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**SENATE COMMITTEE ON ENERGY, UTILITIES AND  
COMMUNICATIONS**

**Senator Ben Hueso, Chair**

**2021 - 2022 Regular**

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<b>Bill No:</b>	SB 881	<b>Hearing Date:</b>	3/28/2022
<b>Author:</b>	Min		
<b>Version:</b>	1/26/2022	Introduced	
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Nidia Bautista		

**SUBJECT:** Load-serving entities: integrated resource plans

**DIGEST:** This bill requires the California Public Utilities Commission (CPUC) to require each energy load-serving entity to undertake sufficient procurement to achieve a diverse, balanced, and reliable statewide portfolio and realize specified electricity sector greenhouse gas emissions (GHG) reductions.

**ANALYSIS:**

Existing law:

- 1) Establishes the CPUC has regulatory authority over public utilities, including electrical corporations. (Article XII, California Constitution)
- 2) Requires the CPUC to adopt a process for each load-serving entity (LSE), defined as including electrical corporations, electric service providers (ESP), and community choice aggregators (CCAs), to file an integrated resource plan (IRP) and a schedule for periodic updates to the plan to ensure that LSEs accomplish specified objectives. Requires each LSE to prepare and file an IRP consistent with certain requirements on a time schedule directed by the CPUC and subject to CPUC review. (Public Utilities Code §454.52)
- 3) Requires the California Air Resources Board (CARB) to ensure that statewide GHG emissions are reduced to at least 40 percent below the 1990 statewide GHG emissions level no later than December 31, 2030, when adopting rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emissions reductions authorized. (Health and Safety Code §38500 et seq.)

This bill:

- 1) Requires the CPUC to require each LSE to undertake sufficient procurement to achieve a diverse, balanced, and reliable statewide portfolio and realize specified electricity sector GHG emissions reductions.
- 2) Authorizes the CPUC to assess penalties on any LSE that fails to satisfy its obligations pursuant to this section and may authorize additional procurement to satisfy unmet needs resulting from this failure.
- 3) Provides that any additional procurement to satisfy unmet needs may occur pursuant to subdivision (b) of Section 454.51 with the costs allocated to the customers of the LSE that failed to meet its obligations.

## **Background**

*Load-serving entities (LSEs).* Several types of entities provide electricity procurement service in California. In more recent years, there has been a growth in additional electricity procurement providers within the service territory of the electric investor-owned utility (IOU). These entities are referred to in statute as LSEs, although the electric IOU continues to provide distribution, transmission, and billing services to all customers in their service territory. These LSEs include ESPs and CCAs.

- IOUs: privately owned electrical corporations, such as San Diego Gas & Electric (SDG&E) that provide monopoly electric utility services in distinct, defined geographic territories. In addition to providing the distribution and transmission, and billing services, IOUs have historically provided the energy supply. IOUs rates are regulated by the CPUC to ensure they provide service at a just and reasonable rate. IOUs also have an obligation to serve all customers in their service territory. As such, any customers not served by ESPs or CCAs must, generally, be served by the IOU.
- ESPs: also known as direct access (DA) providers, provide electricity to end-use customers who choose the services of the ESP instead of the incumbent IOU or a CCA. An ESP uses the transmission and distribution infrastructure of the electric IOU to deliver electricity to the customer. ESP customers are generally large commercial customers (such as a university or a large corporation) who wish to manage their own energy procurement decisions. ESP customers retain the option to return to the service of the incumbent electric IOU or to a CCA, if a CCA offers services in their geographic area.

- CCAs: entities, such as Marin Clean Energy (MCE) and Sonoma Clean Power, but includes 17 others operating in the state, where local governments (either cities or counties) elect to buy or generate electricity on behalf of local residents while using the incumbent electric IOU's transmission and distribution infrastructure. An individual customer within the territory of a CCA is generally automatically opted-in to receive electric service from the CCA when the customer's local government elects to join the CCA. However, the customer retains the option to return to the service of the incumbent IOU by electing to opt-out.

*Growth CCAs.* The combined procurement between CCAs and DA service is anticipated to represent the majority (potentially 85 percent) of the customer load served in the IOU service territory in the coming decade or so. Today, CCAs serve up to about half of the load of Pacific Gas & Electric (PG&E) and is expected to serve the majority of the load of SDG&E in the coming years. While IOUs have existed for nearly a century, CCAs are a more recent entity. In 2002, statute first allowed the formation of CCAs. It was not until nearly a decade later that the first CCA—Marin Clean Energy—came into existence. Today, there about 19 CCAs operating in the state with a more communities exploring the formation of a CCA. Although one CCA has filed for bankruptcy, another has filed to de-register, and other communities have delayed or aborted launching a CCA.

