

Southern California Edison Company's Responses to the Procurement Compliance Staff Proposal Workshop Questions

July 14, 2026

Southern California Edison Company (SCE) appreciates the opportunity to provide these informal responses on the California Public Utilities Commission's (Commission or CPUC) Procurement Compliance Staff Proposal Workshop Questions.

On May 20, 2026, the Commission issued a notice of a July 23, 2026 Integrated Resource Planning (IRP) Workshop on the upcoming Procurement Compliance Staff Proposal Addressing Good Faith Effort and Net Cost of New Entry (Net CONE) in Rulemaking (R.) 25-06-019. The notice stated that the workshop questions would be provided with a subsequent Administrative Law Judge Ruling.

On June 17, 2026, Commission Staff provided parties with the workshop questions in advance of the July workshop and requested informal party responses by July 7, 2026, which was subsequently extended to July 14, 2026 after granting an extension request submitted by SCE and San Diego Gas & Electric Company. The communication stated that it supersedes the Commission's May 20, 2026 communication and that informal party responses will not be entered into the formal record of R.25-06-019.

To the extent that the Commission is considering any Staff Proposal proposing modifications to the procurement compliance rules applicable to IRP procurement, the Commission should issue an Administrative Law Judge Ruling including that Staff Proposal for formal party comments on the record.

Additionally, it is unclear if Staff are considering changes to the procurement compliance rules for mid-term reliability (MTR) procurement obligations, Decision (D.) 26-02-057 procurement requirements, or only going forward. Load-serving entities (LSEs) have already executed contracts to meet their MTR procurement requirements and most of the MTR compliance tranches have already passed. While it may be appropriate for some clarifications to the IRP procurement compliance rules to also apply for MTR procurement and SCE supports allowing LSEs to request longer extensions of their MTR long-lead time (LLT) procurement requirements as discussed below, the Commission should not consider changing the penalties, enforcement process, resource counting, or other compliance rules for MTR procurement in any manner that would prejudice LSEs by making compliance more difficult or burdensome for LSEs or retroactively cause LSEs to fall out of MTR compliance. LSEs have already executed contracts based on the current MTR compliance rules and cannot modify those contracts to adjust for a change in the requirements. It would be unfair, unreasonable, and contrary to due process to change the compliance rules at this late juncture of the MTR procurement program by, including, but not limited to, increasing MTR penalty amounts, eliminating LSEs' ability to demonstrate their good faith efforts to meet the MTR procurement requirements in any enforcement or penalty assessment, or modifying MTR effective load carrying capability (ELCC) counting rules after-the-fact.

Section 1. Net Cone

1.1 Should a mechanism other than Net Cost of New Entry (CONE) be used to determine the penalty for procurement non-compliance? If yes, what mechanism?

Net CONE remains a reasonable benchmark for establishing non-compliance penalties for LSEs that: (1) did not procure resources to meet their procurement requirement; and (2) cannot demonstrate good faith efforts in their procurement activities. The supply of viable resources available to meet California's procurement requirements remains constrained, especially for procurement requirements that require resources to be interconnected and come online in the near-term or require procurement of specific resource categories that are less available in the interconnection queue and market. Recent large-scale procurement mandates and federal policy changes have also increased costs for new resources within the California Independent System Operator (CAISO) market. These market conditions require that the Commission adopt adequate flexibility and alternative compliance mechanisms for IRP procurement requirements and programs. However, they should not eliminate accountability for procurement deficiencies in cases where LSEs do not make good faith efforts to meet their procurement obligations.

Accordingly, penalties should continue to apply to LSEs that fail to demonstrate reasonable and documented good faith efforts to procure required resources on behalf of their customers. Maintaining a meaningful penalty structure is necessary to preserve procurement discipline, support reliability and greenhouse gas (GHG) reduction objectives, and ensure equitable treatment across all LSEs.

1.2 Should the penalty be proportionate to the Load Serving Entities (LSE's) load served so that its ratepayers are not disproportionately and inequitably affected? Explain.

No. The penalty should not be adjusted based on an LSE's load share. IRP procurement obligations are already allocated in proportion to each LSE's load share; therefore, any potential penalty exposure for procurement deficiencies is inherently correlated with that load share. Further scaling, or prorating penalties, based on load would effectively dilute accountability for smaller LSEs and create inequitable outcomes for all LSEs and their customers while jeopardizing the state's reliability and GHG reduction goals.

A consistent penalty mechanism applied to all LSEs better preserves the incentive to meet procurement obligations and ensures equitable treatment of LSEs and their customers. Because IRP procurement requirements are already established on a load-share ratio basis, any additional adjustments to the penalty structure based on load share are unnecessary and could undermine the effectiveness of the procurement compliance framework.

1.3 It is proposed to replace existing language that sets the procurement penalty amount (Net CONE) -- set at the price of a battery energy storage facility -- to a specific dollar amount. Is there a reason that a specific dollar amount should not be provided to replace Net CONE? If yes, explain why?

No. SCE does not see a compelling reason to replace Net CONE with a fixed dollar amount for existing procurement requirements. Net CONE reflects the cost of the marginal new resource needed to achieve the Commission's procurement objectives and therefore provides a more appropriate and adaptable basis for establishing procurement non-compliance penalties. By contrast, a fixed dollar penalty may become outdated over time and fail to account for changing market conditions, technology costs, and procurement needs.

