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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Review, Revise, and Consider Alternatives to the Power Charge Indifference Adjustment.	R.17-06-026 (Filed June 29, 2017)

COMMENTS OF CALIFORNIA COMMUNITY CHOICE ASSOCIATION ON THE PROPOSED DECISION

Evelyn Kahl, General Counsel
CALIFORNIA COMMUNITY CHOICE ASSOCIATION
One Concord Center
2300 Clayton Road, Suite 1150
Concord, CA 94520
(415) 254-5454
regulatory@cal-cca.org

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TABLE OF CONTENTS

I. INTRODUCTION 1

II. THE COMMISSION MUST REJECT OR MATERIALLY MODIFY THE PD TO BRING FAIRNESS AND EQUITY TO ALL CUSTOMERS AS REQUIRED BY STATUTE 3

A. *All* Customers Are Entitled to PCIA Portfolio Benefits Proportional to PCIA Cost Responsibility 3

B. The PD Favors Bundled Customers at Unbundled Customers' Expense 4

III. THE PROPOSED DECISION'S REJECTION OF THE RA VAMO AND GHG-FREE ALLOCATION DENIES UNBUNDLED CUSTOMERS VALUABLE PORTFOLIO BENEFITS IN VIOLATION OF PUBLIC UTILITIES CODE §366.2 AND §365.2 5

A. The PD's Rejection of the GHG-Free Energy Allocation Denies Unbundled Customers Their Fair Share of PCIA Benefits and Thus Shifts Costs from Bundled to Unbundled Customers 6

B. The PD's Rejection of the RA Allocation Denies Unbundled Customers Their Fair Share of PCIA Benefits and Thus Shifts Costs from Bundled to Unbundled Customers 8

IV. THE COMMISSION MUST CLARIFY AND MODIFY THE PROPOSED DECISION TO DELIVER THE INTENDED VALUE OF THE RPS VAMO 10

A. Clarify That the RPS Allocation Will Be Proportional to Each LSE's Vintaged Load Share 11

B. Clarify That the RPS Allocation Will Be Structured as a Slice of the IOU's RPS Portfolio 11

C. Clarify that RPS Allocations Will Occur *at Least* Once Per RPS Compliance Period 12

D. Clarify and Limit the Extent of Any Deferrals to the RPS Proceeding 13

E. Distribute Any Unallocated and Unsold RPS to All LSEs Based on Their Vintaged Load Shares or Permit Bundled Customers to Retain at the Full MPB. 13

F. Permit LSEs to Resell RPS Energy Procured Through the VAMO 14

V. CONCLUSION 15

Attachment A A-1

Table of Authorities

California Public Utilities Code

§365.2(g) ..... iii, 1, 2, 5, 10
§366.2(g) ..... iii, 1, 2, 3, 5, 10

California Public Utilities Commission Decisions

D.18-10-019 1
D.02-01-011 4
D.02-01-022 ..... iii, 2, 4
D.02-11-022 ..... 3, 4
D.18-01-022 8
D.19-10-001 ..... 13, 14
D.20-06-031 10

California Public Utilities Commission Rules of Practice and Procedure

Rule 14.3 1

SUBJECT MATTER INDEX

SPECIFICATION OF ERROR

1. The PD misinterprets and misapplies D.02-01-022 in concluding that unbundled customers are not entitled to a share of Power Charge Indifference Adjustment (PCIA) portfolio resources;
2. The PD denies unbundled customers the full range of benefits of PCIA resources -- including GHG-Free energy attributes and the "right of first refusal" to scarce PCIA resources -- contrary to Public Utilities Code §366.2(g);
3. By retaining important Resource Adequacy (RA) and greenhouse gas-free (GHG-Free) energy benefits for bundled customers while requiring unbundled customers to pay for them, the PD unlawfully shifts costs from bundled to unbundled customers contrary to §365.2; and
4. The PD's reasoning for adopting the Renewables Portfolio Standard (RPS) VAMO while rejecting the RA Voluntary Allocation and Market Offer (VAMO) and GHG-Free energy allocation is internally inconsistent and not supported by substantial evidence.

