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State of California
California Energy Commission
Memorandum

To: **California Energy Commission** **Date:** May 17, 2023

From: **Drew Bohan, Executive Director**

Initial Determination and Recommendation of the Executive Director on the Joint Parties' April 28, 2023 Request to Extend the July 1, 2023 Deadline for Uploading Their Time-Dependent Rates to the MIDAS Database

INTRODUCTION

On April 28, 2023, Pacific Gas and Electric Company (PG&E), on behalf of itself and a group of other load serving entities (LSEs) that are required to comply with the amended load management standards (LMS) regulations (20 California Code of Regulations "CCR" sections 1621, et seq.), filed a written request with the executive director of the California Energy Commission (CEC or Commission) to extend the LMS regulations' July 1, 2023, deadline for uploading their time-dependent electricity rates in the Commission's Market Informed Demand Automation Server (MIDAS). The request was docketed 23-LMS-01.[1]

Joining in PG&E's request are the other large investor-owned utilities (IOU) and large community choice aggregators (CCAs) that are subject to the amended LMS regulations: Southern California Electric Company (SCE), San Diego Gas & Electric Company (SDG&E), Clean Power Alliance of Southern California (CPA), East Bay Community Energy (EBCE), Marin Clean Energy (MCE), Central Coast Community Energy (CCCE), Silicon Valley Clean Energy Authority (SVCE), San Jose Clean Energy (SJCE), Peninsula Clean Energy Authority (PCE), CleanPowerSF (CPSF), Sonoma Clean Power Authority (SCP), San Diego Community Power (SDCP), Pioneer Community Energy (Pioneer), Valley Clean Energy (VCE), and Orange County Power Authority (OCPA), collectively referred to as the "Joint Parties".

On May 2, 2023, CEC Efficiency Division Director Michael Sokol, acknowledged receipt of the Joint Parties' request, advised the Joint Parties that the CEC expected to respond to their request prior to the July 1, 2023, MIDAS upload deadline, and encouraged the Joint Parties to continue progressing toward meeting the Load Management Standards' regulatory requirements while the request was under consideration.

[1] On May 15, 2023, Valley Clean Energy submitted a request to be included in the Joint Parties' April 28, 2023 request for a delay. This request was approved by Valley Clean Energy's Board. On May 17, 2023 Central Coast Community Energy Authority submitted a similar request approved by its Board. Valley Clean Energy and Central Coast Community Energy Authority are included as Joint Parties herein.

SUMMARY OF THE REQUEST

The Joint Parties allege grounds exist to extend the LMS regulation's July 1, 2023, deadline for them to upload their existing time-dependent rates to MIDAS to "nine months after the final MIDAS protocols are issued by the CEC."

In support of their request, the Joint Parties contend that requiring them to "upload all of their existing time-dependent rates to the MIDAS database by July 1, 2023, would cause extreme hardship to, and is technologically infeasible for, the Joint Parties because (1) the requirements for RINs are still in development by the CEC, have become very complex, and automating the uploads will require significant time and resources; and (2) MIDAS API functional requirements continue to change and need to be in a stable state with current documentation before the Joint Parties can build the systems and processes needed for automated uploads. The LSEs note that the ability of the LSEs to upload all existing time-dependent rates within the proposed nine-month period is predicated on the LSEs' interpretation of the regulations that each LSE is required to upload its own time-dependent rate (i.e., that rate combination between the CCAs generation and IOUs' transmission and distribution rates is not required)."

The amended LMS regulations apply to Large IOUs, Large CCAs, and Large publicly owned utilities (POUs). 20 CCR section 1621(b). The Joint Parties are the Large IOUs and Large CCAs covered by the regulations, and are referred to as "Large IOUs", "Large CCAs", "IOUs", "CCAs," and "LSEs" herein.

The Joint Parties base their request on two issues that they claim affect their ability to upload their rates to MIDAS.

