

DOCKETED	
Docket Number:	23-LMS-01
Project Title:	Load Management Standards Implementation
TN #:	250393
Document Title:	California Community Choice Association Comments - Docket No 23-LMS-01 Load Management Standards - CalCCA Comments on the PD on the Joint Parties' Request for Delay
Description:	N/A
Filer:	System
Organization:	California Community Choice Association
Submitter Role:	Public
Submission Date:	5/30/2023 12:06:22 PM
Docketed Date:	5/26/2023

*Comment Received From: California Community Choice Association
Submitted On: 5/30/2023
Docket Number: 23-LMS-01*

**Docket No 23-LMS-01 Load Management Standards - CalCCA
Comments on the PD on the Joint Parties' Request for Delay**

Additional submitted attachment is included below.

**STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION AND
DEVELOPMENT COMMISSION**

In the Matter of:

Load Management Standards
Implementation – Joint Parties’ Request for
Delay of July 1, 2023 MIDAS Rate Upload
Deadline

Docket No. 23-LMS-01

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION’S COMMENTS
ON THE PROPOSED ORDER ON THE JOINT PARTIES’ REQUEST FOR DELAY OF
JULY 1, 2023 MIDAS RATE UPLOAD DEADLINE**

Evelyn Kahl
General Counsel and Director of Policy
Leanne Bober
Senior Counsel
CALIFORNIA COMMUNITY CHOICE
ASSOCIATION
One Concord Center
2300 Clayton Road, Suite 1150
Concord, CA 94520
(510) 980-9459
regulatory@cal-cca.org

May 26, 2023

**STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION AND
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JULY 1, 2023 MIDAS RATE UPLOAD DEADLINE**

The California Community Choice Association¹ (CalCCA) submits these Comments pursuant to Section 1104(e) of the California Energy Commission’s (Commission’s) Rules of Practice and Procedure² on the proposed *Order on the Joint Parties’ Request for Delay of July 1, 2023 MIDAS Rate Upload Deadline* (Proposed Order), issued May 19, 2023. The Proposed Order is supported by the *Initial Determination and Recommendation of the Executive Director on Joint Parties’ Request to Extend MIDAS Upload Deadline* (Initial Determination), also filed in this docket on May 19, 2023. The Commission is scheduled to vote on the Proposed Order at the May 31, 2023 Business Meeting.³

¹ California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, East Bay Community Energy, Energy For Palmdale’s Independent Choice, Lancaster Choice Energy, Marin Clean Energy, Orange County Power Authority, Peninsula Clean Energy, Pico Rivera Innovative Municipal Energy, Pioneer Community Energy, Pomona Choice Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Diego Community Power, San Jacinto Power, San José Clean Energy, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

² 20 CCR § 1104(e) (allowing parties to file comments in writing on a Commission Business Meeting agenda item at least three days before the Commission meeting).

³ California Energy Commission Docket 23-BUSMTG-01, Agenda of the May 31, 2023 Business Meeting, Item 10.

I. INTRODUCTION AND SUMMARY OF RECOMMENDATIONS

The Proposed Order addresses the Request for Extension filed in this Docket on April 28, 2023 (Extension Request) by Pacific Gas and Electric Company (PG&E) on behalf of itself and other load serving entities covered by the Load Management Standards (LMS),⁴ including thirteen community choice aggregators (the Large CCAs),⁵ Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) (the Joint Parties). The Extension Request seeks the Commission’s approval of an extension of the July 1, 2023 deadline set forth in the LMS for the Joint Parties to upload their existing time-dependent rates to the Commission’s Market-Informed Demand Automation Server (MIDAS) Database.

The Proposed Order denies the Joint Parties’ request for a nine-month phased schedule for the full MIDAS upload, but does allow a one-month extension for “unbundled” time-dependent electricity rates by August 1, 2023.⁶ The Proposed Order also allows an extension until October 1, 2023 for the Joint Parties to upload their “remaining time-dependent rates” after CEC staff “resolves the issues regarding the uploads of other rates due to price modifiers.”⁷ Also established through the Proposed Order is that “CCAs shall upload time dependent generation rates for their customers to MIDAS, and Investor Owned Utilities (IOUs) shall upload transmission and distribution rates for CCA customers.”⁸ Finally, the Commission finds that the LMS regulations do not provide Large CCAs with any ability “to obtain delays and other relief

⁴ 20 CCR 1621, 1623, and 1623.1 (effective as of April 1, 2023).