RECOMMENDED CHANGES

1. Adopt the Working Group 3 (WG3) proposed RA VAMO for system and flexible RA, as well as local RA in San Diego Gas and Electric Company (SDG&E) territory, including all features specified in the WG3 Proposal;
2. Adopt the WG3 proposed GHG-Free allocation;
3. Clarify important aspects of the adoption of the RPS VAMO, including specifying that the RPS VAMO will: (a) allocate "slices" of the RPS portfolio to bundled and unbundled customers in proportion to their vintaged load share; (b) require allocations annually or *at least* once per RPS compliance period; (c) distribute unallocated and unsold RPS energy (including RECs) to all customers based on their vintage load shares; and (d) permit load-serving entities (LSEs) to resell RPS energy procured through the RPS VAMO; and
4. Limit the range of issues deferred to other proceedings.

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COMMENTS OF CALIFORNIA COMMUNITY CHOICE ASSOCIATION ON PROPOSED DECISION

California Community Choice Association[1] (CalCCA) submits these comments pursuant to Rule 14.3 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure on the *Phase 2 Decision on Power Charge Indifference Adjustment Cap and Portfolio Optimization* (Proposed Decision or PD), issued on April 5, 2021.

I. INTRODUCTION

Public Utilities Code §366.2(g)[2] requires the Commission to either (1) directly allocate to CCAs a "fair and equitable" share of the uneconomic resources for which they pay or (2) fully value those resources in the PCIA. The current PCIA calculation does not fully value certain portfolio attributes, as discussed further in Section III, yet the PD rejects the allocation of these valuable PCIA attributes to CCAs as proposed by Working Group 3.[3] Requiring unbundled customers to pay for attributes they do not receive violates the prohibition in §365.2 against cost shifting between bundled and unbundled customers.

The Commission directed WG3 in Decision (D.)18-10-019 to develop proposals to address issues carried over from Phase 1 of the proceeding: "[p]ortfolio optimization and cost reduction" and "[a]llocation and auction." WG3 responded with four unified processes to optimize the use and value of

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[1] California Community Choice Association represents the interests of 24 community choice aggregators (CCAs): Apple Valley Choice Energy, Baldwin Park Resident Owned Utility District, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, East Bay Community Energy, Lancaster Choice Energy, Marin Clean Energy, Peninsula Clean Energy, Pico Rivera Innovative Municipal Energy, Pioneer Community Energy, Pomona Choice Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Diego Community Power, San Jacinto Power, San José Clean Energy, Silicon Valley Clean Energy, Solana Energy Alliance, Sonoma Clean Power, Valley Clean Energy, and Western Community Energy.

[2] Statutory citations refer to the California Public Utilities Code unless otherwise specified.

[3] Working Group 3, led by CalCCA, Southern California Edison Company (SCE), and Commercial Energy (Co-Leads) at the Commission's direction, was tasked by D.18-10-019 to present recommendations for ongoing management of the investor-owned utility (IOU) PCIA portfolios.

the resources in the PCIA portfolios for the benefit of all customers: the (1) Resource Adequacy (RA) VAMO, (2) RPS energy VAMO, (3) GHG-Free energy allocation, and (4) Request for Interest (RFI) (collectively, WG3 Proposal).

The PD adopts some features of the RPS VAMO and RFI and rejects others, but it rejects *entirely* the RA and GHG-Free elements of the WG3 Proposal. The PD's denial of these foundational elements and critical features rests on legal error:

- ✗ The PD misinterprets and misapplies D.02-01-022 in concluding that unbundled customers are not entitled to a share of PCIA portfolio resources;
- ✗ The PD denies unbundled customers the full range of benefits of PCIA resources -- including GHG-Free energy attributes and the "right of first refusal" to scarce PCIA resources -- contrary to Public Utilities Code §366.2(g);
- ✗ By retaining important RA and GHG-Free energy benefits for bundled customers while requiring unbundled customers to pay for them, the PD unlawfully shifts costs from bundled to unbundled customers contrary to §365.2; and
- ✗ The PD's reasoning for adopting the RPS VAMO while rejecting the RA VAMO and GHG-Free energy allocation is internally inconsistent and not supported by substantial evidence.

The Commission should modify the PD as follows to correct these legal errors.

