Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY
Cottie Petrie-Norris, Chair
AB 1834 (Garcia) – As Amended April 15, 2024

SUBJECT: Resource adequacy: Electricity Supply Strategic Reliability Reserve Program

SUMMARY: Adjusts requirements on local publicly owned utilities (POUs) and load-serving entities (LSEs) in meeting their capacity payments to the Electricity Supply Strategic Reliability Reserve Program (ESSRRP), among other changes. Specifically, **this bill**:

1) Permits the California Energy Commission (CEC) or California Public Utilities Commission (CPUC) to consider mitigating factors, including resource scarcity or above-market costs, when determining the capacity payment unit cost.

2) Permits POUs to use alternative financing, rather than a nonbypassable charge, to pay its share of voluntary procurement from the Department of Water Resources (DWR) central procurement entity (CPE). Specifies that DWR may not add any costs to a nonbypassable charge in excess of the cost to the POU to participate in the CPE.

3) Requires the CEC to coordinate with other entities in its request for information on resource adequacy (RA), so as to reduce the overall burden to POUs.

4) Makes other, minor clarifications.

EXISTING LAW:

1) Requires the CPUC, in consultation with the California Independent System Operator (CAISO), to establish RA requirements for all LSEs, as defined, in accordance with specified objectives. Further requires each LSE to maintain physical generating capacity adequate to meet its load requirements, including peak demand and planning and operating reserves, deliverable to locations and at times as may be necessary to provide reliable electric service. Requires the CPUC to determine and authorize the most efficient and equitable means for LSEs to achieve specified purposes when meeting their RA requirements. Requires the CPUC, in consultation with the CAISO, to establish RA requirements for all LSEs. (Public Utilities Code § 380)

2) Defines “load-serving entities” as IOUs, electric service providers (ESPs), and community choice aggregators (CCAs). (Public Utilities Code § 380 (k))

3) Requires the CPUC to work with CAISO to establish RA requirements for LSEs. Existing law specifies the criteria the CPUC must consider when establishing RA requirements and specifies that an electrical corporation’s reasonable costs for meeting RA are recoverable from customers through non-bypassable charges. (Public Utilities Code § 380)

4) Establishes the ESSRRP to implement projects, purchases, and contracts for electricity resources for summer reliability or to meet any reliability need outside of traditional LSE procurement and the CAISO market. (Water Code §§ 80700-80730)

5) Establishes a CPE at DWR that may purchase specified energy resources upon a finding of the CPUC of need. (Public Utilities Code § 454.52 and Water Code §§ 80800-80806)

6) Establishes a mechanism to assess capacity payments on LSEs and POUs that do not procure sufficient resource adequacy resources. (Water Code §§ 80713-80714)

FISCAL EFFECT: Unknown. This bill is keyed fiscal and will be referred to the Committee on Appropriations for its review.

BACKGROUND:

AB 1373 (E. Garcia, Chapter 367, Statutes of 2023) – AB 1373, originally introduced as a proposal from the Newsom administration in early 2023, makes numerous changes to electricity policy, most notably, authorizing DWR to serve as a CPE to procure long lead time energy resources in order to help the state meet its renewable and zero-carbon energy goals. The bill also contains provisions allowing the CPUC and CEC to levy capacity payments on LSEs and POUs, respectively, when those utilities are deficient in their RA system requirements in the same month the ESSRRP is utilized.

The ESSRP was established through AB 205 (Committee on Budget, Chapter 61, Statutes of 2022), AB 178 (Ting, Budget Act of 2022, Chapter 45, Statutes of 2022), and AB 180 (Ting, Budget Act of 2021, Chapter 44, Statutes of 2022). These bills set forth new responsibilities and activities for DWR, separate from the State Water Project, to procure – or even outright own and operate – energy resources to provide backstop reliability for the CAISO balancing area. These resources are meant to operate "outside" of CAISO's market, meaning they do not regularly schedule into the market, and only operate during grid emergency events, as specified. By August 2023, DWR procured approximately 3.3 gigawatts (GW) of imported energy and 263.5 megawatts (MW) of emergency and temporary power generators,[1] having disbursed over $85 million for summer 2022 and $332 million for 2023 activities.[2] In 2023 DWR entered into negotiations to include retiring once-through cooling natural gas powerplants into the ESSRRP portfolio. The inclusion of those 4 retiring facilities would add approximately 2.9 GW to the ESSRRP, at roughly $1.3 billion.[3] Interestingly, some resources previously designated as CAISO backstop authority are also now part of the ESSRRP.[4] Procurement of resources in the ESSRRP is currently paid by budget appropriation, and has run into the billions.[5] However, the longevity of such appropriation, and the longevity of the ESSRRP itself, remains a topic of ongoing discussion.

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[1] 263.5 MW represents total from both the 143.5MW from the ">5 MW" generator bucket and the 120MW from the State Power Augmentation Program.
[2] DWR, *Progress Report: Electricity Supply Reliability Reserve Fund*, August, 2023.
[3] Pg. 14, *ESRRF* August 2023, *Ibid.*
[4] The 27.5 MW Channel Islands power was released in December 2022 from the RMR obligations, and now is listed as a 2023 resource in the SRR.
[5] Cornett, Sarah; LAO, *The 2023-24 Budget: Proposed Energy Policy Changes*, March 2023; https://lao.ca.gov/reports/2023/4735/Proposed-Energy-Policy-Changes-031023.pdf

Upon the passage of AB 1373, the CPUC and CEC were authorized to collect capacity payments from LSEs and POUs, respectively, who are deficient in their reliability procurement during the same month as the ESSRRP is utilized. These additional payments are meant to act as an incentive to utilities to be current on their reliability procurement, but also provide a financial boost to the ESSRRP, as the current budget outlook makes any future disbursement of state dollars unlikely.

