

**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)

**REPLY COMMENTS OF THE
CALIFORNIA COMMUNITY CHOICE ASSOCIATION**

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

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 these reply comments on matters addressed by the Office of Ratepayer Advocates ("ORA") and the joint investor-owned utilities ("Joint IOUs") in their opening comments on the Energy Division staff proposal, attached as Appendix A to the ALJ Ruling ("Staff Proposal").¹

I. REPLY

A. CalCCA Appreciates And Supports ORA's Requests For Clarification.

In its opening comments, ORA seeks clarification of two matters in order to promote transparency. First, ORA states that the Staff Proposal is unclear as to whether "an average contract *price* (\$50 per megawatt ["MW"] hour, for example) versus average contract *total costs* (\$50 per megawatt hour multiplied by the generation amounts for a period, month, year, etc.) will be used as the benchmark."² In this regard, ORA explains that "further explanation for how the [2016] non-BioRAM average contract ["Reference PPAs"] benchmark will be calculated will serve to increase

¹ The Joint IOUs consist of Pacific Gas and Electric Company ("PG&E"), San Diego Gas & Electric Company ("SDG&E"), and Southern California Edison Company ("SCE").

transparency.”³ CalCCA agrees, and appreciates ORA’s request for clarification. For additional reasons described below, CalCCA believes that the Staff Proposal should be expanded from simply a narrative description to also include quantitative examples.

Second, ORA seeks clarification that, “although the cost data gathered from [the Reference PPAs] will be confidential...Energy Division will be responsible for compiling this information and calculating the benchmark [and that] the final benchmark figure representing the [Reference PPAs] will be public.”⁴ Again, CalCCA agrees, and appreciates ORA’s request for clarification. For transparency sake, it will be important for the Energy Division to maintain a central role, and for the benchmark for the IOUs’ Tree Mortality power purchase agreements (“BioRAM PPAs”) to be publicly reviewable.

B. The Joint IOUs’ Proposal To Allocate Renewable Energy Credits Implicates A Host Of Policy And Legal Issues, And Is Ill-Suited For This Proceeding.

In their opening comments, the Joint IOUs repeatedly promote the *allocation* of Renewable Energy Credits (“RECs”) from the BioRAM PPAs as a superior means of determining the Tree Mortality non-bypassable charge (“Tree Mortality NBC”).⁵ In light of this, the Joint IOUs propose that RECs from the BioRAM PPAs should be *allocated* to Community Choice Aggregators and Electric

² ORA Comments at 1 (emphasis added).

³ ORA Comments at 1.

⁴ ORA Comments at 2.

⁵ See, e.g., Joint IOUs Comments at 3-4 (“Joint IOUs believe the most equitable approach...is an allocation approach that directly allocates the resource attributes to all benefitting customers, not an above-market approach that requires bundled service customers to retain all of the resource attributes and attempts to quantify those attributes’ “market value” using an administratively-set benchmark.”). See also Joint IOUs Comments at 9 (“Joint IOUs generally do not support use of a market benchmark for determining REC value. A better way to approach REC valuation is to allocate the RECs themselves to all benefitting customers.”).

Service Providers (“ESPs”) (collectively, “Alternative Suppliers”).⁶ The Joint IOUs’ proposal implicates a host of thorny policy and legal issues, and should be expressly rejected in this proceeding.

Thankfully even the Joint IOUs acknowledge that their REC allocation proposal should not be taken seriously in this proceeding.⁷ The Joint IOUs’ REC allocation proposal is being actively examined and litigated in the PCIA proceeding. Many parties, including CalCCA, oppose the Joint IOUs’ proposal, and even more parties question the legality and policy rationale for the proposal. Included among the skeptics is The Utility Reform Network (“TURN”), which observes “the IOUs’ proposal appears that it would strip RECs from underlying RPS-eligible resources and allocate unbundled RECs to Retail Sellers that are intended to qualify as Product Content Category (PCC) 1 resources for purposes of RPS compliance. Such a step might not be permissible under state law and current Commission policy, as the IOUs acknowledge, since the transfer of an unbundled REC cannot qualify for PCC 1 compliance.”⁸ For these reasons, the Commission should not entertain the Joint IOUs’ REC allocation proposal in this proceeding.

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⁶ See Joint IOU Comments at 9; note 16 (“The Joint IOUs have proposed in R.17-06-026, among other things, a REC allocation methodology [and] [i]f the Commission adopts the Joint Utilities’ allocation methodology in the [Power Charge Indifference Adjustment (“PCIA”) proceeding], the Joint Utilities believe it would be appropriate to utilize that methodology here.”).

