and the customers of other opt-out and deficient LSEs) to potentially significant credit risk and potential cost shifting. As required

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34 *Id.* at 3.
35 *Id.*
36 *Id.* at 4 (quoting D.19-11-016 at 37).
37 D.19-11-016 at 37-38.
38 CalCCA Comments at 5.

by D.19-11-016, the IOUs are entering into long-term contracts on behalf of opt-out LSEs to ensure system reliability and renewable integration needs are met. SCE has already executed seven 10-, 15-, and 20-year contracts to meet D.19-11-016's August 1, 2021 delivery requirements. If the obligation to pay these procurement costs lies directly with the opt-out LSE, and that LSE cannot make payments or otherwise fails to perform, then the procuring IOU could be tied up in costly legal proceedings with potentially little ability to collect all of its costs through legal recourse. Such a scenario will result in cost shifts to the IOU's bundled service customers and the customers of any other opt-out LSEs as they would be required to pay the procurement costs of the defaulting LSE, net of any collateral received from that LSE. The same issues would occur with respect to direct billing of deficient LSEs.

CalCCA argues that "[a] leaning LSE's obligations should be secured through creditworthiness and collateral protocols used by the IOU in its existing RA sales process" and that "LSEs without sufficient creditworthiness could be required to post collateral or take other actions to secure their procurement."[39] However, in SCE's case, almost all of the CCAs and ESPs in its service territory are unrated by credit agencies.[40] Additionally, the Commission has not authorized the IOUs to establish credit and collateral requirements and it is not clear how the IOUs could require opt-out and deficient LSEs to meet credit and collateral requirements and what the consequences of default would be. The IOUs have already begun procurement (and in SCE's case, executed contracts) on behalf of opt-out LSEs and the IOUs do not have an option not to procure on behalf of an opt-out or deficient LSE if it does not meet credit and collateral requirements. Even if credit and collateral requirements were imposed, they would not cover the entire risk of LSE default.

In particular, the same credit and collateral requirements used for short-term RA sales from existing resources would not be sufficient to cover the risk of LSE default with respect to

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[39] *Id.* at 4-5.

[40] Moody's credit ratings can be found at: www.moodys.com. S&P credit ratings can be found at www.standardandpoors.com.

10- to 20-year contracts for new resources.[41] The required collateral for an opt-out or deficient LSE's share of the full costs of such contracts would be substantial, and there would inevitably be disputes where CCAs and ESPs argue that the IOUs must lower their collateral requirements. The IOUs as providers of last resort are already undercollateralized from the risk of CCA defaults because the Commission has delayed implementation of the CCA Financial Security and Re-entry Fee requirements of D.18-05-022 for more than two years after the decision was adopted and more than 18 years after the statute mandating these consumer protections was enacted.[42] Before the Commission considers adding additional credit and collateral risk on the IOUs and their customers, it should implement what the Legislature mandated in 2002 for CCA (and ESP) service to protect against cost shifting.

CalCCA acknowledges that "[i]f an LSE fails to pay, the obligation for the leaning LSE's share would first be satisfied by the LSE's collateral, and any remaining obligation would be recovered from the pool of LSEs participating in the IOU's incremental procurement" and that "[i]n no event should bundled customers or customers of self-procuring LSEs be left to backstop the projects for these LSEs as doing so provides non-self-procuring LSEs with a financial benefit that no other LSE has."[43] However, it is unclear how the IOUs could directly recover these costs only from a potentially small number of other opt-out and deficient LSEs (which could be zero), what would happen if they default, or why their customers should bear the costs of another opt-out or deficient LSE. There is no reason to impose this risk on IOU bundled service customers

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[41] As discussed in its proposal, SCE is willing to enter into Commission-approved agreements with opt-out and deficient LSEs that include appropriate credit support terms for payment for the RA benefits and RECs (if any) provided to such LSEs. In that case, the cost for the RA benefits and/or RECs (which are the relevant MPBs) and the resulting credit risk is significantly less than it would be for the full cost of a long-term contract for new resources. Moreover, if the LSE defaults, the IOU can more easily monetize the RA benefits and/or RECs and recovery their market value only the remaining costs (less any collateral) would be borne by bundled service customers and the customers of other opt-out and defaulting LSEs. It is not likely to be easy to monetize the full cost of a long-term contract for a new resource.

[42] *See* Cal. Pub. Util. Code § 394.25(e). ESPs have been required to comply with the Financial Security and Re-entry Fee requirements of this statute since 2012.

[43] CalCCA Comments at 5.

and the customers of other opt-out and deficient LSEs when California law has already mandated an effective cost recovery mechanism for backstopped procurement – direct recovery from all benefitting customers through a non-bypassable charge. The CAM has worked effectively to prevent cost shifting for over a decade and the Modified CAM will provide an equitable cost allocation mechanism for D.19-11-016 procurement costs that is not dependent on the financial health of opt-out and deficient LSEs and that does not expose customers to a significant risk of cost shifting. If the Commission were to require direct LSE billing, which it should not, then the procurement-related costs incurred on behalf of any defaulting LSE should be recovered from all customers in the IOU's service territory in order to more fairly share the risks of LSE default.

Fourth, CalCCA asserts that the "costs of procurement go beyond the contract price for the resource, including debt equivalence, credit risk, and other administrative costs" and that "[i]f these costs are not fully internalized within the contract struck by the IOU or recovered through the associated charge, then the IOU and its customers are subsidizing leaning LSEs."[44] SCE agrees with CalCCA that opt-out and deficient LSE customers should bear the full incremental procurement costs of the procurement done on their behalf. However, this is a matter of what costs are recovered and not how they are recovered. CalCCA does not explain why direct LSE billing is superior to a non-bypassable customer charge in recovering such costs.