1. The first issue derives from the way electricity bills are handled for customers of the CCAs. CCA customers receive their electricity bills from the IOUs in whose service areas they are located. CCAs provide the IOUs the electricity generation rates for their customers. IOUs then add the CCAs' generation rates to the IOUs' electricity transmission and distribution rates and compute the customers' bills based on the amount of electricity the customers use. Because of this, according to the Joint Parties, CCAs should only be responsible for uploading the generation portion of their customer rates to MIDAS while the IOUs should upload the generation and transmission portions of the rates for the CCAs' customers. In other words, the Joint Parties maintain that for CCA customers, IOUs and CCAs should only be required to upload their own "unbundled rates" to MIDAS.
2. The second issue, according to the Joint Parties, is that the multiplicity of IOU rates due to price modifiers that affect the basic time-dependent rates makes it infeasible to upload anything but base time-dependent electricity rates in the short term.

SUMMARY OF EXECUTIVE DIRECTOR'S INITIAL DETERMINATION AND RECOMMENDATION

As discussed in more detail below, CEC staff have organized and facilitated working groups with regulated parties to advance a consensus-based approach to the technical aspects of the data uploads to and downloads from MIDAS. This project has been accomplished as far as uploads are concerned (the software code and instructions are ready and available) and does not stand as an impediment to the Joint Parties' ability to upload time-dependent electricity rates by the deadline in the LMS regulations. Issues regarding the multiplicity of IOU rates due to price modifiers are advancing toward a resolution.

Also discussed in more detail below, the LMS regulation does not authorize CCAs (or POUs) to seek delays in the MIDAS upload deadline, but if they did, CEC staff do not believe that the Joint Parties have provided a sufficient basis for extending the July 1, 2023, upload deadline by a minimum of nine months, as they request. Based on experience, CEC staff believe that CCAs and IOUs can upload unbundled time-dependent electricity rates in the short term and that they can accomplish this by August 1, 2023.

CEC staff concludes, based on available information, that issues regarding the uploads of other rates due to price modifiers can be resolved in time for the Joint Parties to upload the remaining time-dependent rates by October 1, 2023. CEC staff further concludes that providing the Joint Parties this additional time – one month for unbundled rate uploads and three months for rates with price modifiers - to comply and address these issues will alleviate any technological infeasibility that may have frustrated the Joint Parties' efforts to upload their existing time-dependent rates.

The Executive Director of the CEC concurs with CEC staff, makes an initial determination that the CEC staff's recommendations are supported by the evidence, and recommends that the Energy Commission adopt staff's recommendations at its May 31, 2023, business meeting. An order to this effect is attached.

DISCUSSION

The LMS Rulemaking and the MIDAS Upload Requirement

The Joint Parties have had considerable notice of the requirement to upload their time-dependent electricity rates to MIDAS by July 1, 2023. Staff held a scoping workshop on amending the Load Management Standards on January 14, 2020, released the draft Staff Analysis on Potential Amendments to the Load Management Standards for public comment on March 25, 2021; and held a workshop on the staff report on April 12, 2021. The original notice for the rulemaking that adopted the MIDAS upload requirement and the other amendments to the Load Management Standards regulation was published December 22, 2021. CEC held a 45-day comment period for the proposed language and followed it with three 15-day comment periods for additional amendments (ending February 7, 2022; April 20, 2022; July 21, 2022; September 27, 2022). The LMS amendments were adopted at the Energy Commission's October 12, 2022 CEC Business Meeting and they took effect April 1, 2023. The Joint Parties participated throughout the rulemaking.

Uploading electricity rates to the MIDAS database is a key requirement of the LMS regulations. Once LSEs populate MIDAS with their time-dependent electricity rates, their customers will be able to access their rates and make informed decisions about their electricity use to save money, reduce greenhouse gas emissions, and promote energy equity and grid resiliency. In recognition of these important goals, CEC staff developed MIDAS before it undertook the formal rulemaking – while it was drafting Staff Analysis on Potential Amendments to the Load Management Standards. On August 27, 2021, CEC staff held a webinar demonstrating and soliciting input on MIDAS and published *Instructions for Connecting to and Interacting with the MIDAS Database* on September 15, 2021 (CEC-400-2021-009). This documentation was updated October 17, 2022, and April 27, 2023. CEC staff convened a stakeholder working group to provide technical support to LSEs to upload their time-dependent rates to MIDAS and held seven meetings through May 9, 2023.