⁷ See Joint IOUs Comments at 4; internal citations omitted (“[T]he Joint IOUs acknowledge that, to date, the Commission has not developed a general allocation approach for RECs that could be applied to these RPS-eligible biomass resources, and thus a valuation for the resource attributes that cannot be allocated (*i.e.*, RECs) may be appropriate and reasonable for the [BioRAM] PPAs.”) See also Joint IOUs Comments at 9; internal citations omitted (“Because there are a limited number of RECs expected from these [BioRAM] PPAs, an approach that is more administratively simple is appropriate and reasonable...at this time.”)

⁸ TURN Rebuttal Testimony in R.07-06-026, dated April 23, 2018, at 29.

C. The Joint IOUs' Criticism Of Administrative Benchmarks Is Self-Serving And Unwarranted For This Proceeding.

In their comments, the IOUs emphatically state that “[t]he Joint IOUs do not support the use of administratively set benchmarks for allocating costs.”⁹ The Joint IOUs assert that they “have little to no need for incremental renewable procurement at this time [and it] is unreasonable to require bundled service customers to purchase the departing load customers’ pro rata share of the [BioRAM] PPAs at the benchmark price when they have no need for it.”¹⁰ In light of this criticism, the Joint IOUs propose that RECs and Resource Adequacy (“RA”) attributes associated with the BioRAM PPAs be allocated to Alternative Suppliers, notwithstanding the Alternative Suppliers’ lack of need for the attributes.

For reasons discussed above, the Joint IOUs’ REC allocation proposal should be summarily rejected. The Joint IOUs’ allocation proposal with respect to RA attributes suffers from many of the same defects. Beyond substantive defects, the IOUs’ proposal is also procedurally flawed. This proceeding is simply not the proper venue to properly consider the IOUs’ allocation proposal. The BioRAM PPAs are extremely limited in scope (only approximately 150 megawatts, in total, for all of the IOUs). As such, it is somewhat incredulous for the Joint IOUs to suggest that they cannot accommodate or make use of the output from these resources. Likewise, the BioRAM PPAs’ respective terms are limited in duration (only five years), further mitigating and limiting any realistic impact upon the Joint IOUs from the BioRAM PPAs. As a matter of economy and fairness, it is simply not appropriate to use this proceeding to impose RECs and RA attributes on Alternative Suppliers. Consideration of the Joint IOUs’ allocation proposal is rightly before the Commission in the PCIA proceeding, and such consideration should not be prejudiced by a premature decision in this proceeding.

⁹ Joint IOUs Comments at 3.

¹⁰ Joint IOUs Comments at 3.

D. The Joint IOUs' Proposal To Value RECs Has Been Rightly Excluded From The Staff Proposal; A Benchmark Other Than The One In The Staff Proposal Should Only Flow From The PCIA Proceeding.

Chief among principles upon which the Staff Proposal is founded is the fact that the Staff Proposal “does not create any new RPS or Resource Adequacy (RA) processes or values.”¹¹ Contrary to this chief principle, the Joint IOUs continue to advocate for a *new* RPS process and valuation. Specifically, “the Joint IOUs recommend valuing RECs for purposes of the [Tree Mortality] NBC using Platts MW Daily mid-price for Portfolio Content Category (PCC) 1 resources.”¹² The Joint IOUs’ proposal has no basis in any Commission decision or proceeding, much less the PCIA proceeding. As such, the Joint IOUs’ proposal was rightly excluded from the Staff Proposal. The Joint IOUs’ proposal also suffers from other defects.

One of the primary flaws with the Platts index is that it is a short-term-based index. While the index may have some worth with respect to valuing short-term *reshuffling* of renewable resource portfolios, it should not be used in determining the REC value for the Tree Mortality NBC. The IOUs’ renewable portfolios, including the BioRAM PPAs, reflect mid- and long-term resources. Thus, an index based on short-term transactions, like Platts, is incongruent with the products being valued (namely, the BioRAM PPAs). Additionally, the short-term renewable resource market, on which the Joint IOUs’ Platts index is based, is too unstable to be relied upon to develop meaningful and reliable valuation amounts.

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¹¹ Staff Proposal at 1.

¹² Joint IOUs Comments at 9-10.

E. The Joint IOUs' Proposal To Allocate RA Attributes Has Been Rightly Excluded From The Staff Proposal; A Benchmark Other Than The One In The Staff Proposal Should Only Flow From The PCIA Proceeding.