It is unclear if Staff is considering changes to the penalty amount for MTR procurement obligations, D.26-02-057 procurement requirements, or only going forward. The Commission must not modify the penalty amount for MTR or D.26-02-057 procurement requirements. LSEs have already executed contracts to meet their MTR procurement requirements and most of the compliance tranches for MTR procurement have already passed. LSEs have also already begun procuring to meet their D.26-02-057 procurement requirements. It would be unfair, arbitrary, and contrary to due process to increase the penalty amount for pre-existing procurement requirements that already have a penalty established by the Commission.

If the Commission elects to continue using Net CONE as the basis for the penalties going forward, SCE recommends that the Commission consider calculating Net CONE based on a co-located solar-plus-storage resource, which is the available resource type capable of achieving both reliability and GHG objectives. However, this change should not be applied to MTR or D.26-02-057 procurement requirements. It is also premature to determine the penalty for any future Reliable and Clean Power Procurement Program (RCPPP) without knowing the framework and structure of the program. This issue should be addressed as part of the development and implementation of the RCPMP.

1.4 Should application of procurement penalties be determined annually following June 1st?

For MTR procurement, the Commission already decided that any potential penalties will be determined after June 1, 2025 (which has already passed) for all procurement for 2023-2025, after June 1, 2027 for all procurement for 2026-2027, and after June 1, 2028 (or later if extended) for LLT procurement.¹ The Commission should not change this process for MTR procurement. It would be unreasonable to change the penalty process for procurement that has already been completed.

In D.26-02-057, the Commission determined that compliance and any potential penalties will be assessed separately for each year's procurement requirements after June 1, 2030, June 1,

¹ See D.21-06-035 at 74-76, Conclusion of Law (COL) 26; D.23-02-040 at 32-33, Ordering Paragraph (OP) 6; D.24-02-047 at 113-114, OP 16-17.

2031, and June 1, 2032.² SCE does not recommend changing that process for D.26-02-057 procurement.

It is premature to determine how any potential penalties should be established for a future RCPMP without knowing the structure of such a program or understanding its requirements. Any RCPMP penalty process should be considered as part of the RCPMP framework development and implementation.

Section 2. Good Faith Effort

2.1 With the implementation of the alternative compliance approach, it is proposed to sunset the “good faith effort” policy. Is there a need for a complementary policy for the existing alternative compliance approach? Why or why not?

The Commission has used the term “good faith effort” in the context of two different elements of its IRP procurement decisions. First, the Commission has repeatedly affirmed that it will consider LSEs’ good faith efforts to procure in any compliance and enforcement actions when determining whether to assess penalties for non-compliance with IRP procurement requirements.³ Second, the Commission established an extension process where LSEs that demonstrate documented evidence of good faith efforts to procure may request extensions of the required online date for their MTR LLT procurement requirements for up to three years.⁴ It is not clear what Staff means when they state “[w]ith the implementation of the alternative compliance approach, it is proposed to sunset the ‘good faith effort’ policy.” However, neither aspect of the Commission’s existing “good faith effort” policy should be eliminated.

As the Commission recognized in D.21-06-035, consideration of LSEs’ good faith efforts to procure in any compliance and enforcement decisions when determining whether to assess penalties for non-compliance is consistent with the Commission’s general enforcement policy. In D.21-06-035, the Commission referred to the Commission’s general enforcement policy adopted in Resolution M-4846 and stated that “[t]his process will allow the Commission to take into consideration good faith efforts.”⁵ Indeed, the Commission’s enforcement policy makes clear that in considering imposing penalties, the Commission will consider a number of factors, including the severity and gravity of the offense, the conduct of the regulated entity such as the entity’s degree of culpability and actions taken to prevent a violation, and the totality of circumstances in furtherance of the public interest.⁶ Procurement, by its nature, is inherently uncertain and relies heavily on other entities performing, which are things beyond an LSE’s control. Penalizing LSEs without considering LSEs’ good faith efforts to meet the procurement

² See D.26-02-057 at 49, OP 10.

³ See D.21-06-035 at 74-75, COL 27; D.23-02-040 at 36, 75; D.24-02-047 at 94, 123; D.26-02-057 at 2, 124, Finding of Fact (FOF) 18, COL 26, OP 10.

⁴ See D.21-06-035 at 36, 75-76, COL 8-9, OP 5; D.24-02-047 at 100-102, COL 18-20, OP 16-17.

⁵ D.21-06-035 at 74-75. See also *id.* at COL 27 (“Assessment of any penalties should follow the process outlined in Resolution M-4846 and may take into consideration good faith efforts to procure the required capacity.”).

⁶ See Resolution M-4846, Attachment at 3, 16-21.

requirements and other relevant factors would be arbitrary, unreasonable, and in violation of the Commission's own enforcement policy.