⁵ The Large CCAs, as defined in the LMS, Section 1621(c)(10), include Central Coast Community Energy (CCCE), Clean Power Alliance of Southern California (CPA), CleanPowerSF (CPSF), East Bay Community Energy (EBCE), Marin Clean Energy (MCE), Orange County Power Authority (OCPA), Peninsula Clean Energy Authority (PCE), Pioneer Community Energy (Pioneer), San Diego Community Power (SDCP), San Jose Clean Energy (SJCE), Silicon Valley Clean Energy Authority (SVCE), Sonoma Clean Power Authority (SCP), and Valley Clean Energy (VCE).

⁶ Proposed Order, Finding 6, at 4, and O¶ 1, at 5.

⁷ *Id.*, Finding 7, at 4, and O¶ 2, at 5.

⁸ *Id.*, O¶ 1, at 5.

from the MIDAS upload requirement,” even though the similarly situated Large -IOUs have that ability.⁹

While the Proposed Order does not grant the phased nine-month schedule proposed by the Joint Parties, CalCCA greatly appreciates Commission’s commitment to work with parties on LMS implementation and the grant of the shorter extensions in the Proposed Order. CalCCA supports the goals of the LMS and looks forward to continuing to work collaboratively and effectively with the Commission. The CCAs will continue their good faith efforts to comply with the LMS.¹⁰

CalCCA has the following recommendations with respect to the Proposed Order:

- Adopt the finding that CCAs are only required under the LMS regulations to upload their generation rates, and are not required to combine their generation rates with IOU transmission and distribution rates prior to upload to MIDAS;
- To prevent legal error, modify the Proposed Order’s finding that CCAs have no ability to request delays or other relief from the MIDAS upload requirement; and
- Modify the Proposed Order’s findings to replace the term “unbundled” with “base” to fulfill the Commission’s intent to require the CCAs and IOUs to upload on August 1, 2023 only those time-dependent base portions of rates that do not include modifiers or adders.

II. THE COMMISSION SHOULD ADOPT THE PROPOSED ORDER’S FINDING THAT CCAS ARE ONLY REQUIRED TO UPLOAD THEIR GENERATION RATES TO MIDAS

CalCCA applauds the finding in the Proposed Order that the LMS requires CCAs to upload their own time-dependent generation rates, and are not obligated to combine their rates with the IOUs’ transmission and distribution rates prior to the MIDAS upload. Ordering

⁹ Proposed Order, Finding 2, at 4.

¹⁰ As CalCCA has asserted throughout the rulemaking adopting the LMS, 21-OIR-03, CCA compliance should be on a voluntary basis given the lack of authority of the CEC under Public Resources Code § 25403.5 to assert jurisdiction over the CCAs, and the lack of authority of the CEC to mandate that the CCAs adopt the rates mandated by the LMS.

Paragraph (O¶) 1 states that “CCAs shall upload time-dependent generation rates for their customers to MIDAS, and IOUs shall upload transmission and distribution rates for CCA customers.”¹¹ This finding is consistent with the plain language of the LMS, and should be adopted.

As set forth above, Section 1623.1(c) requires a CCA to “upload its existing time-dependent rates applicable to its customers” to MIDAS. As CCAs only provide generation services, CCAs only have generation, and not their own transmission and distribution, rates. CCA customers are served by the IOUs for their transmission and distribution, and therefore the rates that CCA customers pay for transmission and distribution are set by the IOU. The finding that CCAs will only upload their generation rates is consistent with the regulations and should be adopted.