Per AB 1373, POUs would be found deficient in their reliability procurement if they failed to meet their self-established minimum planning reserve margin (PRM). AB 209 (Committee on Budget, Chapter 251, Statutes of 2022) directed the CEC to make recommendations to POUs on their minimum PRM. The CEC hosted a workshop in November 2023 to discuss RA, POU approaches to RA, and proposed options for setting PRM. No recommendations have been formalized to date, despite statute directing the recommendations be developed by December 31, 2023.

AB 1373 also required the CEC to issue a report by January 31, 2024 assessing whether each POU met its minimum PRM for 2023, and how that minimum PRM compared to the system RA requirements for LSEs. This report is delayed, and targeted to be shared with the Legislature in May 2024. In March 2024, the CEC opened a rulemaking related to the POU PRMs to establish the regulations for assessing and collecting capacity payments. However, statute requires the CEC to submit the report prior to adopting regulations to implement the capacity payment collection.

CAISO also has a Resource Adequacy Modeling and Program Design Working Group to produce a "Resource Adequacy Action Plan" with recommendations for policy changes needed at the CAISO. The group began meeting in October of 2023 and most recently met on March 14, 2024. The working group is still in the pre-development phase of CAISO's stakeholder process.

COMMENTS:

1) *Author's Statement.* According to the author, "Last year, the Legislature passed AB 1373, which provided a tool to allow the state to benefit from renewable development that individual utilities are unable to procure. The bill also focused on reliability and resource adequacy by establishing a program to pay for emergency resources used on behalf of an under-resourced utility. This bill adds important clarifications to encourage efficiency and equity in the implementation of AB 1373."

2) *Need.* This bill seeks changes to policies only recently chaptered related to reliability procurement activities of POUs. As noted by this committee in multiple forums, the RA market has experienced significant constraint recently, largely driven by resource retirements across the western U.S. as well as extreme weather events causing California energy agencies to increase RA obligations for LSEs, such as the PRM adjusting from

15% to an "effective" 20-22.5% for the three large IOUs for summers 2022 and 2023.[6] These changes have led to a market rush, practically at any cost, to buy resources needed to meet RA obligations for the next few summers. Energy sellers have seemingly taken note, and increased RA resource costs to staggering levels in some months.

The backstop provided by the ESSRRP is meant to ensure California's lights stay on. However the ESSRRP is a backstop of the backstop. The state's RA program – and the various procurement the LSEs and POUs undertake to meet their RA capacity obligations – is the initial backstop. The RA market dynamics over the last few years, combined with western weather over the last few summers, has made that initial backstop less solid. As such, the ESSRRP was created to provide further reliability assurance. Moreover, the ESSRRP was established as an off-market entity in the hopes that its procurement activities would not exacerbate the constrained RA market further.

Per AB 1373, the CPUC and CEC are authorized to collect capacity payments from LSEs and POUs, respectively, who are deficient in their reliability procurement during the same month as the ESSRRP is utilized. These capacity payments are meant to act as an incentive to utilities to be current on their reliability procurement, but also provide a financial boost to the ESSRRP, as the current budget outlook makes any future disbursement of state dollars unlikely. However, many POUs and LSEs have raised concern about levying capacity payments. They note most utilities are striving to meet their RA obligations, but capacity is either outright unavailable or so costly as to be in-effect unavailable. The POUs note most utilities are not deficient in their RA obligations by choice, and view the capacity payments as punishment for events outside their control.

While such behavior is likely characteristic of most LSEs and POUs buying RA capacity, it is not a universal truth. It is possible for an LSE or POU to choose to be deficient in their RA capacity, as a cost-saving measure, knowing the ESSRRP, CAISO backstop, or other utility RA over-procurement will cover their shortfall. In such circumstances, RA penalties may be assessed by the CPUC or CAISO. However, that is not always the case.[7] The state is still assessing where past deficiencies have occurred. Under these circumstances, it may be appropriate to have the capacity payments flow back to the ESSRRP to offset the procurement costs to the state and to retain a financial obligation for LSEs or POUs that are deficient.

These two extremes raise questions around fairness and accountability; and ultimately, what will drive the desired outcome of utilities meeting their RA obligations and the ESSRRP not being needed. This bill seeks to provide some modest considerations in favor of the utilities acting in good faith. Whether the changes proposed in this measure strike the appropriate balance may be better understood once the CEC's PRM report is

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[6] D. 21-12-015, CPUC, *Phase 2 Decision Directing PG&E, SCE, and SDG&E to Take Actions to Prepare for Potential Extreme Weather in the Summers of 2022 and 2023,* R. 20-11-003, December 2, 2021.
[7] If the utility is not in the CPUC's jurisdiction, for instance.

issued, the CPUC concludes its updates to RA policies,[8] or California makes it through more summers without shortfalls or needing to call upon the ESSRRP.

3) *Prior Legislation.*

   AB 1373 (E. Garcia) provides DWR authority to act as a CPE until January 1, 2035. Requires the CPUC and the CEC, as applicable, to assess capacity payments for LSEs and POUs that are deficient in their reliability obligations until June 30, 2027. Finally, authorizes the CPUC additional enforcement and subsequent penalty authority over the LSEs' integrated resource plans. Status: Chapter 367, Statutes of 2023.

   AB 209 (Committee on Budget), among its many provisions, directed the CEC to make recommendations to POUs on their minimum PRMs by December 31, 2023. Status: Chapter 251, Statute of 2022.

REGISTERED SUPPORT / OPPOSITION:

Support

Northern California Power Agency
Southern California Public Power Authority (SCPPA)

Opposition

None on file.

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[8] Such as its implementation of a slice-of-day framework; see D. 23-04-010