The Commission has repeatedly recognized the need for both an alternative compliance mechanism and consideration of good faith efforts in enforcement determinations. In D.21-06-035, the Commission allowed MTR bridge procurement as an alternative compliance mechanism and also stated that the Commission's enforcement policy may take into consideration LSEs' good faith efforts.⁷ In D.23-02-040, the Commission expanded MTR bridge procurement to include imports while also recognizing that "LSEs may make all good faith efforts to procure the required resources and simply be unable to for reasons beyond their control," and reiterating that the "Commission and staff will consider deficiencies and non-compliance on a case-by-case basis, taking the LSE's efforts and all relevant and exogenous factors into account."⁸ Similarly, in D.26-02-057, the Commission recently determined that its new procurement requirements will include both the D.25-09-007 alternative compliance mechanism and consideration of "good faith efforts" to procure, as described in D.21-06-035, also stating this "this decision is not intended to require LSEs to procure resources at any cost, and LSEs may show evidence of high, non-competitive, or unreasonable pricing received in their solicitations in their showings demonstrating good faith efforts."⁹

As the Commission has acknowledged, there continues to be a need for both an alternative compliance mechanism to address project delays that may occur due to factors outside LSEs' control and for consideration of LSEs' good faith efforts in any enforcement and penalty determinations. In fact, both mechanisms are especially important given the challenges to procurement under current market conditions, including a constrained interconnection queue with limited resource types available, changes in federal permitting and tax policy that have made procurement more difficult and costly, and many LSEs competing to procure a limited pool of resources, among other factors.

While the D.25-09-007 alternative compliance mechanism appropriately addresses resource delays for contracted resources for a three-year period, there are other circumstances where an LSE that has made all good faith efforts to procure may find themselves out of compliance for reasons outside their control. For example, an LSE may not receive sufficient bids that can come online in time to meet its procurement requirements, especially for certain resource categories with limited market availability, such as firm zero-emitting resources. Similarly, an LSE's contract could terminate for reasons beyond its control and replacement with another long-term contract may not be available (or may not be available right away) to meet the requirements of using the D.25-09-007 alternative compliance mechanism. In D.26-02-057, the Commission also stated that its decision "is not intended to require LSEs to procure resources at any cost," and that evidence of high, non-competitive, or unreasonable pricing received in LSE solicitations may be considered in a good faith efforts showings.¹⁰ These factors are not considered in the D.25-09-007 alternative compliance mechanism.

⁷ See D.21-06-035 at 70, 74-75, 85, COL 27, OP 10.

⁸ D.23-02-040 at 36, 40-41, 75, OP 8.

⁹ D.26-02-057 at 2, 48-49, 124-125, FOF 18, COL 24, COL 26, OP 10.

¹⁰ *Id.* at 124.

Consistent with the Commission’s general enforcement policy, IRP procurement should not be subject to a “strict liability” standard where LSEs are subject to penalties without consideration of the LSE’s good faith efforts to procure. The Commission should maintain its policy of considering LSEs’ good faith efforts to procure and all other relevant factors on a case-by-case basis in any enforcement and penalty determinations.

Furthermore, with respect to the extension process for the MTR LLT procurement requirements, LSEs were able to submit a Tier 2 advice letter by June 1, 2025 seeking an extension based on LLT cost considerations or projects with later commercial online dates, including signed or proposed contracts with projects with contract online dates up to June 1, 2031, and including confidential pricing and bid data to substantiate the basis for the request.¹¹ Additionally, LSEs with signed LLT contracts may request, by no later than June 1, 2028, extensions to the online dates to no later than June 1, 2031, by submitting a Tier 2 advice letter containing evidence of a good faith effort by including an executed contract and at least one of the following: (a) Evidence of site control; (b) An interconnection agreement; and/or (c) A notice to proceed.¹²

In D.25-09-007, the Commission established a new alternative compliance mechanism where an LSE will be deemed in compliance with any of its MTR procurement requirements if: (1) the LSE has sufficient executed long-term contracts (active contracts that meet the applicable requirements in D.21-06-035, D.23-02-040, and D.24-02-047, including having a length of ten years or more) to meet the applicable procurement requirements; and (2) the LSE has met its month-ahead system resource adequacy (RA) requirements for each month the procurement is delayed, by the final deadline for curing any RA deficiency.¹³ LSEs may be deemed compliant by using this compliance pathway for a period of not more than three years from the required online date of the applicable procurement requirement.¹⁴ Although the D.25-09-007 alternative compliance mechanism applies to MTR LLT procurement, the Commission did not modify OP 16 or OP 17 of D.24-02-047 requiring LSEs whose LLT contracts are delayed to submit an extension request by Tier 2 advice letter. SCE supports eliminating the requirement that LSE whose LLT contracts are delayed submit an extension request by Tier 2 advice letter if they can alternatively comply with the LLT procurement requirements through the D.25-09-007 alternative compliance mechanism. This would eliminate unnecessary administrative burden for LSEs and the Commission and is consistent with the treatment of other MTR procurement categories and D.26-02-057 procurement.

However, the Commission should not eliminate the ability of LSE who cannot utilize the D.25-09-007 alternative compliance mechanism to submit an extension request on their LLT procurement requirements based on their good faith efforts. There may be circumstances where an LSE cannot be deemed compliant under D.25-09-007 but still qualifies for a good faith efforts extension (e.g., if an LSE signed an LLT contract but it subsequently terminated requiring an

¹¹ See D.24-02-047 at OP 16.

¹² See *id.* at OP 17.

¹³ See D.25-09-007 at OP 11.

¹⁴ See *id.*

extension of time for the LSE to meet the requirement). It would be unfair and unreasonable to eliminate this option.

