

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Joint Application to Establish Non-Bypassable
Charge (“NBC”) for Above-Market Costs
Associated with Tree Mortality Power Purchase
Agreements (“Tree Mortality”) in Compliance with
Senate Bill 859 and Resolution E-4805.

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Application No. 16-11-005
(Filed November 14, 2016)

**COMMENTS OF THE
CALIFORNIA COMMUNITY CHOICE ASSOCIATION
ON THE ENERGY DIVISION STAFF PROPOSAL**

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May 11, 2018

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OF THE STATE OF CALIFORNIA**

Joint Application to Establish Non-Bypassable Charge)	
("NBC") for Above-Market Costs Associated with Tree)	
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**COMMENTS OF THE
CALIFORNIA COMMUNITY CHOICE ASSOCIATION
ON THE ENERGY DIVISION STAFF PROPOSAL**

In accordance with the *Administrative Law Judge's Ruling Entering Energy Division Staff Proposal Into The Record And Seeking Party Comments*, dated April 17, 2018 ("ALJ Ruling"), the California Community Choice Association ("CalCCA") hereby provides comments on the Energy Division staff proposal, attached as Appendix A to the ALJ Ruling ("Staff Proposal"), and responses to specific questions pertaining to the Staff Proposal.¹

I. SUMMARY

As reflected in Appendix B to the ALJ Ruling, CalCCA made a presentation at the December 12, 2017 workshop ("Workshop") regarding how above-market costs of the investor-owned utilities' ("IOUs") Tree Mortality power purchase agreements ("BioRAM PPAs") should be determined and allocated to customers. The IOUs also made a presentation at the Workshop on the same topic. In its presentation, CalCCA stressed the importance of ensuring that mandated procurement directed by the California Public Utilities Commission ("Commission") should not unnecessarily infringe on the statutory right of Community Choice Aggregators to procure generation resources on behalf of Community Choice Aggregation ("CCA") customers. CalCCA also urged the Commission to not

¹ See Staff Proposal at 3.

reinvent the wheel, so to speak, with respect to determining above-market costs for the BioRAM PPAs, but instead the Commission should rely on methodologies and processes closely aligned with the Commission’s principal non-bypassable charge (“NBC”): the Power Charge Indifference Adjustment (“PCIA”).²

For reasons stated in the Staff Proposal, the BioRAM NBC in the Staff Proposal does not rely on benchmarks and processes associated with the PCIA. CalCCA believes this departure is not ideal. However, given the limited duration and scope of the BioRAM NBC, CalCCA acknowledges the rationale set forth in the Staff Proposal. That said, further investigation appears to be necessary to determine whether there is or will be a sufficiently deep pool of power purchase agreements to validate the benchmark under the Staff Proposal. As currently written, the benchmark is “the average price of [Renewables Portfolio Standard (“RPS”)] procurement from non- BioRAM PPAs that were signed in 2016, which is the contemporaneous year for all BioRAM [PPA] execution.”³ It is CalCCA’s understanding that only one non-BioRAM PPA signed in 2016 (“Reference PPAs”) has commenced energy deliveries, and only recently. As such, balancing account treatment may be warranted until the Energy Division feels confident that energy actually delivered from Reference PPAs is sufficient to validate the benchmark for valuation purposes under the Staff Proposal.

CalCCA also requests that the Energy Division conduct further analysis to ensure that costs under the Reference PPAs are reasonably comparable in form to costs expected under the BioRAM PPAs. In this regard, CalCCA notes that the BioRAM PPAs are associated with baseload-operated resources whereas resources associated with the Reference PPAs appear to be exclusively solar

² The Commission is actively reviewing and considering alternatives to the PCIA in an ongoing rulemaking proceeding: R.17-06-026.

photovoltaic (“PV”) resources, which operate on a non-baseload basis and could have a different cost structure. Finally, while CalCCA acknowledges the rationale for using a methodology that differs from the PCIA, CalCCA requests that the Energy Division reexamine this determination after the PCIA has been revised or replaced, later this year.

II. RESPONSES TO SPECIFIED QUESTIONS

As stated in the ALJ Ruling, “[t]he staff proposal includes specific questions for the parties to address in their comments.”⁴ The following are CalCCA’s responses to the specific questions in the Staff Proposal.⁵

1. **Does the staff proposal have any inaccuracies or inconsistencies with Commission policies and RPS rules? If so, explain your response.**

No.

2. **Is there sufficient transparency for the resulting non- BioRAM average contract benchmark, given that some of the individual contracts used to determine the average price will be confidential?**

CalCCA believes that Energy Division staff will have sufficient visibility of the Reference PPAs to review the Reference PPAs and identify costs under the Reference PPAs. To improve transparency, however, CalCCA recommends that, as part of a final decision in this proceeding, the Commission approve and adopt the modified non-disclosure agreement and data-sharing proposals approved in R.17-06-026 (PCIA rulemaking). In doing so, the Commission will ensure that employees of Community Choice Aggregators will have greater access to underlying PPA data than would otherwise be provided

³ See Staff Proposal at 2. As noted in the Staff Proposal, the scope “[i]ncludes RPS PPAs from solicitations that were executed in 2016, but excludes Qualifying Facilities (QFs) and Feed- in Tariff (FiT) programs such as BioMAT and ReMAT.” (Staff Proposal at 2; note 2.)