- ✓ Adopt the WG3 proposed RA VAMO for system and flexible RA, as well as local RA in SDG&E territory,[4] including all features specified in the WG3 Proposal;
- ✓ Adopt the WG3 proposed GHG-Free allocation; and
- ✓ Clarify important aspects of the adoption of the RPS VAMO, including specifying that the RPS VAMO will: (1) allocate "slices" of the RPS portfolio to bundled and unbundled customers in proportion to their vintaged load share; (2) require allocations annually or *at least* once per RPS compliance period; (3) distribute unallocated and unsold RPS energy (including RECs) to all customers based on their vintage load shares; and (4) permit load-serving entities (LSEs) to resell RPS energy procured through the RPS VAMO.

The Commission also should limit the range of issues deferred to other proceedings. Recognizing the time that has passed since this proceeding was instituted, stakeholders deserve a comprehensive, specific, and clear final decision.

[4] D.20-06-002 prevents adoption of the WG3 proposed local RA allocation for SCE and PG&E. CalCCA's support for the RA VAMO herein include system and flexible RA for all three service territories, as well as local RA for the San Diego Gas & Electric Company (SDG&E) service territory.

II. THE COMMISSION MUST REJECT OR MATERIALLY MODIFY THE PD TO BRING FAIRNESS AND EQUITY TO ALL CUSTOMERS AS REQUIRED BY STATUTE

A. *All* Customers Are Entitled to PCIA Portfolio Benefits Proportional to PCIA Cost Responsibility

Public Utilities Code §366.2(g) establishes a foundational principle of fairness and equity for recovery of PCIA portfolio costs from CCAs:

> Estimated net unavoidable electricity costs paid by the customers of a community choice aggregator shall be reduced by the value of any benefits that remain with bundled service customers, unless the customers of the community choice aggregator *are allocated a fair and equitable share of those benefits*.

In short, all customers – including CCA customers should get what they pay for through the PCIA.[5]

Today, all customers – bundled and unbundled – pay the above-market costs for PCIA resources in proportion to their vintaged load shares. All customers, however, do not derive proportional benefits from those resources in two key respects. First, without the WG3 Proposal, unbundled customers receive no benefit from GHG-Free resources[6] paid for in the PCIA when the interim allocation program ends. Second, bundled customers alone benefit today from a right of first refusal (ROFR)[7] over PCIA eligible RA and RPS resources. The ROFR insures bundled customers against non-compliance with the RA, RPS, and other policy requirements and against above-average market prices in bundled customer rates. The PD partially addresses the problem for RPS resources by giving all customers their proportional ROFR for RPS at the same price provided to bundled customers, but provides no comparable benefits to unbundled customers for RA.

Granting *all* customers proportional access to both GHG-Free and RA resources is the only "fair and equitable" way to share the benefits of the PCIA eligible resources. An "excess" approach, which the PD relies on in rejecting the RA VAMO, does not meet these requirements.

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[5] The IOUs agree: their Phase 1 testimony in this proceeding proposed to allocate PCIA portfolio attributes through a mechanism "whereby the benefits, attributes, value, and costs of the resources in the Joint Utilities' generation portfolios follow the customers for whom they were procured." R.17-06-026 Phase 1 Joint Utilities opening brief at 43.

[6] CalCCA acknowledges that the brown power element of the GHG-Free resources is accounted for in the PCIA calculation, but the GHG-Free attribute – which is traded in the market – is not accounted for.

[7] The only reason an LSE would exercise a ROFR is because there is a benefit to doing so. Leaving this decision to the IOUs means that the choice will always be made to benefit bundled customers at the expense of unbundled customers.

B. The PD Favors Bundled Customers at Unbundled Customers' Expense

Despite the Legislature's clear mandate that CCAs should receive benefits from PCIA resources to offset their cost responsibility, the PD systematically prioritizes bundled customers over unbundled customers. First, referencing a claim by AReM/DACC, the PD erroneously suggests that the Commission has previously rejected providing unbundled customers access to these resources. It states:

> [I]n D.02-11-022, the Commission specifically declined to create a long-term claim on low-cost utility-owned generation by direct access customers simply because those resources were included in the indifference portfolio.[8]

As a preliminary matter, D.02-11-022 was issued before Assembly Bill 117, which created CCAs, became effective in 2003; the 2002 decision thus did not consider the Legislature's mandate regarding CCA cost responsibility. In addition, the PD misinterprets and misapplies the 2002 decision. Contrary to the PD's conclusion, D.02-01-022 suggests that Direct Access (DA) customers ***do*** have a claim on these resources as long as they are paying the cost responsibility surcharge. It states: "Nothing in this order should be construed as creating any claim on low-cost URG by DA customers *beyond the period covered by the DA CRS* into perpetuity."[9] The PD reads the key bit – the italicized language – out of D.02-01-022, and so misconstrues its import.