In fact, particularly given the challenges in meeting the firm zero-emitting procurement requirements and the lack of resources qualifying for this category in the interconnection queue, SCE recommends the Commission consider expanding LSEs' ability to submit good faith efforts extension requests on the LLT procurement requirements to allow for extensions beyond 2031. Transmission infrastructure for some of these projects will likely not be available by 2031 and imposing a strict 2031 cut-off may jeopardize the viability of the projects altogether. Allowing LSEs who can demonstrate that they have made good faith efforts to meet the LLT procurement requirements to extend the required online date beyond 2031 would maximize LSEs' ability to meet the LLT procurement requirements and actually bring these needed resources online.

2.2 Should "good faith effort" be defined? If yes, what should be the definition of "good faith effort". *Note: Any definition should be objective and measurable.*

Good faith effort should not be defined. With respect to enforcement and penalty determinations, as the Commission has recognized, the Commission should evaluate all relevant factors and consider the totality of the circumstances, including the LSE's conduct on a case-by-case basis.¹⁵ An LSE's good faith efforts to meet a procurement requirement is necessarily a case-by-case determination where the specific evidence will differ for each LSE and each procurement requirement. SCE does not see the benefit of trying to establish a precise definition of good faith effort, especially since what constitutes "good faith effort" is necessarily a fact dependent inquiry.

Attempts to convert "good faith effort" into a single objective and measurable definition would be difficult to administer and could produce unintended consequences. Good faith is inherently a context-specific inquiry that turns on the totality of the circumstances, including the LSE's conduct, the market conditions it faced, the information available at the time, and factors outside the LSE's control. A rigid definition would likely be either over-inclusive or under-inclusive, creating artificial safe harbors or exclusions that do not reflect whether an LSE genuinely undertook reasonable procurement efforts. If the Commission determines that further clarification is needed, SCE recommends that it provide non-exhaustive guidance or illustrative factors for evaluating good faith efforts, rather than adopting a binding definition that would constrain the Commission's case-by-case review.

For MTR LLT extension requests, the Commission has already established the required evidence to be included in an extension request.¹⁶ However, as with enforcement determinations, the specifics of each request should be evaluated on a case-by-case basis and SCE does not support developing one single definition of good faith effort.

¹⁵ See D.23-02-040 at 36, 75.

¹⁶ See D.24-02-047 at OP 16-17.

2.3 With the implementation of the alternative compliance approach, please explain why the “good faith effort” policy may still be necessary. Provide an example scenario.

As discussed in response to question 2.1, consideration of LSEs’ good faith efforts to meet the procurement requirement in any enforcement and potential penalty determination is still necessary with the implementation of the D.25-09-007 alternative compliance mechanism.

Consideration of LSEs’ good faith efforts is consistent with the Commission’s enforcement policy. Moreover, there are a variety of circumstances where an LSE that has made all good faith efforts to procure may find itself out of compliance for reasons outside its control. For example, an LSE may not receive sufficient bids that can come online in time to meet its procurement requirements, especially for certain resource categories with limited market availability, such as firm zero-emitting resources. An LSE’s contract could terminate for reasons outside its control and there may not be available replacement long-term resources to meet the requirements of using the D.25-09-007 alternative compliance mechanism. Similarly, an LSE with a contracted resource that is delayed for reasons outside its control may also not be able to meet its system RA requirement for a month for reasons outside its control. Likewise, an LSE’s contracted resource could be delayed for more than three years due to lack of transmission infrastructure for reasons beyond its control. An LSE may also be unable to meet its procurement requirement due to non-competitive or unreasonable pricing in the market. In all of these circumstances, the Commission must still consider the LSE’s good faith efforts to meet the procurement requirement before assessing any penalties.

SCE also explained why extension requests for the MTR LLT procurement requirements continue to be necessary in response to question 2.1.

Section 3. Definition of “Online”

3.1 The proposed definition of online is “the resource is delivering power to the grid and contracted to deliver by the specified compliance tranche date.” Other than Commercial Operations Date (COD), are there any other determinants that meet the proposed definition?

The definition of online should not require that a resource is contracted to deliver by the specified compliance tranche date. A resource should be considered online when it is delivering power to the grid and under contract with the LSE regardless of whether the resource is contracted to deliver by the specified compliance tranche date.

That requirement was not included in any of the MTR decisions and cannot be applied to MTR procurement now after-the-fact. In addition, SCE agrees that LSEs should endeavor to execute contracts to deliver power to the grid by the specified compliance tranche date and that those resources should actually deliver power to the grid by that date if possible. However, some of these resources may be delayed for reasons outside the LSE’s control and require an amendment to their contractual online dates beyond the specified compliance tranche date. An LSE may also execute a contract to deliver by the specified compliance tranche date and that contract could later terminate for reasons outside the LSE’s control. Depending on the timing of

that termination and the availability of other resources in the market, the LSE may be unable to sign another contract to deliver by the specified compliance tranche date. Moreover, if there are not enough viable resources to feasibly meet the procurement requirements, it is possible that an LSE will not receive enough bids for resources that can come online by the specified compliance tranche date.

In all of these situations, it benefits system reliability for the LSE to execute contracts with resources that can come online as soon after the specified compliance tranche date as possible, not to forego any procurement because resources not contracted to begin deliveries by the specified compliance tranche date are not considered online and therefore may not count toward the procurement requirements.