Fifth, in addition to claiming that directly billing LSEs is administratively simpler than directly billing customers (which is not necessarily true once the charge is implemented in the billing system), CalCCA's other support for recommending direct LSE billing is to avoid further alleged "distortion" in customer billing related to how system reliability procurement costs are recovered today.[45] While CalCCA correctly states that most system reliability costs are recovered via the New System Generation ("NSG") component that is included in the delivery-related charge of customers' bills, they erroneously state that these costs are not separately

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[44] *Id.*
[45] *See id.* at 6-7.

identified on customers' bills. In fact, SCE does include a line item in the fastlane section of its bill that informs customers how much of the delivery charge is recovering NSG costs and has proposed to utilize the same treatment for the Modified CAM costs.[46] This is a simple solution that allows customers to understand how costs are being recovered in their rates without requiring bundled service customers to take on all of the risk that comes with direct LSE billing. Further, because the Commission specifically adopted Modified CAM as the cost allocation methodology in D.19-11-016, the recovery of these system reliability procurement costs should follow the existing CAM process – including the existing rate design and recovery process.

Finally, under CalCCA's proposal to direct bill opt-out and deficient LSEs, it does not appear that procurement costs could follow these LSEs' customers if they migrated to another LSE. If a customer of an opt-out or deficient LSE moved to another LSE who was not paying these procurement costs, the IOUs would not have a mechanism to bill that new LSE for the customer's share of the procurement costs. This would allow customers to bypass their share of the IRP system reliability procurement costs procured on their behalf and create a significant potential for cost shifting.

C. It is Appropriate to Apply the Modified CAM to Bundled Service Customers

AReM argues that D.19-11-016 does not provide for the IRP procurement costs to be recovered from bundled service customers through the Modified CAM, and that the IOUs should recover the procurement costs from bundled service customers via bundled generation rates.[47] SCE disagrees. The only cost allocation mechanism discussed in D.19-11-016 is the Modified CAM. Moreover, in response to comments from SDG&E regarding the need to account for load migration, D.19-11-016 states:

> We also clarify that the capacity procured by the IOUs in response to this decision will be allocated on a non-bypassable basis through a modified CAM mechanism and not PCIA. In other words, we

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[46] *See* SCE Comments at 33.
[47] *See* AReM Comments at 7-9.

> will not reduce the cost allocation amounts to be recovered by the IOUs after load migrates. Thus, we do not make the modifications suggested by SDG&E, in its comments, to account for load migration before or after the CCA or ESP elects whether it will self provide, or for PCIA vintaging.[48]

This language supports recovery of procurement attributable to bundled service customers, as well as opt-out and deficient LSEs, through the modified CAM.[49] There is absolutely no mention of a different cost recovery mechanism for bundled service customers in D.19-11-016.

D. Excess Procurement Costs Should Be Allocated to All Applicable Bundled Service, Opt-out, and Deficient LSE Customers

CNE "recognizes that procurement by the IOU to meet the procurement requirements for its bundled load and the opt-out customer load will not precisely match the quantity required, due to lumpiness in the MW associated with each resource it procures."[50] However, CNE proposes that "if the IOUs procure in excess of the established quantity by more than a *de minimis* amount, the costs for that excess procurement should accrue solely to the IOUs' bundled customers, or, if the IOU considers it to be procurement that benefits all customers (and the Commission agrees), then the excess procurement should be accounted for under a traditional CAM approach, with the costs recovered from all benefiting customers."[51] This suggestion should be rejected.

Contract capacities bid into IOU solicitations are predetermined by the bidders and the IOUs' contract selection processes are by nature "lumpy" where fractions of contracts are not selected, but the full contract capacity. Because of the lumpiness of the contracts, the IOUs will likely procure resources above the required procurement for the IOU, any opt-out LSEs, and any deficient LSEs to ensure the minimum RA capacity is fulfilled. CNE recognizes this fact but proposes that the costs of excess procurement above a *de minimis* amount should be recovered

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48 D.19-11-016 at 67.
49 *See also* Cal. Pub. Util. Code §§ 365.1(c)(2)(A), 454.51(c).
50 CNE Comments at 7.
51 *Id.*

solely from bundled service customers or through the traditional CAM. CNE does not define a *de minimis* amount. While SCE agrees that the IOUs should take reasonable actions to meet their procurement requirements, if the Commission approves an IOU's procurement to satisfy the procurement requirements of the IOU, any opt-out LSE, and/or any deficient LSEs, then the costs of that procurement (including any amount above the exact procurement requirement) should be recovered from the applicable bundled service, opt-out, and deficient LSE customers.

IV.

CONCLUSION

SCE appreciates the opportunity to provide these reply comments and encourages the Commission to adopt its recommendations as stated herein and in SCE's opening comments.

Respectfully submitted,

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August 7, 2020

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Electric Integrated Resource Planning and Related Procurement Processes. .	Rulemaking 20-05-003

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of the **REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) ON ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENTS ON BACKSTOP PROCUREMENT AND COST ALLOCATION MECHANISMS** on all parties identified on the attached service list for R.20-05-003. Service was effected by transmitting copies via e-mail to ALJ Julie A. Fitch and all parties who have provided an e-mail address.

Executed on August 7, 2020, at Los Angeles, California.

/s/ Olivia Gutierrez
Olivia Gutierrez

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