IOUs and CCAs are capable of uploading their rates to MIDAS. For example, prior to releasing the November 2021 CEC staff report supporting the LMS rulemaking, CEC staff helped IOUs manually upload their time-dependent electricity rates to MIDAS. Since then, CEC staff provided the LSEs computer code for doing rate uploads and live demonstrations on how to do it themselves in November 2022.

The Requirement for LSEs to Upload Rates to MIDAS

20 CCR section 1623(b) establishes the requirement for IOUs to upload their existing time-dependent rates to MIDAS no later than **July 1, 2023**, which is three months after the April 1, 2023, effective date of the LMS regulations:

"(b) Publication of Machine-Readable Electricity Rates. No later than three (3) months after April 1, 2023, each Large IOU shall upload its existing time-dependent rates applicable to its customers to the Commission's Market Informed Demand Automation Server (MIDAS) database. Each Large IOU shall upload all time-dependent rates, including those approved after April 1, 2023, to MIDAS prior to the effective date of the time-dependent rates each time a time-dependent rate is approved by the rate-approving body and each time a time-dependent rate changes.

The time-dependent rates uploaded to the MIDAS database shall include all applicable time-dependent cost components, including, but not limited to, generation, distribution, and transmission. The Commission maintains public access to the MIDAS-database through an Application Programming Interface (API) that, provided a Rate Identification Number (RIN), returns information sufficient to enable automated response to marginal grid signals including price, emergency events, and greenhouse gas emissions."

20 CCR section 1623.1(c) establishes the identical requirement for Large POUs and Large CCAs to upload their existing time dependent rates to MIDAS no later than July 1, 2023, which, again, is three months after the April 1, 2023, effective date of the LMS regulations.

The LMS Regulations Provide for Relief from the MIDAS Upload Requirement for Large IOUs but not for Large CCAs or Large POUs

20 CCR section 1621(e) provides a process for Large IOUs to obtain delays and other relief from the MIDAS upload requirement. As the Joint Parties acknowledge, there is no similar provision in the LMS regulations for Large CCAs (or Large POUs) to obtain this relief. 20 CCR section 1621(e) provides as follows:

"(e) Exemptions, Delays, or Modifications

(1) Large IOUs may apply to the Executive Director for an exemption from the requirements of Sections 1621 and 1623 of this article, to delay compliance with its requirements, or to modify a load management standard compliance plan. The Commission may, by resolution, order a Large IOU to modify its approved load management standard plan. Upon such order by the Commission, a Large IOU shall submit an application to modify its plan within 90 days of the Commission's order.

(2) Applications for exemptions or delays shall set forth the requested period during which the exemption or delay would apply and indicate when the Large IOU reasonably believes the exemption or delay will no longer be needed. The application further shall demonstrate one or more of the following:
(A) that despite a Large IOU's good faith efforts to comply, requiring timely compliance with the requirements of this article would result in extreme hardship to the Large IOU,
(B) requiring timely compliance with the requirements of this article would result in reduced system reliability (e.g., equity or safety) or efficiency, or
(C) requiring timely compliance with the requirements of this article would not be technologically feasible or cost-effective for the Large IOU to implement. Applications for exemptions or delays may be supported by proposing pilot programs that demonstrate how and when a Large IOU will come into compliance with the requirements of this article.

(3) Applications for modifications shall demonstrate that despite the Large IOU's good faith efforts to implement its load management standard plan, the plan must be modified to provide a more technologically feasible, equitable, safe, or cost-effective way to achieve the requirements of this article or the plan's goals."