III. THE PROPOSED ORDER’S FINDING THAT LARGE CCAS HAVE NO ABILITY TO SEEK DELAY OR ANY OTHER RELIEF FROM THE MIDAS UPLOAD REQUIREMENT CONSTITUTES LEGAL ERROR

The finding in the Proposed Order that the LMS provides no ability for Large CCAs “to obtain delays and other relief from the MIDAS upload requirement,” as is provided for the Large IOUs in LMS Section 1621(e), constitutes legal error. Section 1621(d) and 1623 exclusively apply to the Large IOUs, and contain the requirements for the Large IOUs to comply with the LMS.¹² Section 1623(b) contains the requirement for the Large IOUs to upload their “existing time-dependent rates” to MIDAS. Section 1621(e) provides the Large IOUs with the mechanism to seek exemption, delay, or modification from the requirements of Sections 1621 and 1623. This mechanism allows the IOUS to apply to the Executive Direction for such an exemption, delay, or

¹¹ *Id.*, O¶ 1, at 5.

¹² 20 CCR Section 1621(d), 1623.

modification,¹³ and provides the grounds upon which the request may be granted, including technological infeasibility, issues of equity or safety, of lack of cost-effectiveness.¹⁴

While the Proposed Order finds that CCAs have no similar ability to request exemption, delay, or modification for the MIDAS upload, the LMS actually explicitly provides for such a request:

The rate approving body of a Large POU or a Large CCA may approve a plan, or material revisions to a previously approved plan, that delays compliance or modifies compliance with the requirements of Subsections 1623.1(b)-(c), if the rate approving body determines that the plan demonstrates any of the following:

- (A) That despite a Large POU's or Large CCA's good faith efforts to comply, requiring timely compliance with the requirements of this article would result in extreme hardship to the Large POU or the Large CCA,
- (B) Requiring timely compliance with the requirements of this article would result in reduce system reliability (e.g., equity or safety) or efficiency,
- (C) Requiring timely compliance with the requirements of this article would not be technologically feasible or cost-effective for the Large POU¹⁵ to implement, or
- (D) That despite the Large POU's or the Large CCA'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.¹⁶

Subsection 1623.1(c), as referenced above in the subsections for which Large CCAs can seek modification or delay, includes the provision requiring Large CCAs to upload their existing time-dependent rates to MIDAS:

¹³ 20 CCR 1621(e)(1).

¹⁴ 20 CCR 1621(e)(3).

¹⁵ Given the other provisions in this subsection and to harmonize the provisions in the subsection, it appears that the omission of "Large CCA" in subsection (C) was in error.

¹⁶ 20 CCR 1623.1(a)(2).

(c) Publication of Machine-Readable Electricity Rates. No later than three (3) months after April 1, 2023, each Large POU and each Large CCA shall upload its existing time-dependent rates applicable to its customers to the Commission’s [MIDAS]....¹⁷

After the CCA’s rate approving body approves the “plan” to modify or delay compliance with the MIDAS requirement, the LMS provide that the Large CCA is to submit the rate approving body’s approved delay to the Executive Director within 30 days.¹⁸ The Executive Director can then make an initial determination whether the plan or material plan revision is consistent with the requirements of Section 1623.1(a)(1) and (a)(2), and recommend to the Commission whether to approve it.¹⁹ Therefore, while the mechanism to seek delay or modification from the MIDAS upload requirement differs between the Large IOUs and Large CCAs, the LMS does provide a mechanism for Large CCAs to seek such delay or modification first from their governing boards, which are then provided to the Executive Director.

The Large CCAs joined the Joint Parties’ Extension Request given the parties’ similar difficulties in complying with the July 1, 2023 MIDAS upload requirement. However, the Joint Parties explicitly recognized in the Extension Request the different mechanisms for seeking the extension, and the fact that the Large CCAs could seek individual extensions through their governing boards.²⁰ In fact, certain Large CCAs have already sought such individual extensions through their governing boards and timely submitted such extension request to the Executive Director, while also acknowledging the Extension Request of the Joint Parties.²¹

¹⁷ 20 CCR 1623.1(c).

¹⁸ 20 CCR 1623.1(a)(3)(A).

¹⁹ 20 CCR 1623.1(a)(3)(B).

²⁰ See Joint Parties’ Extension Request at 5 (acknowledging the process for seeking an extension for Large IOUs and Large CCAs differs, but that both have the ability under the LMS to seek such an extension).

²¹ See CEC Docket 23-LMS-01 (Governing board approval for extension submitted to the Executive Director by Valley Clean Energy (May 16, 2023), and Central Coast Community Energy (May 17, 2023)).

