DOCKETED	
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Project Title:	Load Management Standards Implementation
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Document Title:	Request for Revision Ava Energy Compliance Plan
Description:	Letter from CEC Executive Director Drew Bohan to Ava Energy requesting revisions to Ava Energy Compliance Plan.
Filer:	Scott McCarthy
Organization:	California Energy Commission/Executive Director Drew Bohan
Submitter Role:	Commission Staff
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January 15, 2025

Michael Quiroz
Regulatory Analyst II
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Dear Michael Quiroz:

As the Executive Director of the California Energy Commission (CEC), I have completed my initial review of Ava Community Energy's (Ava's) Load Management Standards (LMS) compliance plan (plan or compliance plan).

20 California Code of Regulations (CCR) section 1623.1(a)(3) establishes a process under which the Executive Director of the CEC *"shall review the plans and either return them to the Large POU or the Large CCA for changes or submit them to the Commission for review and potential approval."*

I have made the initial determination that Ava's plan is not consistent with 20 CCR sections 1623.1(a)(1) and 1623.1(a)(2) and recommend changes and request additional information as described below.

To be compliant, Ava's plan should be modified to contain a commitment to participate in California Public Utilities Commission (CPUC)-approved dynamic rate pilot programs or include a robust, objective analysis of marginal cost-based rates and programs. In particular, Ava's plan should be modified in response to its Board of Directors' determination that Ava *"should participate in dynamic pricing pilots and rates with PG&E, and re-evaluate dynamic rate cost-effectiveness, equity, technological feasibility, and benefits to the grid and to customers with data from the pricing pilots and rates."* I am recommending these changes and requesting the actions described below.

Failure to Comply with 20 CCR section 1623.1(a)(1)

Requirement: The plan shall describe how the large publicly owned utility (POU) or the large community choice aggregator (CCA) will meet the goals of encouraging the use of electrical energy at off-peak hours, encouraging the control of daily and seasonal peak loads to improve electric system efficiency and reliability, lessening or delaying the need for new electrical capacity, and reducing fossil fuel consumption and greenhouse gas emissions.

Requirement: The plan shall include consideration of programs and rate structures as specified in section 1623.1 (b)-(d).

Requirement: The plan must evaluate cost effectiveness, equity, technological feasibility, benefits to the grid, and benefits to customers of marginal cost-based rates for each customer class.

Requirement: If after consideration of the factors in Subsection 1623.1(a)(1)(A), the plan does not propose development of marginal cost-based rates, the plan shall propose programs that enable automated response to marginal cost signal(s) for each customer class and evaluate them based on their cost-effectiveness, equity, technological feasibility, benefits to the grid, and benefits to customers.

Ava's Compliance Plan

"7.3 Dynamic Rates

Adopted LMS amendments section 1623.1(b)(2) directs each Large CCA to apply for approval of at least one dynamic rate for the customer class(es) from its Board by July 1, 2025, for which the Board determines such rate will materially reduce peak load. Section 1623.1(b)(4) requires CCAs to offer customers voluntary participation in such a rate or a specified load flexibility program by July 1, 2027.

As discussed in Section 4.3, based on its evaluation of dynamic rates, Ava cannot currently conclude that developing and implementing such rates on the LMS timeframe for any customer class would result in material reductions in peak load or be cost effective.

While dynamic rates have the potential to provide incremental load shift and related benefits, there are significant uncertainties in the direction and magnitude of dynamic rate impacts, and the costs associated with their implementation. Without data from pilots, it is not possible to quantify incremental load shift benefits and cost-effectiveness of dynamic rate implementation. In addition, implementation of unfamiliar and complex rate structures without sufficient testing and refinement of new rate designs, as well as thorough education, is likely to cause customer confusion, risking low adoption and limiting any incremental load shift benefits. The realization of incremental load shift benefits is made more uncertain by additional risks customers may bear with dynamic rates, especially if new enabling technology is not widely adopted.