How Requests for Delays are Handled by the CEC

20 CCR section 1621(e)(4) establishes how requests for delays are handled by the CEC:

"(4) The Executive Director shall review applications for exemptions, delays, and modifications and make an initial determination of whether an application demonstrates the requirements of either subsection (2) or (3) above. The Executive Director shall then submit the application to the Commission with a recommendation of whether to approve or reject the application based on their initial determination. In reviewing these applications, the Executive Director and the Commission may request additional information or revisions of the application from a Large IOU consistent with Sections 1621 and 1623. If a Large IOU fails to provide information or revisions by a deadline established by the Executive Director or the Commission, the Commission may deny the application on that basis. The Commission may place conditions on its approval of plans or material plan revisions that are necessary to guarantee that the plan or plan revision will comply with Section 1621 and 1623 by a date certain."

The Joint Parties' Request for a Nine-Month Delay Does Not Meet the Requirements of the LMS Regulations

The Joint Parties' allegations are considered below, but CEC staff initially observes that the regulations do not provide relief for CCAs from the MIDAS upload requirement. As discussed further below, the Joint Parties have not justified the nine-month delay they seek, and their MIDAS rate uploads can be accomplished in a timelier manner.

Joint Parties' Allegation 1: That the Requirements for RINs are still in development by the CEC, have become very complex, and automating the uploads will require significant time and resources.

According to the Joint Parties, they cannot upload their rates by the July 1, 2023, deadline because:

1. The CEC has not provided guidance on whether they need to upload bundled or unbundled rates.

2. Consensus has not been reached on technical protocols for uploading rates to MIDAS.
3. Automating the uploads will require significant time and resources.

CEC staff respond as follows:

1. CEC staff have discussed uploading bundled and unbundled rates with IOUs and CCAs in MIDAS Working Group meetings. The IOUs and CCAs expressed they can upload unbundled rates for CCA customers – CCAs can upload the generation portion and IOUs can upload the generation and transmission portion of CCA customers' rates. The two rates would then be compiled by MIDAS users to provide accurate rate information to CCA customers. CEC staff agree with this solution and believe this can be accomplished by August 1, 2023.
2. Through the MIDAS Working Group meetings, CEC staff are actively working with stakeholders, including the Joint Parties, to develop consensus on which rates, rate modifiers, and rate determinants require separate uploads to support MIDAS user needs. CEC staff have requested proposals from stakeholders which are forthcoming. These requirements are not necessarily complex or complicated but ideally would be consistent across all LSEs. CEC staff believe the Joint Parties can upload base rates to MIDAS by August 1, 2023, and that issues regarding price modifiers and RIN determinations for rates with price modifiers will be resolved in time to allow the Joint Parties to upload all of their time-dependent rates by October 1, 2023.
3. In August 2021, CEC staff demonstrated MIDAS and provided the LSEs sample computer code to use in uploading their time-dependent rates to MIDAS to show that the ability to upload rates is available and straightforward. Nonetheless, CEC staff agree that there may be some complexity in automating the process where utilities and CCAs choose to connect the chosen upload tool that they build to their billing systems. Given that the Joint Parties have been on notice that such uploads would be required at least since the CEC adopted the LMS amendments in October 2022, CEC staff find that the Joint Parties have had adequate time to resolve issues regarding this complexity, and as such, this complexity to the extent it may exist does not provide a sufficient basis for extending any MIDAS upload deadlines beyond the dates discussed in 1 and 2 above.

Joint Parties' Allegation 2: That MIDAS API functional requirements continue to change and need to be in a stable state with current documentation before the Joint Parties can build the systems and processes needed for automated uploads.

Related to Allegation 1, the Joint Parties contend that they cannot build the systems necessary to upload rates in an automated fashion until final consensus is reached on the technical protocols for uploading their rates to MIDAS.

CEC staff respond as follows:

The MIDAS API requirements for uploads are current, workable, and remain unchanged since December 2022. The only potential changes to the API that CEC staff have discussed with the Joint Parties relate to uploading rates that include price modifiers. Any potential changes in the method for uploading rates with price modifiers will not affect the ability of the LSEs to upload their time-dependent base rates to MIDAS. CEC staff have made this clear to the LSEs at the MIDAS Working Group meetings.