Recognizing the similar situations of the Large IOUs and Large CCAs with respect to the MIDAS upload, the Proposed Order does ultimately allow for the same one-month extension of the July 1, 2023 MIDAS upload requirement for both Large IOUs and Large CCAs. However, the Proposed Order's finding that CCAs have no ability to seek modification or delay regarding the MIDAS upload requirements constitutes legal error for the reasons set forth above, and must be corrected. Accordingly, Finding 2 of the Proposed Order should be revised as follows:

2) 20 CCR section 1621(e) provides a way for Large IOUs to obtain delays and other relief from the MIDAS upload requirement by applying to the CEC Executive Director and the CEC. ~~There is no similar provision in the LMS regulations for Large CCAs or Large POUs to obtain this relief.~~ 20 CCR section 1623.1(a) provides a way for Large CCAs or Large POUs to obtain this relief by applying to their rate approving bodies, which if approved is then submitted to the Executive Director for a recommendation to the CEC.

In addition, references throughout the Proposed Order to any inability of the CCAs to seek modification or delay of the LMS should also be removed.

IV. THE PROPOSED ORDER SHOULD CLARIFY THAT THE AUGUST 1, 2023 UPLOAD REQUIREMENT IS FOR THE CCAS AND IOUS TO UPLOAD THE “BASE TIME-DEPENDENT RATES” MINUS MODIFIERS RATHER THAN THEIR “UNBUNDLED RATES”

The Commission should clarify its findings and ordering paragraphs as to what is required to be uploaded on August 1, 2023 in terms of “unbundled rates.” Finding 6 of the Proposed Order states that “CCAs and IOUs can upload unbundled time-dependent electricity rates to MIDAS in the short term and they can accomplish this by August 1, 2023.”²² Finding 7 of the Proposed Order then states that “[i]ssues regarding the uploads of other rates due to price modifiers can be resolved in time for the Joint Parties to upload their time-dependent rates by

²² Proposed Order, Finding 6, at 4 (emphasis added).

October 1, 2023.”²³ Ordering Paragraph 1 requires CCAs and IOUs to “upload unbundled time-dependent electricity rates by August 1, 2023.”²⁴

Unfortunately, the use of the term “unbundled” in this context creates ambiguity for the parties as to the requirements for the August 1, 2023 upload. The term “unbundled” is used in the context of CCA service as a rate for customers who take service through a CCA rather than an IOU (i.e., the CCA customer’s rate is no longer a “bundled” rate consisting of generation, transmission, and distribution all provided by the IOU, but rather “unbundled” because the CCA customer takes its generation from the CCA and transmission and distribution from the IOU). The Proposed Decision, however, uses the term “unbundled” elsewhere to reference the “base time-dependent electricity rates”²⁵ of a CCA or IOU as that portion of the rate that exists prior to any time-dependent “modifiers” being added.²⁶

Given the ambiguity caused by the use of the term “unbundled” in the Proposed Order, CalCCA requests the following revisions to the Findings which will clarify what appears to be the intent of the Commission:

- 6) CCAs and IOUs can upload ~~unbundled~~base time-dependent electricity rates to MIDAS in the short term and they can accomplish this by August 1, 2023.

CalCCA also requests the following revision to Ordering Paragraph 1:

- 1) CCAs and IOUs shall upload ~~unbundled~~base time-dependent electricity rates by August 1, 2023; ~~By August 1, 2023,~~ CCAs shall upload time-dependent generation rates for their customers to MIDAS, and IOUs shall upload transmission and distribution rates for CCA customers.

²³ *Id.*, Finding 7, at 4.

²⁴ *Id.*, O¶ 1, at 5 (emphasis added).

²⁵ *Id.* at

²⁶ *Id.* at 3.

Finally, CalCCA requests that references throughout the Proposed Order to “unbundled” rates be revised to “base” in the context of what should be uploaded by August 1, 2023.

V. CONCLUSION

CalCCA appreciates the opportunity to submit these comments and requests adoption of the recommendations proposed herein.

Respectfully submitted,

A handwritten signature in blue ink that reads "Evelyn Kahl". The signature is written in a cursive, flowing style.

Evelyn Kahl
General Counsel and Director of Policy
CALIFORNIA COMMUNITY CHOICE
ASSOCIATION

May 26, 2023