The Commission stated that:

We also recognize that LSEs may make all good faith efforts to procure the required resources and simply be unable to for reasons beyond their control. Nonetheless, the Commission expects LSEs to make those good faith efforts to procure the required resources to meet their allocated procurement requirements.¹⁷

If an LSE cannot meet its procurement requirements on time, the Commission should want the LSE to meet that procurement requirement as soon as possible by backfilling for a terminated contract, signing a replacement contract with an online date after the applicable compliance tranche, or other means. The Commission should not establish a definition of online that is contrary to these incentives. A resource should be considered online when it is delivering power to the grid and under contract with the LSE.

SCE recommends that either a COD notice or a Commercial Operations for Market (COM) notice be used to determine when a resource is delivering power to the grid. As discussed in response to question 3.2, in cases of phased market participation, a resource could be delivering power to the grid when it receives a COM notice (before it receives a COD notice) and should be considered online for purposes of any IRP procurement requirement.

3.2 Can a resource receive a Commercial Operations for Market (COM) notice without ever receiving a COD notice? Please explain.

Yes, a resource may request COM status, to enable phased CAISO market participation, allowing a portion of the resource to bid into the CAISO market before the entire resource achieves COD. The request must be supported by an Implementation Plan as part of the CAISO New Resource Implementation process that outlines the schedule for bringing the remaining phases online and achieving full COD for the resource. Resources are incentivized to achieve COD to receive full market revenue for their full output and because the Interconnection Customer is not eligible for repayment of the Network Upgrades outlined in the Large Generator Interconnection Agreement until the entire capability of the resource has achieved its COD.

¹⁷ D.23-02-040 at 36.

3.3 What modifications or upgrades can or should occur that would result in incremental capacity of a resource? Is there anything else other than physical modifications or upgrades that can result in an increase in a resource's deliverability capabilities?

A resource may increase its nameplate capacity through physical modifications such as repowering, augmentation, or equipment upgrades. If the modification increases the resource's nameplate capacity, the resource must seek and obtain CAISO approval through the applicable interconnection modification or interconnection request process. Any additional capacity would be subject to CAISO's interconnection and deliverability assessment procedures. An increase in a resource's physical capability does not, by itself, result in additional deliverable capacity; the resource must obtain deliverability through the applicable CAISO deliverability allocation process. Deliverability will depend on the availability of transmission capability and the results of CAISO's deliverability assessments. Deliverability is defined under the CAISO tariff as the amount of RA capacity verified through a Deliverability Assessment and eligible to provide RA capacity.

A resource's deliverable capacity may also increase without any physical modification to the facility. For example, an interconnected, operating Energy-Only resource may later obtain deliverability, if deliverability becomes available, through a Transmission Plan Deliverability allocation process. In that case, the resource's nameplate capacity remains unchanged, but the amount of capacity eligible to provide RA value increases as a result of receiving additional deliverability.

Finally, some physical modifications may increase the resource's net qualifying capacity (NQC) even if they do not increase its nameplate capacity or deliverability. For example, modifications that improve operational performance, increase availability during system peak hours, or reduce ambient temperature-related derates may result in a higher NQC determination. In these instances, the resource's physical capacity and deliverability status remain unchanged, but the amount of RA capacity the resource is eligible to provide may increase.

3.4 When looking at how energy and storage resources can be paired, are there negative impacts to a resource having intermittent pairing with an energy resource that does not fully span the contract term of the storage? Explain.

Generally, no. From a resource perspective, there is not necessarily a negative impact if the contract term for the intermittent generation resource ends before the contract term for the paired energy storage resource. If the generation and storage components are contracted separately and each contract is long enough to support project financing and deliverability allocation, the expiration of the generation contract would not inherently impair the continued operation of the storage resource. In that circumstance, the developer could, and would likely, seek another off-taker for the generation contract after the initial contract ends.

However, different contract end dates can create additional commercial and operational complexities. Depending on the project design, the parties may need to address issues such as the continued use and allocation of shared facilities and infrastructure, changes in financing arrangements, operational coordination between the resources, and any potential impacts on

performance requirements. These considerations are project-specific and need to be addressed through the contractual framework.

As a contracting practice, SCE prefers the intermittent generation resource and the storage resource contracts to commence and terminate concurrently. Aligning contract terms simplifies both contracting and ongoing administration.

Section 4. Capacity Factor

4.1 What engineering assessment calculation methods can be used by an LSE to demonstrate an 80% capacity factor? Explain specific calculation methods and how this would be demonstrated.

SCE understands that the Commission’s questions regarding the 80% capacity factor requirement are intended to clarify how this requirement should be defined, measured, and applied for purposes of IRP procurement compliance going forward. In particular, the capacity factor threshold is being used as a screening tool to identify resources that can provide sustained, dispatchable, and reliable energy contributions consistent with the Commission’s objectives for “clean firm” capacity. At the same time, the Commission must ensure that this requirement can be implemented in a manner that is transparent, verifiable, and comparable across resource types and that aligns with the requirements ultimately adopted in the RCPPP, which are to-date still unknown.

Many LSEs have already executed contracts to meet their MTR firm zero-emitting procurement requirements based on the language in D.21-06-035 and in Commission staff’s frequently asked question responses.¹⁸ The Commission must not impose new or different requirements on this MTR procurement after-the-fact.