As noted above, the Staff Proposal “does not create any new RPS or Resource Adequacy (RA) processes or values.”¹³ This is appropriate given the limited scope and duration of the BioRAM PPAs. The Joint IOUs depart from this approach and seek to create a new process with respect to BioRAM PPAs. Specifically, “[t]he Joint IOUs propose to allocate RA Credits to all LSEs through the existing [Cost Allocation Methodology (“CAM”)].¹⁴

In their comments, the Joint IOUs criticize CalCCA for not including in its Workshop presentation a critique of the Joint IOUs’ proposed use of the CAM for BioRAM PPAs.¹⁵ Accordingly, CalCCA provides the following abbreviated critique of the Joint IOUs’ proposal to allocate RA attributes under the CAM approach. CalCCA’s principal concern with the Joint IOUs’ proposal is one similar to the concern implied in the Staff Proposal: the Joint IOUs’ proposal *creates a new* RA process. The CAM approach has not been used outside of a reliability context. In particular, the CAM approach has not previously been used in connection with BioRAM PPAs. Yet, the Joint IOUs propose to implement the process here. As noted above, given the limited scope and duration of the BioRAM PPAs, it is inefficient, at best, to employ the CAM approach, which is a complicated and regulatory-intensive process. It is simpler and more congruent with the scope of the BioRAM PPAs to use a

¹³ See note 11, above (citing Staff Proposal at 1).

¹⁴ Joint IOUs Comments at 12. The CAM was adopted by the Commission in the context of reliability resources. (See [provide citation].)

¹⁵ See Joint IOUs Comments at 14 (“CalCCA’s presentation provides no explanation as to why the TM NBC RA should be “monetized” instead of simply allocated to each of the LSEs through the existing CAM process.”) Apparently the Joint IOUs’ criticism applies to the Staff Proposal, since RA associated with the BioRAM PPAs are also monetized under the Staff Proposal.

benchmark for purposes of RA valuation. This is accomplished under the Staff Proposal by using the Reference PPAs for an “apples-to-apples” benchmark that implicitly values RA above-market costs.¹⁶

Beyond being cumbersome and unjustified, use of the CAM approach in this context also unnecessarily and inappropriately creates a process that infringes on the statutory right of Community Choice Aggregators to maximize their own mix of generation resources. In the context of RA, the Legislature has determined that RA requirements should be established in a manner that achieves the following objective, among others: “Maximize the ability of community choice aggregators to determine the generation resources used to serve their customers.”¹⁷ One of the principal concerns over the CAM approach and other forced-allocation proposals is that they unnecessarily inhibit the ability of Community Choice Aggregators to determine their generation resources. The Joint IOUs have offered no justification as to why a forced-allocation approach in this context is justified, reasonable and consistent with statutory directives and principles. The statutory provision addressing the BioRAM PPAs speaks to recovery of costs from all customers on a nonbypassable basis, *not* the forced allocation of RA attributes.¹⁸ For these reasons, the Commission should continue to reject the Joint IOUs’ request to allocate RA attributes from the BioRAM PPAs to Alternative Suppliers.

F. The Joint IOUs’ Request To Exclude Green Tariff Shared Renewables Program Power Purchase Agreements Is Unpersuasive.

The Joint IOUs criticize the Staff Proposal’s reliance on Reference PPAs to determine a benchmark because, among other things, three of the five Reference PPAs were executed “pursuant to the [Green Tariff Shared Renewables (“GTSR”)] program” and, according to the Joint IOUs, “[t]he

¹⁶ See Staff Proposal at 3 (“[T]he average 2016 non- BioRAM Renewables PPA price is also an appropriate apples-to-apples benchmark to value the RA above market costs.”).

¹⁷ Public Utilities Code Section 380(a)(5). See also Public Utilities Code Section 454.51(d) (expressly providing a self-procurement option for Community Choice Aggregators with respect to renewable integration requirements).