Second, the PD refuses to allow unbundled customers the full benefits of RA and GHG-Free resources because PG&E could be short and bundled customers' costs could increase.[10] This attempt to protect bundled customers amounts to an admission that the existing Market Price Benchmark (MPB) is wrong. Today, bundled customers effectively "pay" the trued-up MPB for the RA resources that the IOU exercises the ROFR to retain on their behalf. Although the MPB was intended to reflect market prices, the PD posits that a proportional voluntary allocation of PCIA resources among all customers would increase bundled customer costs. If requiring the IOUs to go into the market to procure resources for bundled customers will increase their costs, then it follows that the MPB is below actual market prices; if the MPB is a fair representation of market prices, bundled customers should be indifferent to paying the MPB or paying market prices.

Third, the PD attempts to mask its preference for bundled customers on grounds that "our approach to PCIA solutions enables[s] alternative providers to manage their own portfolios, rather than

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8 PD at 13.
9 D.02-01-011 at 25, n. 24.
10 PD at 42, 49.

creating rights of alternative providers to resources in the utilities PCIA portfolios."[11] Nothing in the WG3 Proposal interferes with allowing alternative providers to manage their own portfolios; it permits LSEs to voluntarily choose whether to take the allotted allocations and to manage their allocation on par with their other resources. The PD's rejection of the RA VAMO to allow "alternative providers to manage their own portfolios" is all the more extraordinary in light of its subsequent acceptance of the RPS VAMO, which presumably raises the same management issues as an RA allocation. Similarly, the PD's rejection of the RA VAMO on these grounds is at odds with its refusal to allow LSEs to resell RPS allocations, which denies LSE an important portfolio management tool.

Finally, the PD is internally inconsistent and suggests a "heads bundled customers win, tails unbundled customers lose" mindset. The PD concludes, as discussed above, that unbundled customers have no right to rely on PCIA resources in rejecting the RA and GHG-Free proposal but ignores this principle in adopting the RPS VAMO. The possibility that bundled customers will face *higher* costs[12] underlies its rejection of the RA and GHG-Free proposals, while the possibility that bundled customers may have access to *lower* cost[13] resources drives its adoption of the RPS VAMO. The Commission should reject the PD's reasoning and apply §366.2(g) evenhandledly to ensure the final decision does not enshrine bundled customer preference.

III. THE PROPOSED DECISION'S REJECTION OF THE RA VAMO AND GHG-FREE ALLOCATION DENIES UNBUNDLED CUSTOMERS VALUABLE PORTFOLIO BENEFITS IN VIOLATION OF PUBLIC UTILITIES CODE §366.2 AND §365.2

Section 366.2(g) requires that CCAs, like bundled customers, receive their proportional share of PCIA benefits, whether by crediting the value of the benefits in the PCIA calculation or through a direct allocation of benefits. The current PCIA framework does not meet this requirement, and the WG3 Proposal aims to correct this failure.

To the extent the benefits of the PCIA portfolio are conferred to CCA customers, the Commission has elected to rely on the former approach: crediting the value of benefits in the PCIA calculation. The Commission has adopted a MPB that accounts for the "market value" of three of the benefits arising from the portfolio: RA attributes, RPS energy (including the Renewable Energy Credit), and "brown power." The market value is derived from an administratively set price for benefits retained by bundled customers and actual market revenues for benefits resold into the market.

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11 PD at 14.
12 *See* PD at 41 (RA), 49 (GHG-Free).
13 PD at 19 (RPS).

But three key benefits of the PCIA portfolio are not reflected in the MPB: GHG-Free energy value and the right of first refusal (ROFR) to rely on RA resources and RPS resources. The PD addresses one of these three benefits, giving all customers a ROFR to rely on RPS resources, by adopting the RPS VAMO. Rejecting the GHG-Free energy allocation and the RA VAMO, however, denies unbundled customers the value of the remaining benefits. The Commission can address these errors through adoption of the GHG-Free energy allocation and RA VAMO proposals.