Ava has determined that, for the reasons set forth in this Plan, the LMS requirements must be modified to provide a more cost-effective and technologically feasible way for Ava to, in good faith, meet the LMS requirements and achieve the LMS goals. Thus, Ava proposes to modify the dynamic rate requirements of the LMS to defer the development or proposal of new hourly or sub-hourly rate options and offering new rates to Ava's customers would be likewise deferred. Ava believes proposing dynamic rates to its Board by July 1, 2025, to implement them by July 1, 2027, is premature. Ava will continue offering its suite of time-dependent rates while gathering information for a more comprehensive evaluation once data is available from dynamic rate pilots in PG&E's service territory. The results of the pilots will help Ava better understand the effectiveness of the dynamic rates, how customers with different technologies respond to different dispatch signals, and to what extent incremental load shift opportunities exist *beyond existing time-dependent rates and programs. As Ava receives and analyzes results from those pilots, Ava will be better positioned to evaluate the cost-effectiveness and flexibility of dynamic rates. As such, Ava will review dynamic rates in the next Plan update."* Ava's Compliance Plan at p. 39.

Ava cites these authorities in support of its conclusion:

"According to the whitepaper, Time-Varying and Dynamic Rate Design, authored by the Regulatory Assistance Project ("RAP") and the Brattle Group, real-time/dynamic pricing presents high rewards but also high risks. A 2004 Lawrence Berkley National Laboratory whitepaper concludes that most dynamic rate programs in the early 2000s, implemented across the country, did not achieve significant level of participation. Another takeaway from the survey is that although many customers on dynamic rates are price responsive, a substantial fraction are not.
…
Until pilot results provide data with which to perform a comprehensive analysis, Ava cannot readily ascertain rate development costs, estimated customer benefits, or whether those benefits would be likely to offset costs. Ava will continue to gather information to inform evaluation of future rate and program designs. As data becomes available from pilots, Ava anticipates exploring cost-effectiveness analyses and/or quantifying the estimates provided in this section of the Plan." Ava's Compliance Plan, pp. 22-23.

Executive Director's Initial Findings, Recommended Changes and Requested Information

Ava's plan is not consistent with the referenced requirements of section 1623.1(a)(1). Merely declining to conduct a robust analysis of marginal cost-based rates and programs as the regulation requires does not substitute for compliance.

Ava is considering whether to commit to implementing the marginal cost-based real time pricing (RTP) pilots approved by CPUC and making them available to its ratepayers. This option seems reasonable (Ava's Board of Directors agrees, as discussed below) and committing to it, at this point, would fulfill Ava's obligation to offer a marginal cost-based program or marginal cost-based rates. I request Ava modify its plan to commit to implementing these pilots and making them available to its ratepayers. Specifically, I'm requesting Ava modify its plan to commit to participate in the expanded RTP pilots authorized in CPUC Decision D. 24-01-032. If not, I request Ava modify its plan to offer all its ratepayers its own marginal cost-based rates or programs by July 1, 2027.

If Ava does not implement marginal cost-based real time pricing RTP pilots approved by CPUC or offer all its ratepayers its own marginal cost-based rates or programs by July 1, 2027, I request Ava modify its plan to provide additional objective analyses and data to support the findings and statements in the plan.

Failure to Comply with 20 CCR section 1623.1(a)(2)

Requirement: 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 reduced 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 POU 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.