MIDAS is available for uploads. MIDAS documentation is available and stable. Accordingly, this issue does not provide a sufficient basis for extending any MIDAS upload deadlines beyond the dates discussed in 1 and 2 above.

ANALYSIS

The Joint Parties Have Not Justified a Nine-Month Delay in the MIDAS Rate Upload Requirement

The Joint Parties argue that requiring them to upload their time-dependent rates to MIDAS by July 1, 2023, would cause them extreme hardship, is technologically infeasible, and would not be cost-effective. They claim that under the right circumstances, they might be able to accomplish the uploads within an additional nine months if CEC staff manually upload the rates for them. As this analysis shows, the Joint Parties have not made the case that they are entitled to this relief.

Again, there is no provision in the LMS regulations that authorizes the CCAs (or POUs) to seek relief from the MIDAS upload requirement. It is only available to IOUs. Assuming for the sake of argument, however, that such relief is available to both the IOUs and CCAs, the Joint Parties have not demonstrated that they are entitled to a nine-month delay of the July 1, 2023, MIDAS upload deadline.

To obtain a delay in the MIDAS deadline, a party must provide sufficient documentation to support several findings. 20 CCR section 1621(e)(2) requires that applications for delays shall:

- “Set forth the requested period during which the exemption or delay would apply and indicate when the Large IOU reasonably believes the exemption or delay will no longer be needed.”

- “Demonstrate that despite a Large IOU's good faith efforts to comply, requiring timely compliance with the requirement would result in extreme hardship to the Large IOU, or”

- “Demonstrate that requiring timely compliance with the requirement would not be technologically feasible or cost-effective for the Large IOU to implement.”

Time Period for Which the Delay Would Apply

The Joint Parties’ request that they be relieved from uploading their rates to MIDAS until “nine months after the final MIDAS protocols are issued by the CEC.” They further note “that the ability of the LSEs to upload all existing time-dependent rates within the proposed nine-month period is predicated on the LSEs’ interpretation of the regulations that each LSE is required to upload its own time-dependent rate (i.e., that rate combination between the CCAs generation and IOUs’ transmission and distribution rates is not required).”

A nine-month extension is excessive for a number of reasons. MIDAS has been in existence since August 2021 and has been available for LSE uploads since that time. The IOUs have previously uploaded rates to MIDAS, albeit with the assistance of CEC staff. The Joint Parties have had ample notice of the current upload requirement via the LMS rulemaking. The MIDAS “protocols” are a consensus-based effort among all MIDAS stakeholders, not something that will be “issued” by CEC.

Instructions for uploading rates to MIDAS have been available on the CEC's webpage since September 15, 2021, and have been updated periodically since then. The MIDAS upload requirement has been part of the amended LMS regulations from their inception, affording the Joint Parties ample opportunity to plan for implementation. CEC staff are engaged with the stakeholders in developing a set of consensus-based protocols for downloading rates from MIDAS, but consensus already exists on how data may be automatically uploaded to MIDAS.

The requirement to upload rates to MIDAS does not specify they be uploaded by automated means only. Manual means would also suffice. Also, the regulations do not mention additional "protocols" for MIDAS rate uploads or make them a precondition for uploading the rates. While the Joint Parties allege that uploading rates manually may be more burdensome than automated uploads, this does not relieve them of the obligation to upload the rates. Also, the Joint Parties' request is undermined by their assertion that they could manually upload some of the rates themselves and provide CEC staff with hard copies of documents containing their rate data and have CEC staff upload the rest of the information for them. Based on their prior experience uploading rates to MIDAS prior to the issuance of the November 2021, as discussed above, CEC staff respectfully decline the invitation to do this and point to upload requirements that clearly specify that rate uploads be done by the regulated parties (20 CCR sections 1623(b) and 1623.1(c).