A. The PD's Rejection of the GHG-Free Energy Allocation Denies Unbundled Customers Their Fair Share of PCIA Benefits and Thus Shifts Costs from Bundled to Unbundled Customers

CalCCA raised the issue of GHG-Free energy in Phase 1, proposing the addition of a benchmark to recognize the value of these resources through a credit in the PCIA calculation.[14] While the record showed that GHG-Free energy has a unique value, the Commission rejected the proposal due largely to the lack of robust market price data to provide a reference value.[15] Importantly, however, it invited further consideration.[16] Indeed, Commissioner Rechtschaffen expressed his "hope and expectation that Phase 2 will seriously consider" this issue.[17]

Through WG3 discussions, as an alternative to CalCCA's proposed benchmark, stakeholders coalesced on a direct allocation of GHG-Free energy. Recognizing the value of this approach, SCE and Pacific Gas and Electric Company (PG&E) implemented interim GHG-Free energy allocations, which are very similar to the WG3 Proposal, pending the outcome of Phase 2.[18]

Despite the expectations for this Phase and the history of direct allocation as the preferred means to provide unbundled customers their GHG-Free benefit, the PD rejects the WG3 Proposal on three erroneous grounds. First, the PD accepts CalAdvocates' argument that allocating GHG-Free energy to all customers would "result in higher rates for bundled customers."[19] By stressing the value of allowing bundled customers to retain these resources, the PD confirms that the GHG-Free energy confers a distinct value. Moreover, as discussed in Section II, if the PD's reasoning is accepted, this means that

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14 *See* D.18-10-019 at 148.
15 *Id.* at 150-51.
16 *Id.* at 152.
17 D.18-10-019, Concurrence of Commissioner Rechtschaffen at 2 (emphasis supplied).
18 *See* Resolution E-5111 (extending PG&E program through 2023); Resolution E-5095 (approving SCE's interim program).
19 *Id.* at 49.

the current MPB methodology, which does not include a GHG-Free energy value, is understating portfolio value and benefitting bundled customers at unbundled customers' expense.

Second, the PD observes that PG&E will retire Diablo Canyon in 2024 and 2025, requiring PG&E to "replace a significant portion of this generation with clean energy resources in a short period of time."[20] There is no basis for the PD's conclusion that PG&E will need to replace a "significant portion" of Diablo Canyon resources. The Commission is considering in Rulemaking (R.) 20-05-003 how to allocate the obligation to build additional GHG-Free resources to replace Diablo Canyon. The initial proposal allocates the replacement obligation based on the *open* position of each LSE in all three IOU service territories.[21] Under these conditions, Diablo Canyon replacement will not be solely PG&E's obligation on behalf of bundled customers; *all LSEs* will share in the obligation to replace Diablo Canyon. Indeed, absent adoption of CalCCA's recommendation in comments on the staff proposal for replacing Diablo Canyon (*i.e.* requiring allocation of portfolio resources to LSEs whose customers pay the PCIA for purposes of calculating the open positions), it is likely that non-IOU LSEs will bear the highest proportional replacement burden.

Third, the PD adopts CalAdvocates' argument that the WG3 Proposal "'would effectively hide a portion of known GHG emissions.'"[22] This is a peculiar argument, as any such concealment is already happening. The large quantity of GHG-Free energy and RPS energy in PG&E's portfolio today already "hides" all of PG&E's carbon emissions under the Power Content Label (PCL) methodology. As PG&E's 2020 PCL states: "Per the California Energy Commission's methodology, PG&E's Power Content Label is 100 percent greenhouse gas free."[23] PG&E's PCL shows no natural gas resources, despite PG&E itself owning and operating natural gas-fired generation facilities and having numerous other natural gas facilities under contract.