Going forward, SCE supports the use of a standardized and auditable methodology for calculating capacity factor that is based on resource performance. For example, the capacity factor could be calculated as the ratio of electrical output (in MWh) to the maximum potential output (e.g., contract capacity) of the resource over a contract term year (i.e., 8760 hours). This definition does not adjust for planned maintenance outages, and the Commission should determine if the capacity factor calculation should adjust for (i.e., credit) planned maintenance outages when measuring against the 80% capacity factor.

For IRP purposes, SCE recommends that compliance with the capacity factor requirements be established based on an engineering assessment prior to commercial delivery. The engineering assessment should model and forecast resource performance and capacity factor

¹⁸ See Integrated Resource Planning (IRP, R.20-05-003), Energy Division Staff’s Responses to Frequently Asked Questions on Mid-Term Reliability Procurement Decision (D.) 21-06-035, Version 6.1: 06/17/2025, at 2, available at: https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-http/d2106035_faqv6_1_20250617.pdf.

for the first delivery term year and be conducted by an independent engineer. An engineering assessment submission could be part of the offer package in a solicitation.

SCE assumes that most power purchase agreements leverage verifiable data sources, such as CAISO settlement data or equivalent telemetry, to measure the performance against energy contract delivery obligations. During the power purchase delivery term, the contract's commercial structure likely provides incentives for performing above the capacity factor. Higher performance generally provides more revenue, lower performance less revenue, while significant underperformance can create additional shortfall payments from the generator to the LSE, and potential termination of the agreement.

**4.2 Should the 80% annual capacity factor requirement be determined by:
(a) An average annual capacity factor of 80% across the entire term of the contract or (b) An annual capacity factor of 80% in at least the first year of a contract? Explain.**

SCE recommends that the 80% capacity factor requirement be fulfilled by the engineering assessment conducted prior to commercial deliveries beginning. To reflect the operational realities and profiles of different projects, SCE recommends that the engineering assessment model the first term year only. This provides certainty for LSEs on which projects count as firm zero-emitting and will allow for projects to negotiate degradation of the production profiles that better reflect their specific technologies and costs. The degradation and long-term production profile can be factored in by the LSE in the commercial terms and solicitation process.

As discussed in response to question 4.1 above, during the power purchase delivery term, the contract's commercial structure should already incentivize the resource to maintain its capacity factor. This approach ensures the resource's ongoing ability to provide dependable energy, supports more efficient operation, and avoids creating incentives for short-term actions that may not align with long-term system reliability objectives.

4.3 Should there be a different definition for capacity factor? Why?

SCE supports maintaining a standard definition of capacity factor – energy output relative to maximum potential (e.g., contract capacity) of the resource over a contract term year (i.e., 8760 hours) – as the baseline for IRP purposes. A consistent definition is necessary to preserve comparability across resource types and helps ensure that the metric remains transparent and verifiable within both planning and procurement compliance contexts.

4.4 Due to the Long Lead Time (LLT) requirement for the ratio of the actual amount of electrical power produced by a generating unit and the required continuous generation at full maximum discharge for 24 hours a day, 7 days a week, over a year, should there be a varied definition of capacity factor for LLT resources?

At this time, SCE does not support a varied definition of capacity factor for LLT resources. A consistent definition preserves comparability across resource types and helps ensure that the metric remains transparent and verifiable within both planning and compliance contexts.

Section 5. Resource Delays

5.1 If a resource is delayed or contracted with a later online date and paired with a bridge or alternative compliance pathway, should the LSE get to apply the selected tranche Effective Load Carrying Capability (ELCC), or should they be required to use the later ELCC associated to the online date?

SCE recommends that a delayed resource or a resource contracted with a later online date that is paired with a bridge resource or alternative compliance mechanism retain the ELCC value associated with the procurement tranche the resource is counting toward, regardless of the resource's ultimate online date.

This is consistent with the Commission's direction for MTR ELCC values:

In the 2021 Memo, staff provided guidance on ELCCs and their application towards an LSE's excess or early procurement. In summary, the compliance date for which the resource is being used to satisfy MTR requirements will determine which ELCC should be applied to the resource for compliance purposes.

For consistency, staff is applying this same paradigm to delayed resources. This methodology was also used for the 2021 and 2023 MTR ELCC studies, in which the ELCCs for each tranche were derived from, among other things, the resource mix assumed to be online for each tranche. Staff also note that LSEs are obligated to fill each tranche of their procurement obligation, regardless of resource delays. In this way, all LSEs have equal access to each tranche's ELCCs.

For example, consider a resource that an LSE expected to be online by the 2025 compliance date that is delayed until 2026. If the LSE still treats the project as a delayed resource that applies to its 2025 (Tranche 3) obligation, the LSE should use the Tranche 3 ELCC. If the LSE instead elects to procure an alternative resource to meet its 2025 compliance obligation and is applying the delayed resource to its 2026 obligation, then the LSE should use the Tranche 4 ELCC for the delayed resource. Regardless of resource delays, LSEs are required to fill their share of each tranche of procurement, using that tranche's ELCCs, to ensure that overall amounts meet the reliability need and that all LSEs are applying each tranche's ELCCs consistently.¹⁹

This approach must not be modified for MTR procurement after-the-fact and should also be used going forward.