⁴ ALJ Ruling at 2

⁵ See Staff Proposal at 3.

under the Commission’s standard non-disclosure agreement.⁶ This action will improve transparency and is appropriate given the Energy Division’s reliance on actual costs to validate the benchmark for the BioRAM NBC.

CalCCA further recommends that, prior to applying the BioRAM NBC, the Energy Division should ensure that there is a sufficiently deep pool of Reference PPAs (more specifically, energy delivered under the Reference PPAs) to allow for a credible determination of the benchmark. CalCCA is further reviewing information provided by the IOUs, but on initial review it appears that only one of the Reference PPAs has begun delivering energy, and only recently. As such, it will likely be necessary to continue balancing account treatment until the Energy Division feels confident that energy actually delivered from Reference PPAs is sufficient to validate the benchmark for valuation purposes under the Staff Proposal.

CalCCA also requests that the Energy Division conduct further analysis to confirm that costs under the Reference PPAs are reasonably comparable in form to costs expected under the BioRAM PPAs. The BioRAM PPAs are associated with baseload-operated resources, and it appears that resources associated with the Reference PPAs are exclusively solar PV resources. As a result, the form of costs incurred for the Reference PPAs could deviate materially from expected the form of costs associated with the BioRAM PPAs. If this were to occur, a different benchmark should be considered.

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⁶ See *Assigned Commissioner and Assigned Administrative Law Judge Ruling Granting Relief Sought in December 8, 2017 Supplemental Joint Report on Data Issues*, dated December 20, 2017, in R.17-06-026.

3. **In the staff proposal, the [Renewable Energy Credits (“RECs”)] would be retained by the IOUs. The staff proposal also does not apply a separate valuation for RECs. Do you agree or disagree on how staff’s REC value is determined? Explain why or why not. If an alternative REC value is recommended, explain how the alternative is consistent with RPS rules, such as portfolio content classification rules.**

As stated in CalCCA’s Workshop presentation, CalCCA believes that RECs associated with the BioRAM PPAs should be retained by the IOUs, which is consistent with the Staff Proposal. However, CalCCA believes that the RECs should be separately valued using the valuation methodology under the current PCIA methodology, to be revised or replaced in the PCIA rulemaking.⁷ CalCCA believes that this approach best ensures consistency among NBC methodologies, and relies on findings and determinations previously made in the context of the PCIA (and on findings and determination subsequently made in the context of the PCIA rulemaking). That said, CalCCA acknowledges the rationale for using the integrated benchmark proposed in the Staff Proposal for the limited purpose of valuing above-market costs of the BioRAM PPAs.

4. **In the staff proposal, the [Resource Adequacy (“RA”)] would be retained by the IOUs. Explain why or why not staff’s proposal is consistent with RPS rules. If an alternative allocation is recommended, explain how the alternative is consistent with RPS rules and CPUC policies.**

As stated in CalCCA’s Workshop presentation, CalCCA believes that RA associated with the BioRAM PPAs should be retained by the IOUs, which is consistent with the Staff Proposal. However, CalCCA believes that the RA value should be separately established using the valuation methodology under the current PCIA methodology, to be revised or replaced in the PCIA rulemaking.⁸ CalCCA believes that this approach best ensures consistency among NBC methodologies, and relies on findings and determinations previously made in the context of the PCIA (and on findings and determination subsequently made in the context of the ongoing PCIA rulemaking). That said, CalCCA acknowledges

⁷ See Staff Proposal; Appendix B (CalCCA Presentation at 7).

⁸ See Staff Proposal; Appendix B (CalCCA Presentation at 6).

the rationale for using the integrated benchmark proposed in the Staff Proposal for the limited purpose of valuing above-market costs of the BioRAM PPAs.

5. Given staff's rationale that the methodology should be consistent with RPS rules, the proposal is different than the current PCIA methodology. Explain any consequences or benefits of having different methodologies or the same methodologies.

As stated above, CalCCA acknowledges the rationale for using the integrated benchmark proposed in the Staff Proposal for the limited purpose of valuing above-market costs of the BioRAM PPAs. The overall cost and expected duration of the BioRAM PPAs are limited and circumscribed. That said, CalCCA believes that a valuation methodology using inputs from the PCIA methodology, to be revised or replaced in the PCIA rulemaking, would best ensure consistency among NBC methodologies, and would rely on findings and determinations previously made in the context of the PCIA (and on findings and determination subsequently made in the context of the PCIA rulemaking). As such, CalCCA requests that the Energy Division reexamine the BioRAM NBC benchmark after the PCIA has been revised or replaced, later this year.

III. CONCLUSION

CalCCA thanks the Commission for their consideration of these comments.

Dated: May 11, 2018

Respectfully submitted,

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