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

REPLY COMMENTS OF THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION ON THE PROPOSED DECISION

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In accordance with Rule 14.3(d) of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the California Community Choice Association ("CalCCA") hereby provides the following reply to opening comments filed by the joint investor-owned utilities ("Joint IOUs") on the *Proposed Decision of Administrative Law Judge Doherty*, issued on November 8, 2018 ("Proposed Decision").

A. The Joint IOUs' Attempt To Introduce Record Evidence At This Late Stage Is Procedurally Inappropriate And Prejudicial

The Joint IOUs complain about the Proposed Decision's treatment of Resource Adequacy ("RA") capacity associated with the tree mortality power purchase agreements ("TM Contracts"), claiming that the "Proposed Decision errs in finding [] that the record is unclear regarding how RA capacity has been treated in the period between the TM contracts' online dates and the effective date of the final decision [("Interim Period")]…."[1] To bolster the record, the Joint IOUs attempt, at this late stage, to provide additional evidence regarding valuation for RA capacity during the Interim Period.[2]

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1 Joint IOU Comments at 8.

2 *See* Joint IOU Comments at 8-9; Appendices B and C (attempting to provide factual support on a matter for which the record has closed).

As CalCCA extensively addressed, the Joint IOUs have failed in this proceeding to offer evidence on the value of RA capacity during the Interim Period.[3] Based on the record, which is now closed, the Proposed Decision rightly concluded that "the information provided by the Joint IOUs in their closing brief is insufficient to support a finding that RA value associated with the TM contracts has already been realized on an interim basis…[and] there is no evidence proffered of any RA valuation."[4] It is too late to introduce evidence.[5] Accordingly, the Joint IOUs' effort to introduce evidence at this late stage should be rejected.

B. The Joint IOUs' Attempt To Introduce A New Accounting Proposal At This Late Stage Is Procedurally Inappropriate And Prejudicial

The Joint IOUs introduce a new proposal as part of their opening comments, proposing that "any costs incurred by each of the Joint IOUs in fulfilling the terms of the executed sales agreement for RA capacity from a TM contract may be included as part of the net capacity cost allocated to all LSEs as part of the TMNBC."[6] The Joint IOUs' proposal differs materially from the Joint IOUs' current practice with respect to cost-recovery for administrative costs as part of non-bypassable charges. The Joint IOUs have not previously vetted the proposal through testimony, and other parties have not had an opportunity to examine the proposal and challenge it. Because of these procedural deficiencies, the Commission should either expressly reject the Joint IOUs' proposal or give it no weight.

C. The Joint IOUs' Renewed Effort To Rehabilitate Their RA "Allocation" Proposal Is Unavailing And Contrary To Recent Commission Precedent

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[3] *See* CalCCA Reply Brief at 1-10 (providing nearly ten full pages addressing the Joint IOUs' failure to provide evidence on RA valuation in the Interim Period, and their failure to meet their evidentiary burden in a procedurally proper manner.)

[4] Proposed Decision at 15-16.

[5] *See* Rule 13.14 (stating that the record is closed following briefs, and any party wishing to re-open the record must do so pursuant to a specifically defined motion – something the Joint IOUs failed to do.)

[6] Joint IOU Comments at 10. The Joint IOUs also make the same proposal for RECs. (*See* Joint IOUs Comments at 10, note 23.)

The Joint IOUs object to the Proposed Decision's rejection of their RA "allocation" proposal, claiming that the Proposed Decision's determination regarding "RA capacity ***from the past*** " is an erroneous basis for determining that allocation, in general, is not "an appropriate way to address the RA capacity associated with the TM contracts."[7] The Joint IOUs are mistaken on several fronts.

