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**on the 3rd 15-Day Language Revisions to the Regulatory Language  
for the Load Management Standards**

*Additional submitted attachment is included below.*



September 27, 2022

Docket Unit  
California Energy Commission  
Docket No. 21-OIR-03  
715 P Street, MS-4  
Sacramento, CA 95814

**RE: California Municipal Utilities Association Comments on the 3<sup>rd</sup> 15-Day Language Revisions to the Regulatory Language for the Load Management Standards [CEC Docket No. 21-OIR-03]**

Dear Commissioner McAllister and Commission Staff,

The California Municipal Utilities Association (CMUA) respectfully submits these comments to the California Energy Commission (Commission) on the proposed *Third 15-Day Language Revisions to the Regulatory Language for the Load Management Standards* (3<sup>rd</sup> 15-Day Language), issued on September 12, 2022.

CMUA thanks both the Commission and staff for their collaboration during this proceeding. Through a robust and thoughtful process, the Commission has taken input from various stakeholder groups and made responsive changes in subsequent drafts of the regulations. After stakeholders, including CMUA, raised significant concerns regarding the proposed regulations, the Commission issued three sets of 15-Day Language, with each successive draft making additional improvements. The proposed changes to the regulations reflected in the 3<sup>rd</sup> 15-Day Language substantially address the concerns previously raised by CMUA, and CMUA generally supports the overall structure of the proposed regulations.

CMUA also recognizes that two of its members, the Sacramento Municipal Utility District (SMUD) and the Los Angeles Department of Water and Power (LADWP), are concurrently submitting individual comments that will provide detailed recommendations on specific topics. In particular, these individual comments identify areas of the proposed regulations where additional clarifications are necessary due to ambiguous or potentially conflicting regulatory language. If these clarifications are not made through changes to the regulations, CMUA believes these concerns should be addressed through responses included in the Final Statement of Reasons (FSOR). Accordingly, CMUA urges the Commission to make these clarifications consistent with the recommendation of SMUD and LADWP.

## I. COMMENTS ON 3<sup>rd</sup> 15-DAY LANGUAGE

### A. CMUA Supports the Proposed Amendments as Modified by the 3<sup>rd</sup> 15-Day Language.

1. It is Appropriate to give POU Governing Boards a Primary and Initial Role in the Load Management Program Development Process.

One of CMUA's key concerns with the earlier versions of the proposed regulations was the very limited role of the POU governing boards of the publicly owned utilities (POUs). In the prior versions of the proposed regulations, the POU governing boards only exercised authority through the final determination about whether to approve or reject the load management tariffs. All steps up to this point were exclusively overseen and directed by the Commission. It was the Commission alone that (i) approved the POU's tariff development compliance plans, (ii) approved any delay, exemption, or modification of the load management requirements, and (iii) specified the elements and structure of the marginal rates. As such, these prior proposals were not consistent with the historical role that POU governing boards play in developing and adopting rates for the POU ratepayers.

The 3<sup>rd</sup> 15-Day Language makes a key change by incorporating the POU governing board into the process at the initial stage, allowing the POU governing board to shape the load management program from the beginning. Specifically, the 3<sup>rd</sup> 15-Day Language adds a separate section to the regulations that would apply to the affected POU's.<sup>1</sup> In this new section, the affected POU's take their plans to comply with the load management standards to their own governing board for approval.<sup>2</sup> As part of this compliance plan approval process, the POU governing board can adopt delays or modifications to the requirements<sup>3</sup> and may determine that a program structure should be utilized as an alternative to a tariff structure.<sup>4</sup> The Commission then reviews these compliance plans for consistency with the regulations.<sup>5</sup>

This new structure strikes an appropriate balance of achieving the Commission's goals for expanding load management programs while ensuring that the POU governing board takes the lead role in developing and overseeing the tariff development process. Such a structure is necessary to ensure that the Commission's regulations do not infringe on the ratemaking authority of the POU governing boards. Further, because the 3<sup>rd</sup> 15-Day Language has the POU governing board adopt the compliance plan, this structure provides an early opportunity for the POU's customers to be informed of the planned tariffs or programs and to provide feedback at

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<sup>1</sup> 3<sup>rd</sup> 15-Day Language at § 1623.1.

<sup>2</sup> *Id.* § 1623.1(a)(1).

<sup>3</sup> *Id.* § 1623.1(a)(2).

<sup>4</sup> *Id.* § 1623.1(a)(1)(B).

<sup>5</sup> *Id.* § 1623.1(a)(3).

this initial stage. This means that the 3<sup>rd</sup> 15-Day Language increases the likelihood of public engagement and support by potential participants.

2. The 3<sup>rd</sup> 15-Day Language Would Substantially Reduce the Costs and Burdens to the POU's in Developing the Load Management Standard Program and Would Increase the Likelihood of Programs Being Implemented Faster and more Effectively.

As described above, the prior version of the proposed regulations required the affected POU's to go through the entire tariff development process consistent with the compliance plan that had been approved by the Commission. These tariffs would need to be compliant with the Commission's regulations and determinations. The POU would need to go through this lengthy process even if the tariffs were not cost-effective for all of the POU's rate classes or if implementing the requirements was not technologically feasible for the POU at that time. The only option for seeking a delay or modification of these requirements was through an application to the Commission with no involvement or authority for the POU's governing board. The only role for the POU governing board was at the very end of the process, and only in the capacity of approving or rejecting the tariffs. This structure would likely have led to significant wasted resources because the POU staff could have been in a position where they would have been required to develop a whole slate of tariffs that their governing board would ultimately reject. This could mean years of wasted effort with the end result being that no load management tariffs or programs are implemented at all.

The 3<sup>rd</sup> 15 Day Language addresses these issues by having the POU governing board provide initial guidance to the POU through adopting the load management compliance plan and approving delays and/or modifications to the requirements. This restructuring makes it much more likely that the POU governing board will ultimately adopt the load management tariffs or programs because those tariffs or programs will have been developed consistent with the governing board's guidance and determinations on cost effectiveness and feasibility. The POU governing board is the oversight body with the best understanding of what is cost-effective for the utility and its customers and is best positioned to make a determination on feasibility. Further, because the POU governing board has the greater authority to fully reject the tariffs, it is reasonable to allow the POU governing boards to exercise the lesser authority of adopting delays and modifications.

The 3<sup>rd</sup> 15-Day Language makes the load management standard more likely to be successful by making it less likely that a POU governing board would outright reject the entire tariff or program, and more likely that a modified structure would be implemented. Further, the POU governing board is much more likely to understand design features, options, and structures that are most likely to succeed with its own customer base. By giving the POU governing board the ability to provide this direction initially, the 3<sup>rd</sup> 15-Day Language makes it more likely that a

load management mechanism will be targeted to and suitable for the POU's customers, which will likely lead to greater participation.

**B. CMUA Recommends that the Commission Clarify Elements of the Regulatory Language in the FSOR.**

As described above, SMUD and LADWP are each submitting individual comment letters that identify several areas of the 3<sup>rd</sup> 15-Day Language that raise concerns. SMUD and LADWP identify possible changes to the regulations that would resolve these issues or, alternatively, request that a clarification be made in the FSOR. CMUA urges the Commission to address these issues.

**II. CONCLUSION**

CMUA appreciates the opportunity to provide these comments to the Commission. Thank you for your time and attention to these comments.