On these grounds, the PD rejects the WG3 Proposal and defers a decision on GHG-Free energy – once again – to another undefined phase of the proceeding.[24] The rejection seems at odds, however, with the PD's extension of SCE's interim allocation through 2023,[25] which implicitly acknowledges the reasonableness and value of a GHG-Free allocation. In addition, the Commission has before it a record-

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20 PD at 46.
21 R.20-05-003, ALJ Ruling, Feb. 22, 2021, at 22.
22 PD at 48.
23 https://www.pge.com/pge_global/common/pdfs/your-account/your-bill/understand-your-bill/bill-inserts/2020/1220-PowerContent-ADA.pdf
24 PD at 49.
25 *Id.* at 45.

based methodology for "fairly and equitably" allocating the benefits of GHG-Free resources in IOU portfolios. The Commission should modify the PD to adopt a GHG-Free allocation.

B. The PD's Rejection of the RA Allocation Denies Unbundled Customers Their Fair Share of PCIA Benefits and Thus Shifts Costs from Bundled to Unbundled Customers

Working Group 3 proposes to allocate RA proportionally, on a vintaged basis, for the benefit of all customers. This allocation would ensure that all customers – bundled and unbundled – share equally in the benefits of these resources by providing a proportional ROFR to use these resources to meet their customers' needs. The resources themselves would not be given to unbundled customers for "free"; unbundled customers exercising their ROFR would pay the same MPB that bundled customers pay today. Access to system and flexible RA resources carry a high value in the face of today's market scarcity. To ensure a fair and equitable sharing of benefits as required by statute, proportional access to these valuable resources must be provided to bundled *and* unbundled customers.

The PD rejects the RA VAMO on several grounds that are unsupported by the record and lead to the conclusion that the current MPB is wrong. First, the PD appears to reject the notion of proportional access to RA resources, favoring an excess approach. It highlights the excess resource *problem*, referencing D.18-10-019's intent to consider in Phase 2 "a comprehensive, voluntary, and market-based solution to the problem of excess resources." Notably, however, D.18-10-019 did not require that the *solution* must be limited to disposition of excess resources. Likewise, the PD acknowledges that not all solutions need to be limited to "excess" resources:

> We recognize that effective solutions with the foregoing attributes may result in disposition of more or less resources than the excess amount needed to serve bundled customers' needs over time.[26]

Indeed, the PD suggests the use of an "excess" allocation for RA and a "proportional" allocation for RPS (no allocation for GHG-Free energy).

Second, the PD asserts that allocating these resources would be unfair to PG&E, who it concludes has "actively managed its RA portfolio to sell excess products in response to departed load, and also considered forecasted load departure in determining incremental procurement quantities." If PG&E has sold and monetized any long RA position such that the remaining position is sufficient to cover only the needs of remaining bundled load customers, it begs the question why non-PG&E customers would be obligated to continue to pay for the remaining assets. Either the portfolio is for the

[26] PD at 12.

use of bundled load with all costs allocated to bundled load or the costs and benefits should be allocated to all customers. If PG&E sold excess positions and that revenue went to pay down the PCIA balances, then all customers benefitted from the sale just as all customers were obligated to the costs. As such, the PCIA already allocates the "active management" by PG&E of the portfolio.

Third, the PD concludes that it does not expect "the IOUs to have excess RA resources in the near future."[27] Again, CalCCA contends that allocating only excess resources above bundled requirements does not comport with applicable law because it fails to provide unbundled customers the ROFR associated with their share of assets.

Fourth, the PD concludes that "the new CPE addresses many of the concerns the WG3 co-chairs raised about RA procurement."[28] It fails to connect the dots, however, between any problem cited in the WG3 Proposal and the RA CPE. The PD further states:

> The [CPE] approach also allows individual LSEs to voluntarily procure local resources to meet their system and flexible RA requirements and count them towards the collective local RA requirements, providing LSEs flexibility and autonomy to procure local resources.[29]

In CalCCA's view, this vastly overstates the degree of flexibility given to LSEs by the local RA CPE. While an LSE could, in theory, procure a local resource, getting local value for the resource is not a sure thing; monetization of this value depends on whether the CPE chooses to take and pay for the resource.[30] Furthermore, the Commission declined to adopt the CPE model in SDG&E's territory,[31] and so the concerns raised by WG3 about RA procurement will not be addressed for San Diego CCAs because the CPE will not exist.