*Growth of ESPs.* The Legislature passed and the governor signed SB 237 (Hertzberg, Chapter 600, Statutes of 2018) which increased the limit of the DA program by 4,000 gigawatt hours for non-residential customers. The bill also directed the CPUC to provide recommendations to the Legislature by June 2020 on the adoption and implementation of a second DA program reopening. The opening of the DA cap creates some additional competition, as well as, uncertainty for the incumbent utility and the CCAs serving energy load that might migrate to an ESP.

*Integrated Resources Plan (IRP).* In addition to the provisions of this bill related to procurement of renewable energy, SB 350 (De León, Chapter 547, Statutes of 2015) directed the CPUC, in coordination with the California Energy Commission (CEC) and CARB, to develop an IRP process to ensure that California's electric sector meets its GHG reduction goals while maintaining reliability at the lowest possible costs. As part of the IRP process, each LSE —meaning an IOU, ESP, or CCA— must file a biennial IRP for approval or certification by the CPUC. The CPUC would then combine all LSEs' IRPs to ensure the state was on its path to meet its clean energy and zero-carbon resources goals, including GHG reductions and procurement of at least 60 percent of renewable resources by the year 2030 and zero-carbon resources by 2045. The IRP is a multi-year process. The first half of the IRP cycle is designed to analyze and adopt an optimal portfolio of electricity resources as a guide for LSEs to plan for meeting their GHG, reliability, and cost

objectives. The second half of the IRP cycle is designed to consider the portfolios and actions that each LSE proposes for meeting these goals, to allow the CPUC to review each LSE plan and aggregate LSE portfolios to develop a Preferred System Plan (PSP) portfolio, and to consider whether further action is needed to meet state goals.

*Recent IRP Decision.* On February 10<sup>th</sup>, 2022, the CPUC adopted a Decision (D.22-02-004) on the 2021 PSP adopts a 38 million metric ton (MMT) 2030 electric sector GHG planning target. Adopts a preferred resource portfolio for use in planning and procurement, as well as to be analyzed by the California Independent System Operator (CAISO) in the 2022- 2023 Transmission Planning Process (TPP). The PSP portfolio includes approximately 25,500 megawatts (MW) (nameplate capacity) of new supply-side renewables, and 15,000 MW of new storage and demand response resources, by 2032, in addition to existing resources. The PSP portfolio includes long-lead time resources, including out-of-state renewables and offshore wind—two resource types the CPUC will continue evaluating moving forward. The PSP orders procurement of two storage resources that were identified by the CAISO as alternatives to transmission upgrades in the previous TPP cycle.

*IRP enforcement.* As the IRP has evolved, the citation program associated with non-compliance has also evolved. More recently, the CPUC has developed direct penalties in the more recent Mid-Term Reliability Decision (D. 21-06-035), which set up a clear penalty structure for LSEs failing to comply with the procurement requirements and, specifically, establishing penalties for procurement shortfalls. Penalties can be imposed through an Administrative Consent Order or/and Administrative Enforcement Order, both of which would be subject to a vote by the CPUC commissioners, or through other existing CPUC enforcement tools.

*SB 881.* This bill intends to more explicitly state the CPUC's authority to enforce the IRP procurement decisions and to explicitly authorize the CPUC to assess penalties on any LSE that fails to satisfy its obligations. This bill also explicitly provides that the CPUC may authorize additional procurement to satisfy unmet needs and allocate costs to the customers of the LSE that failed to meet its obligations.