Demonstration that Despite Good Faith Efforts to Comply, Requiring Timely Compliance with the MIDAS Upload Requirement Would Result in Extreme Hardship

The Joint Parties do not address this requirement in any substantive way. They do not objectively document either their good faith efforts to comply or the alleged extreme hardship they would experience if they were required to upload their time-dependent rates to MIDAS by the July 1, 2023, deadline. At most, the Joint Parties have provided instances of alleged inconvenience which is insufficient to support that these findings can be made. They have not shown that they have made good faith efforts to comply with the regulatory requirement to upload existing rates to MIDAS by the July 1, 2023, deadline or that requiring them to comply by then would cause them extreme hardship.

The Joint Parties' request does not document their good faith efforts to comply with the MIDAS upload requirement. The Joint Parties do not provide evidence of their workplans to comply, or describe the staff, time, or resources they have dedicated to the effort, nor have they given realistic estimates of the resources and effort it would take to overcome the issues they say they face in making the uploads by the deadline. Similarly, the Joint Parties do not provide solid documentation of how they would accomplish the uploads even if they were granted an additional nine months to do it, raising the possibility that if granted the relief they request, nine months will pass, and the uploads will still not have occurred.

Instead, the Joint Parties make allegations of inconvenience and advance the argument that CEC staff's considerable compliance outreach efforts are somehow lacking and excuse the Joint Parties from complying with what is a clear requirement in the regulations by a specific deadline. The ample notice the Joint Parties have had of the MIDAS upload requirement, CEC staff's assistance efforts, and the resource options at the Joint Parties' disposal undermine their ability to argue persuasively that they have taken good faith efforts to comply with the MIDAS upload deadline, and that they will experience extreme hardship if they are not granted a nine-month delay. Further undermining their argument, the Joint Parties insist that they would rather do automated uploads than upload their rates manually and then complain about the effort that automated uploads would take and the issues they pose.

Demonstration that Requiring Timely Compliance with the MIDAS Upload Requirement Would not be Technologically Feasible or Cost-Effective to Implement

Again, the Joint Parties offer assertions of inconvenience rather than facts or documentation that would support making this finding that requiring timely compliance with MIDAS upload is not technologically feasible or cost-effective. The length of time they have known about the MIDAS update requirement, MIDAS' capability to accept uploading by the Joint Parties, and the efforts of CEC staff to provide technical support on complying with the LMS and accomplishing the uploads all argue against a finding that it would be technologically infeasible or not cost-effective for them to upload their rates by the deadline and they need an additional nine months to accomplish the uploads.

Despite the foregoing, it does appear, however, that addressing the "unbundled rates" and the "price modifiers" issues by affording the Joint Parties some additional time to perform their MIDAS uploads would alleviate any technological feasibility/cost effectiveness impacts that their joint request can reasonably be said to demonstrate. And, in spite of the fact that the LMS regulations do not provide an avenue for the CCAs to request a delay, it does appear that given the unique interrelationship that exists between the rates of CCAs and IOUs, it would be impracticable to provide relief to the IOUs on the "unbundled rates issue" without effectively extending it to the CCAs as well.

CONCLUSION

Accordingly, based on the foregoing analysis and in response to the Joint Parties' April 28, 2023, request the Executive Director makes the initial determinations below and recommends that the Commission issue an order approving the Joint Parties' request with the following conditions:

1. Relief from the MIDAS upload requirement is not available to Large CCAs and Large POUs because the LMS regulations do not provide for it.

2. CCAs and IOUs can upload unbundled time-dependent electricity rates by August 1, 2023. By August 1, 2023, CCAs can upload time-dependent generation rates for their customers to MIDAS, and IOUs will upload transmission and distribution rates for CCA customers.

3. The Executive Director also determines that the issue regarding the uploads of other rates due to price modifiers can be resolved in time for the Joint Parties to upload their remaining time-dependent rates by October 1, 2023.

4. The Executive Director further determines that providing the Joint Parties the additional time provided in paragraphs 2 and 3 to address the Joint Parties concerns will alleviate any technological infeasibility that may have frustrated the Joint Parties' efforts to upload their existing time-dependent rates.