GTSR program has resource limitations that restrict solicitation participation and affect total resource prices, such that GTSR procurement is not indicative of fully-competitive RPS markets.”¹⁹ To support their assertion, the Joint IOUs posit several reasons why the Staff Proposal’s benchmark would be “inflated to reflect the higher-costs of mandated GTSR resources.”²⁰

The Joint IOUs’ reasons for excluding GTSR resources from the benchmark are unpersuasive. The Joint IOUs have offered nothing in their list of reasons that materially distinguishes GTSR resources from other 2016 RPS-eligible resources. Solar resources predominant RPS-eligible resources, particularly in 2016, and 20 MW size limitation is entirely consistent with resources associated with the BioRAM PPAs, which average just over 25 MW in capacity. Beyond theoretical justification, which is unpersuasive, the Joint IOUs have failed to offer quantitative justification to materially distinguish GTSR resources. As such, the Commission should leave GTSR resources in the resource pool for the Reference PPAs.²¹

G. The Joint IOUs’ Assumption About True-ups Is Erroneous.

The Joint IOUs assert that a “true-up based on actual market outcomes” is necessary in order to avoid “bundled service customers alone bear[ing] the risk of any difference between that benchmark and actual revenues received....”²² Revealingly, the Joint IOUs level this concern at the Staff Proposal, but

¹⁸ See Staff Proposal at 1, note 1 (referencing Public Utilities Code Section 399.20.3(f)).

¹⁹ Joint IOUs Comments at 5.

²⁰ Joint IOUs Comments at 5. Included among these reasons are “GTSR projects must be new resources (i.e., not part of an existing facility), must be located within an IOU’s service territory, cannot be larger than 20 MW, and PPAs executed in 2016 were limited to solar resources.” (Joint IOUs Comments at 5.)

²¹ As mentioned by CalCCA in its opening comments, there is a concern “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 Comments at 4.) Excluding GTSR resources from the pool of Reference PPAs, as proposed by the Joint IOUs, would only exacerbate this concern.

²² See Joint IOUs Comments at 3.

apparently do not have this same concern with respect to “the Joint IOUs’ proposed Platts REC index,”²³ which is likewise not subject to a true-up. The Joint IOUs’ concern is misplaced and erroneous. According to the Joint IOUs, the only way to avoid their postulated outcome is to fully unbundle and liquidate the BioRAM PPAs, with the inevitable result being that resource attributes associated with the BioRAM PPA will be undervalued. An example of this scenario with respect to RA attributes is borne out in the Staff Proposal as follows: “Energy Division’s analysis, via data received through the Procurement Review Group, confirms that the revenue results of the BioRAM RA auctions are lower than RA values...reported in the CPUC’s most recent RA Report....”²⁴ Unbundling and separately liquidating attributes associated with the BioRAM PPAs will inevitably reduce the overall value, as reflected in the Staff Proposal, which contemplates a *single, integrated* product:

Staff proposes that net above market BioRAM costs should be determined in a manner that treats the BioRAM renewable procurement as *a single product*, of which RECs and RA are *inherently integrated*. Accordingly, staff proposes that the BioRAM NBC should not separately value the components of RECs or RA, given that they are *inextricably valued* in the power purchase agreement (PPA) contract price.²⁵

H. The Joint IOUs’ Claims About Double-Counting Should Be Further Examined And Proven By Various Examples.

The Joint IOUs assert that the “Energy Division’s proposed [Tree Mortality] NBC calculation does not accurately measure above-market costs of the [BioRAM] PPAs as it *double counts* [BioRAM] PPA Energy Revenues and Ancillary Service Revenues.”²⁶ The Joint IOUs further describe the double-counting problem as follows:

This calculation subtracts actual [BioRAM] PPA Energy Revenues and Ancillary Service Revenue from all fixed and variable [BioRAM] PPA costs. Then, it further reduces that

²³ See Joint IOUs Comments at 3.

²⁴ Staff Proposal at 3, note 5.

²⁵ Staff proposal at 1.

²⁶ Joint IOUs Comments at 6 (emphasis added).

value by the “market value” of the [BioRAM] PPA’s integrated renewable product, which is defined as the Average 2016 Renewables PPA cost.²⁷

To remedy this situation, the Joint IOUs provide the following guidance: “If the Commission chooses to adopt the Energy Division staff proposal, which the Joint IOUs do not recommend, it should, at a minimum, eliminate the energy and ancillary services revenues term from the above-market calculation to avoid double-counting.”²⁸

The Joint IOUs appear to be correct. However, this can best be determined with reference to certain example calculations. Consistent with the request made by ORA above, CalCCA requests that any proposed decision adopting the Staff Proposal, as modified, provide sufficient example calculations so that parties can be assured that above-market costs of the BioRAM PPA are being fairly, accurately, and verifiably calculated.

II. CONCLUSION

CalCCA thanks the Commission for their consideration of these reply comments.

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Respectfully submitted,

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²⁷ Joint IOUs Comments at 7.

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