Fifth, the PD accepts PG&E's assertion, without any specific explanation or even a reference to PG&E's comments, that the RA VAMO would "increase electric portfolio costs for bundled service and departing load customers alike."[32] Again, if allocating RA causes PG&E to be short, and bundled customers incur higher costs going to the market, then the MPB is wrong. The prices in the market should be no higher than the MPB bundled customers pay today if the PCIA calculation is accurate.

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27 PD at 40.
28 *Id.* at 40.
29 *Id.* at 40-41.
30 D.20-06-002 at 23.
31 *Id.* at 33-35.
32 PD at 41.

Sixth, as noted above, the PD rejects the RA VAMO because it "is not properly tailored to minimize the risks that IOUs will not be able to comply with RA requirements…."[33] Again, by giving bundled customers preferential access to a scarce resource, the PD is asking unbundled customers to insure bundled customers against non-compliance – a benefit not accounted for in the MPB. Effectively, the PD has opined that it would rather place CCA and DA customers at the risk of RA penalties of $8.88/kw-month[34] than have all customers subject to such a cost for failing to provide necessary grid reliability.

Seventh, the PD notes AReM/DACC's complaint that the proposal could require LSEs to accept local RA they do not need.[35] This point is irrelevant, at least in PG&E and SCE territories. The WG3 Proposal's local RA element is not compatible with D.20-06-002, and CalCCA is not requesting its adoption here.

On these grounds, the PD rejects the WG3 Proposal in its entirety and leaves bundled customers with preferential rights to these valuable resources. By failing to share the ROFR benefit of equal access to scarce resources and, instead, asking unbundled customers to insure bundled customers against non-compliance risk, the PD violates §366.2(g). As a result, these costs are shifted from bundled to unbundled customers in violation of §365.2. For these reasons, the Commission should reject the PD and adopt the WG3 Proposal for flexible and system RA for all three IOUs and local RA for SDG&E.

IV. THE COMMISSION MUST CLARIFY AND MODIFY THE PROPOSED DECISION TO DELIVER THE INTENDED VALUE OF THE RPS VAMO

The Co-Chairs and other stakeholders invested thousands of person-hours to develop, vet, and document the ideas presented in the WG3 Proposal. The overall package of proposals thus is knitted together in a way that gives each element importance. The PD draws no explicit conclusions on three foundational elements of the RPS VAMO: (1) the method of allocation of RPS portfolio attributes among LSEs (*i.e.*, proportional or excess); (2) the structure of the allocated product (*i.e.,* portfolio slice); and (3) the frequency of allocations. Not only does the PD leave these elements unaddressed, it adds further uncertainty with broadly qualifying language:

> [I]t is appropriate to approve the WG3 Proposal regarding Voluntary Allocations and Market Offers of RPS resources *to the extent that it is*

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33 *Id.* at 42.

34 D.20-06-031 at 61 (penalty for Summer months of May – October).

35 *Id.* at 41.

> *consistent with the Commission's RPS program and proceedings, as well as tailored to mitigate risks of unintended consequences*.[36]

Finally, the PD contemplates further discussion of the proposal in the RPS proceeding but leaves unclear precisely what elements of the RPS VAMO could be modified.

The uncertainty of the PD will undermine delivery of the benefits to all stakeholders of the RPS VAMO. CalCCA requests clarification that the adopted RPS VAMO aligns with the WG3 Proposal in these three respects and remove the broadly qualifying language to provide all LSEs greater certainty in the program.

In addition, the PD rejects an important feature of the WG3 Proposal: distribution of any unallocated and unsold RPS energy to *all* customers in proportion to their cost responsibility to ensure that no LSE's customers gain an undue preference. The PD leaves ambiguity regarding the treatment of these volumes going forward.

A. Clarify That the RPS Allocation Will Be Proportional to Each LSE's Vintaged Load Share

The WG3 Proposal specified that RPS energy from the PCIA portfolio would be allocated in proportion to LSEs' load shares on behalf of the customers they serve.[37] The WG3 Report explained:

> The allocation methodologies were viewed positively by the CoChairs because they avoid concerns about how to define excess attributes and therefore prevent disputes regarding the volume of attributes an IOU is required to make available to the market. Additionally, allocations ensure that all attributes are appropriately distributed among all LSEs, so their customers are able to realize the value they are paying for.[38]

CalCCA highlights the last point as vital: All customers, including CCA customers, must receive the benefits from the resources they fund through the PCIA.