Among other things, by the time that allocation of RA capacity is an option, most of the contract term for the TM Contracts will be "in the past," with just slightly over two years remaining.[8] Moreover, while relevant, the Commission's determination on the "Interim Period" is not the only factor considered in the Proposed Decision. The Proposed Decision makes this clear by describing how "CalCCA's reply brief argues that the ***valuation*** of RA associated with the TM contracts should take place ***regardless of the interim valuation measures*** approved by the Commission…."[9]

A final point bears comment. The Commission may take official notice of the Commission's final decision in the Power Charge Indifference Adjustment ("PCIA") proceeding – Decision ("D.")18-10-019. In the PCIA proceeding, the Joint IOUs actively promoted an RA allocation approach, instead of valuation. After careful consideration, the Commission rejected this approach on "policy grounds," stating that "[t]his Commission will not pursue a policy scheme of ***mandatory*** portfolio allocation to [Community Choice Aggregators] and [Electric Service Providers]…."[10]

D. The Joint IOUs' Newly Revealed RA Valuation Scheme Provides Further Support For A Simple Administrative Benchmark – For RA And REC Purposes

To supposedly manage "risk" associated with the sale and valuation of RA capacity from the TM Contracts, the Joint IOUs unveil a new RA valuation scheme, to be further "detailed" as part of

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7 *See* Joint IOU Comments at 9 (described above in footnote 2, referencing Proposed Decision at 16).

8 *See* CalCCA Closing Brief at 9-11.

9 Proposed Decision at 15. *See also,* Proposed Decision at 16-17 (discussing and considering RA valuation amounts and access to this information).

10 D.18-10-019 at 95-96; emphasis added.

the Joint IOUs' advice letters.[11] This complex accounting structure would require active Energy Division oversight, and would largely be opaque to stakeholders like CalCCA. While CalCCA is generally comfortable with the Proposed Decision's determination that valuation should be based on actual sales, the Joint IOUs' comments as to what constitutes a "sale" are troubling, and would unduly restrict and minimize acceptable "sales." The Joint IOUs' comments provide renewed support for use of a ***simple*** administrative benchmark that avoids unnecessary accounting oversight and minimizes the potential for manipulation. Accordingly, CalCCA requests that RA valuation be based on the "RA Adder" from the PCIA proceeding.[12] Use of an administrative benchmark should also apply to valuation of Renewable Energy Credits ("RECs"), where the Joint IOUs describe various problems and a potential that "the sales of only RECs from the TM contracts may be viewed by market participants as Portfolio Content Category ("PCC") 3 unbundled RECs, with a correspondingly lower value than bundled, PCC 1 RECs."[13] For RECs, the Commission should either use the REC Adder from the PCIA decision or an "administrative benchmark [Portfolio Content Category ("PCC")] 1 REC price of $15.04/MWh."[14]

E. The Joint IOUs' "Reservation Price" Must Be Considered A Sale for Valuation Purposes

In its opening comments, CalCCA described why the Proposed Decision should be modified to include ***some*** value for RA capacity that is unsold by the Joint IOUs but is nevertheless used for compliance purposes.[15] In their opening comments, the Joint IOUs affirm that they expect to use unsold RA for compliance purposes and that they believe some value should be ascribed to unsold

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11 *See* Joint IOU Comments at 9-10.

12 *See* D.18-10-019 at 159-160 (Ordering Paragraph 1.c.).

13 Joint IOU Comments at 12.

14 Proposed Decision at 12.

15 *See* CalCCA Comments at 5-11.

RA capacity.[16] CalCCA agrees, although CalCCA has serious concerns about a "reservation price" approach. In any event, the Proposed Decision must be revised to ascribe ***some*** value to unsold RA capacity that is nevertheless used for compliance purposes.

F. The Joint IOUs' Extensive Comments And Proposals On Implementation Details Underscore The Need For A Tier 2 Advice Letter

The Joint IOUs' opening comments announce and preview complex implementation details that will be worked out in the Joint IOUs' respective advice letter filings. For example, the Joint IOUs state that they must be allowed to submit a detailed TM contract RA sales protocol as part of the Tier 1 Advice Letter ordered by the Proposed Decision…."[17] The detail and complexity associated with the envisioned advice letters warrant a Tier 2 designation, as requested by CalCCA in its opening comments.[18]

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16 *See* Joint IOU Comments at 10 (describing the "use of a bundled customer reservation price…should the IOU utilize the RA for its own compliance need….").

17 Joint IOU Comments at 9 (describing a multi-prong framework that the Joint IOUs will unveil as part of their advice letter filings). *See also* Joint IOU Comments at 6 (stating the need to further describe rate design details).

18 *See* CalCCA Opening Comments at 12-13.

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Respectfully submitted,

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