The ELCC values assigned to each tranche reflect the Commission's planning assumptions regarding the quantity and mix of resources expected to come online in that tranche

¹⁹ Energy Division staff, Incremental Effective Load Carrying Capabilities (ELCCs) to be used for Mid-Term Reliability Procurement (D.21-06-035), February 10, 2023, at 2-3, available at: https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltrp/2023-02-irp_mtr_elccs-public_transmittal_memo_v1.pdf.

and their contribution to system reliability. Applying a later-tranche ELCC value to a delayed resource would be inconsistent with those assumptions because later-tranche ELCC values already reflect the reliability impacts of resources that were expected to come online in earlier tranches. As a result, using a later-tranche ELCC value could misstate the reliability contribution intended for a resource procured to satisfy an earlier procurement obligation. To maintain consistency with the planning assumptions underlying the ELCC framework and to avoid creating unintended compliance penalties associated with development delays, resources should receive the ELCC value associated with the tranche for which the procurement obligation was originally established.

5.2 How should resource delay be defined? What evidence can be provided to prove a resource delay?

A delay should be defined as a resource coming online after the specified compliance date for the tranche it is being counted toward. For example, if a contracted resource is counted toward the 2026 tranche requiring a June 1, 2026 online date, the resource should be defined as delayed if it comes online after June 1, 2026.

As discussed in response to question 3.1, a resource should be considered online when it is delivering power to the grid and under contract with the LSE regardless of whether the resource is contracted to deliver by the specified compliance tranche date. Evidence of a resource delay can be established by comparing the resource's CAISO COM or COD to the specified compliance date for the tranche it is being counted toward. This is consistent with the MTR decisions and should apply for MTR procurement, D.26-02-057 procurement, and going forward.

5.3 If a resource is delayed and a long-term contract is not procured, how should the ELCC for the initial tranche be applied?

SCE recommends applying the ELCC value associated with the initial procurement tranche until that tranche's procurement target has been satisfied. This is consistent with the Commission's direction for MTR procurement as discussed in response to question 5.1. As discussed in response to question 5.1, tranche-specific ELCC values are based on planning assumptions regarding the quantity and mix of resources expected to come online to satisfy each procurement requirement. Those ELCC values therefore reflect the reliability contribution needed for the applicable tranche rather than an individual resource's actual commercial online date.

Applying a later-tranche ELCC value solely because a resource is delayed or a replacement long-term contract has not yet been procured would conflict with the underlying planning assumptions. Later-tranche ELCC values already assume that earlier tranche resources have been developed and are contributing to system reliability. As a result, using a later-tranche ELCC value could understate the reliability need associated with the original tranche and effectively penalize an LSE for circumstances that do not change the underlying procurement obligation.

Accordingly, the Commission should continue to apply the initial tranche ELCC value until the procurement target for that tranche is satisfied. This approach maintains consistency with the ELCC framework, preserves the integrity of the Commission's planning assumptions, and keeps compliance focused on satisfying the underlying procurement requirement rather than reflecting changes in calendar timing.

5.4 Should the alternative compliance mechanism cure a deficiency gap for a resource that is contracted for a later date, or should the alternative compliance mechanism only close the gap if a resource was originally contracted for an earlier online date?

The alternative compliance mechanism should be available to cure a deficiency gap regardless of whether the underlying resource was originally contracted to be online by the applicable compliance date. This is consistent with the MTR decisions and should apply for MTR procurement, D.26-02-057 procurement, and going forward.

The alternative compliance mechanism is intended to provide LSEs with a clear alternative compliance pathway to be deemed compliant with IRP procurement requirements in the event of delays outside their control.²⁰ The Commission recently reiterated that there continue to be significant market challenges to developing new resources that may lead to procurement delays outside of the control of the LSEs, necessitating an alternative compliance mechanism.²¹

The market challenges that can result in procurement delays outside an LSE's control are not limited to resources originally contracted to meet a compliance deadline being subsequently delayed. These market challenges may leave an LSE with too few viable bids to meet a compliance tranche's required online date, requiring the LSE to contract with projects with later online dates. For instance, if an LSE has a procurement requirement with a required June 1, 2027 online date, but the LSE does not receive enough bids for viable projects that can interconnect and come online by June 1, 2027, the LSE will need to execute contracts with projects later online dates to meet its requirements. This is also a delay outside the LSE's control.

Similarly, an LSE may execute contracts with resources contracted to come online by the required online date and one or more of those contracts may subsequently be terminated for reasons outside the LSE's control such as permitting or financing. The LSE then needs to replace those contracts, and it may not be possible for the LSE to contract for resources that can come online by the required online date if not enough of those resources are available in the market. This is also a delay outside the LSE's control.

These situations are all delays that should be addressed by the alternative compliance mechanism. The D.25-09-007 alternative compliance mechanism already requires an LSE to have sufficient executed long-term contracts to meet the applicable procurement requirements and to meet the month-ahead system RA requirements for each month of the delay. Limiting the alternative compliance mechanism's application to contracts that were originally contracted to

²⁰ See D.25-09-007 at 36-37, COL 11.

²¹ See D.26-02-057 at 48-49, 125, COL 24.

meet the required online date would be arbitrary and unreasonable. It could also incentivize LSEs to contract for unrealistic online dates that are not achievable so they can utilize the alternative compliance mechanism, while penalizing LSEs whose contracts include realistic online dates that the projects are more likely to actually achieve.