*Crux of the debate.* The changing electricity landscape is resulting in a more complicated energy procurement ecosystem that requires more coordination among the growing number of LSEs in order to ensure the state remains on track to achieve its policy goals – including clean energy, reliability and affordability. The author and sponsor note their intent to make more explicit the CPUC's existing authority to enforce the IRP in order to ensure the state achieves the GHG

emissions reduction goals. Nonetheless, some LSEs dispute this authority, even as the CPUC has already initiated enforcement penalties process and procedures, noted above. Additionally, some of those opposed to this bill take issue with the penalties and whether there is sufficient clarity regarding what standards would be enforced and whether there should be a greater opportunity to waive penalties. Specifically, California Community Choice Association (CalCCA) takes issue with the proposed language in this bill stating that this bill “lacks critical boundaries and includes vague standards that not only infringe upon CCA procurement autonomy but would lead to increased costs to ratepayers.” Southern California Edison expresses concerns about the proposed language concerning penalties and wishes to amend the language to provide waiver penalties under conditions they argue would be out of the control of the LSE. The crux of the debate for members is whether the CPUC’s authority should be more explicitly stated. Should this bill move forward, the author may wish to continue to work with the committee and stakeholders to ensure the proposed amendments do not undermine the existing authority of the CPUC while working to address some of the concerns with more time to assess the implications of the proposed language. Additionally, the author may wish to consider whether the statute should state LSE customers should be allocated costs of unmet needs or whether those costs should be borne by the LSE.

### **Prior/Related Legislation**

SB 1158 (Becker, 2022) requires the CPUC to consider, and a governing board of a local publicly owned electric utility to review, the annual GHG emissions associated with each LSE’s and local publicly owned electric utility’s power source disclosure to the CEC, and other available data on GHG emissions, and determine whether the GHG emissions demonstrate adequate progress towards achieving the electricity sector GHG emissions reductions targets. The bill is pending in this committee.

SB 1174 (Hertzberg, 2022) requires the CPUC to waive penalties for noncompliance with the resource adequacy requirements, a program that ensures energy capacity, if certain conditions are met. The bill is scheduled to be heard by this committee on March 28<sup>th</sup>.

SB 155 (Bradford, Chapter 401, Statutes of 2019) made specified requirements concerning the plans for energy procurement by LSEs within the jurisdiction of the CPUC.

SB 100 (De León, Chapter 312, Statutes of 2018) established the 100 Percent Clean Energy Act of 2017 which increases the Renewables Portfolio Standard (RPS) requirement from 50 percent by 2030 to 60 percent, and created the policy

of planning to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045, for a total of 100 percent clean energy.

SB 618 (Bradford, Chapter 431, Statutes of 2017) required, explicitly, the IRPs of all LSEs – IOUs, ESPs, and CCAs – to contribute to a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply, meet certain environmental goals, and so that there is no cost shifting among LSEs.

SB 350 (De León, Chapter 547, Statutes of 2015) established the goal of receiving 50 of California's electricity from eligible renewable energy resources.

AB 117 (Migden, Chapter 838, Statutes of 2002) allowed cities and counties to aggregate their electric loads and provide service directly to their residents through formation of CCAs.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

**SUPPORT:**

Union of Concerned Scientists, Sponsor  
California State Association of Electrical Workers  
California Wind Energy Association  
Coalition of California Utility Employees  
Environmental Defense Fund  
Sierra Club California  
The Utility Reform Network, if amended

**OPPOSITION:**

California Community Choice Association, unless amended  
San Diego Gas & Electric, unless amended

**ARGUMENTS IN SUPPORT:** According to the author:

California's Integrated Resource Planning process is crucial for ensuring the state meets its 2030 energy efficiency goals and renewable portfolio standards. Integrated resource plans, also known as IRPs, help discern where consumers' electricity will come from and what type of energy it will be. This system helps keep the state on track towards meeting its goals of decarbonizing the electricity sector and meeting emissions reduction targets.

To ensure that load-serving entities (LSEs) are meeting the goals set forth in their IRPs, SB 881 provides the California Public Utilities Commission

(CPUC) with the authority to enforce implementation. Specifically, this bill states that the CPUC shall require LSEs to undertake sufficient procurement to meet the state's global warming emission reduction target. To ensure LSEs meet their IRP requirements, the CPUC should be able to consider penalties and authorize other entities to satisfy unmet needs to ensure the state stays on track towards meeting its goals.

**ARGUMENTS IN OPPOSITION:** In opposition to this bill, CalCCA takes issue with the lack of standards that are being enforced within the IRP which could infringe on their procurement authority. CalCCA states: "Enforcing plans proposed in the IRP proceeding would be counterproductive; while the IRP examines the ability to achieve the standards it establishes from time to time, LSEs must have flexibility to modify their plans as market conditions and customer needs evolve."

SDG&E expresses concerns that this bill could lead to designating the IOU as the default procurement entity for unmet needs which would run counter to their interest in shifting away from procurement responsibility entirely.

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