Ava’s Compliance Plan

Ava has determined that, for the reasons set forth in this Plan, the LMS requirements must be modified to provide a more cost-effective and technologically feasible way for Ava to, in good faith, meet the LMS requirements and achieve the LMS goals. Thus, Ava proposes to modify the dynamic rate requirements of the LMS to defer the development or proposal of new hourly or sub-hourly rate options and offering new rates to Ava’s customers would be likewise deferred. Ava believes proposing dynamic rates to its Board by July 1, 2025, to implement them by July 1, 2027, is premature. Ava will continue offering its suite of time-dependent rates while gathering information for a more comprehensive evaluation once data is available from dynamic rate pilots in PG&E’s service territory. The results of the pilots will help Ava better understand the effectiveness of the dynamic rates, how customers with different technologies respond to different dispatch signals, and to what extent incremental load shift opportunities exist beyond existing time-dependent rates and programs. As Ava receives and analyzes results from those pilots, Ava will be better positioned to evaluate the cost-effectiveness and flexibility of dynamic rates. As such, Ava will review dynamic rates in the next Plan update.” Ava’s Compliance Plan at p. 39.

Ava’s Board of Directors’ March 20, 2024, Approval of Ava’s LMS Compliance Plan

AVA’s Board of Directors approved Ava’s compliance plan on March 20, 2024, in Resolution No. R-2024-25:

***“WHEREAS** Ava's staff has submitted to Ava’s board of directors the Compliance Plan attached hereto as Attachment A, which includes considerations of the specified* *dynamic rates described in the LMS and evaluates each with respect to cost effectiveness, equity, technological feasibility, and benefits to the grid and to customers; and*

***WHEREAS** Ava's evaluation of the foregoing has identified significant uncertainties around the effects of dynamic rates; and*

***WHEREAS** to address these uncertainties Ava should participate in dynamic pricing pilots and rates with PG&E, and re-evaluate dynamic rate cost-effectiveness, equity, technological feasibility, and benefits to the grid and to customers with data from the pricing pilots and rates."* Resolution No. R-2024-25 of the Board of Directors of the Ava Community Energy Authority, dated March 20, 2024, p. 2.

Executive Director's Initial Findings, Recommended Changes and Requested Information

Ava's Plan is not consistent with the referenced requirements of Section 1623.1(a)(2) or the direction of its Board of Directors.

I request Ava modify its plan for consistency with the referenced requirements and the direction of its Board of Directors and provide additional objective analyses and data to support the findings and statements in the plan. If Ava then seeks a delay or modification of its compliance with section 1623.1(b) it must then resubmit its plan to its board for approval.

More importantly, I am also requesting Ava modify its plan to make it consistent with Ava's Board of Directors Resolution No. R-2024-25 and include in the plan Ava's commitment to participate in PG&E's dynamic rate pilots (the marginal cost-based RTP pilots approved by CPUC) and make them available to its ratepayers. This option seems reasonable and committing to it, at this point, would fulfill Ava's obligation to offer a marginal cost-based program or marginal cost-based rates. Specifically, I am requesting Ava modify its plan to commit to participate in the expanded RTP pilots authorized in CPUC Decision D. 24-01-032 and submit its revised plan to its Board of Directors for approval. If not, I request Ava modify its plan to offer its ratepayers its own marginal cost-based rates or programs and submit its revised plan to its Board of Directors for approval.

I am withholding comment on the statewide rate tool development issue because of the progress being made by the working group to address these issues. In light of this, I recommend and request that Ava add the following language for Statewide RIN Tool section of the compliance plan.

> Ava has been working with the other regulated load serving entities (LSEs) on creating the statewide RIN tool pursuant to 20 CCR Section 1623(c). A proposed plan for the tool was submitted to the CEC for review on October 1, 2024. We will

continue to work with the other LSEs and the CEC to implement and maintain the statewide RIN tool in a timely manner subject to the tool's approval by the Commission.

Ava must submit its plan, with revisions, by April 15, 2025, to me, per 20 California Code of Regulations section 1623.1(a)(3). Submit to the 23-LMS-01 docket (https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-LMS-01) to fulfill this requirement. Guidance for submission can be found at E-Filing and E-Commenting (https://www.energy.ca.gov/proceedings/e-filing-and-e-commenting).

CEC staff is available to assist you. Your point of contact, the LMS team, is available at: loadflex@energy.ca.gov.

Sincerely,

Drew Bohan
Executive Director