Applying an eligibility screen for the alternative compliance mechanism based on whether the contract was originally contracted to meet the required online date would create artificial distinctions that do not reflect actual reliability outcomes. As discussed in response to question 5.1, tranche-specific ELCC values are based on the Commission's planning assumptions regarding the quantity and mix of resources expected to satisfy each procurement tranche. These ELCC values reflect the reliability contribution needed to satisfy a particular tranche obligation, not an individual resource's development history or contractual milestones.

Restricting the alternative compliance mechanism only to resources that were originally contracted to be online by the applicable compliance date could lead to unreasonable results. For example, Resource A may have been contracted to come online by the required date (i.e., June 1 of the applicable compliance tranche) but subsequently experienced a three-year delay. Under such an approach, Resource A could remain eligible to utilize the alternative compliance mechanism and ultimately receive the ELCC value associated with the original tranche. By contrast, Resource B may have been contracted to come online only one day after the required compliance date (i.e., June 2), experience no delay, and provide substantially the same reliability benefits for nearly three years earlier than Resource A, yet be ineligible for the same treatment solely because its original contract date was after June 1.

This distinction does not correspond to any meaningful difference in reliability outcomes and would effectively create an artificial compliance constraint. The most relevant inquiry is whether the resource is being used to satisfy the procurement need for the applicable tranche and whether any interim reliability deficiency is appropriately addressed through the alternative compliance mechanism. Accordingly, the Commission should permit the alternative compliance mechanism to cure deficiencies associated with resources contracted for later online dates, so long as the underlying procurement obligation remains tied to the applicable tranche requirement. This approach better aligns compliance treatment with the planning assumptions embedded in the ELCC framework and avoids arbitrary outcomes that are unrelated to actual system reliability.

5.5 What documentation should be required to demonstrate a resource was originally intended for an earlier contract date other than an executed contract? Please explain.

As discussed above, the Commission should not require any demonstration that a resource was originally intended for an earlier contract date.

5.6 If a resource is delayed, can an LSE negotiate language that requires the delivery period be extended to maintain a 10-year tenure?

In SCE's experience, the delivery term of a contract generally begins to run once a resource comes online and the seller has satisfied all the contractual obligations for contract

deliveries. Therefore, if an LSE executed a contract with a project for a 10-year delivery term and the project's contractual online date was delayed, the delivery term would run from the delayed contractual online date and still be 10 years. SCE does not object to a requirement that the delivery term of a contract be 10 years regardless of a delay in the project's online date.

Section 6. Issuance of Citation

- 6.1 Since citations are currently issued publicly, is there a reason that procurement citations should not include the following information: Citation Number, LSE, Date Notified, Date Issued, LSE CPUC ID, LSE Type, Specified Violation, Citation Amount, Pay Status, Appeal Status, Appeal Number? If yes, please explain.**

SCE does not object to procurement citations including this information.

- 6.2 Should citations be issued annually? Why or why not?**

For MTR procurement, the Commission should continue to follow the process established in the MTR procurement decisions as discussed above in response to question 1.4. For D.26-02-057 procurement, the Commission should assess compliance after each compliance tranche date and issue potential citations annually if appropriate. It is premature to determine how potential citations should be issued in an RCPMP at this time. That issue should be considered as part of the RCPMP development and implementation.

- 6.3 What timeframe should be implemented for issuance of procurement citations?**

See response to question 6.2.

Section 7. Aligning Integrated Resource Planning (IRP), Resource Adequacy (RA), and Renewables Procurement Section (RPS)

- 7.1 Given that IRP, RA, and RPS have different goals and mandates, are there opportunities to align the three programs? Please explain.**

SCE supports aligning the IRP, RA and RPS programs where possible. The potential to align the procurement programs is unclear at this time given the uncertainty about the framework of a future RCPMP. SCE believes there is overlap in IRP and RPS procurement plan requirements and that there are opportunities to streamline these planning processes to minimize duplication.

7.2 What burdens need to be overcome to align IRP, RA, and RPS?

A primary challenge in aligning IRP, RA, and RPS is that each program was designed to serve a different purpose and measures success through different metrics. IRP is a forward-looking planning process intended to identify least-cost, best-fit portfolios that meet California's long-term reliability and GHG reduction goals. RA, by contrast, is an operational compliance framework focused on ensuring that sufficient capacity from existing resources is available to meet near-term reliability needs. The RPS program drives specific types of renewable procurement, which is measured in renewable energy credit terms rather than by whether those resources actually result in GHG reductions at least cost.

These three programs are not inherently aligned, and compliance with one program does not necessarily satisfy the objectives of the others. Clean energy procurement may help meet RPS targets but may not ensure reliability during critical peak hours. Similarly, RA compliance can demonstrate near-term capacity sufficiency without ensuring new resource development or meaningful GHG reductions. This divergence creates a foundational challenge: coordinating programs that evaluate performance based on different measures, namely capacity, renewable energy credits, and emissions.

There are also challenges in aligning IRP and RPS planning based on the statutory requirements for RPS procurement plans. While SCE believes statutory changes could help streamline the processes, there are also opportunities for greater alignment without statutory changes.

7.3 Are their stakeholder time constraints inherent in an effort to align IRP, RA, and RPS? Please explain.

The Commission would need to assess whether efforts to further align the IRP, RA, and RPS programs would be worth the time and effort involved for Commission staff and the parties.