The PD appears to support the proportional allocation of RPS energy but lacks clarity. CalCCA thus requests clarification in the final decision that RPS energy will be allocated to LSEs on behalf of their customers in proportion to their vintaged load share.

B. Clarify That the RPS Allocation Will Be Structured as a Slice of the IOU's RPS Portfolio

The WG3 Proposal structured the RPS product as a vintaged "slice" of the PCIA RPS portfolio. The WG3 Report explains:

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36 PD at 17 (emphasis added).
37 WG3 Report at 34.
38 WG3 Report at 17.

> An LSE's long-term allocation election will be set at a fixed percentage of its forecasted, vintaged, annual load share, but both the LSE's forecasted vintaged, annual load shares and the RPS energy deliveries will change from year to year based on the updated forecasts of vintaged, annual loads and the actual RPS energy volumes realized in each year of the allocation term.[39]

This approach avoids the legal and structural complexities of trying to assign specific contracts to LSEs.

While the PD rejects the slice approach for the RPS Market Offer,[40] it does not address the RPS energy product for the Voluntary Allocation. CalCCA thus requests clarification that RPS energy will be allocated to LSEs on behalf of their customers as a "slice" of the PCIA portfolio.

C. Clarify that RPS Allocations Will Occur *at Least* Once Per RPS Compliance Period

The WG3 Report proposed an annual allocation process for all products, including RPS energy.[41] Providing an annual allocation will facilitate annual adjustments to positions by all LSEs on behalf of their customers. The PD rejects an annual allocation of RPS energy, adopting TURN's view that there is a "disconnect between multi-year RPS compliance periods and annual allocations." [42] The PD orders the IOUs to conduct the RPS allocation "no more than once an RPS compliance period."[43]

The timing "disconnect" is not readily apparent. In fact, annual allocations and market offers should offer greater flexibility to LSEs to optimize their RPS portfolio throughout the RPS compliance periods. More troubling, however, the IOUs could comply with the language of the PD as it currently stands with ***zero*** allocations per compliance period. The Commission must correct the PD to provide for annual allocations or, at a minimum, clarify that allocations must occur "not less than" once per RPS compliance period.

Finally, even if the allocation occurs only once per compliance period, it matters *when* in the compliance period it occurs. Requiring an allocation but allowing the IOUs to make the allocation at the end of a compliance period serves no purpose; under these circumstances, LSEs will already have made commitments to reach their compliance obligation. For this reason, CalCCA recommends that if the allocation is limited as proposed, it should occur at least once *each compliance period, prior to the commencement of that period.*

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39 WG3 Report at 34-35.
40 PD at 24.
41 *See, e,g,* WG3 Report at 4, 16, and 24.
42 PD at 33.
43 PD, Ordering Paragraph 13 at 56.

D. Clarify and Limit the Extent of Any Deferrals to the RPS Proceeding

The PD alludes to further implementation in the RPS proceeding, but leaves unclear the scope of any changes to the WG3 Proposal. As noted above, it leaves broad flexibility in qualifying its adoption of the RPS VAMO "to the extent that it is consistent with the Commission's RPS program and proceedings, as well as tailored to mitigate risks of unintended consequences."[44] This suggests there is nothing out of scope for modification in the RPS proceeding. In addition, the PD directly defers (1) standard contracts;[45] (2) "IOU proposals for Market Offer products;" [46] (3) Market Offer oversight;[47] and "Market Offer proposals and ensure alignment with existing RPS compliance processes and rules."[48]

The Commission should eliminate the broad language leaving virtually all issues open to reconsideration in the RPS proceeding. While deferring standard contracts and alignment with processes and rules will not undermine the RPS VAMO in any material way, leaving the door wide open will continue to leave LSEs unable to plan their procurement future.

In addition, the Commission should not defer adoption of a product structure for the Market Offer. Using a "slice" of portfolio product will align the Voluntary Allocation and Market Offer products. CalCCA is concerned that if Market Offers are made on any other basis, those sales will impair or at least complicate the slice structure at the allocation level.

Finally, the Commission should not leave the question of bid floor open. The PD suggests that the bid floor for Market Offers will be considered in the RPS proceeding.[49] The lack of a bid floor is an important element of the overall RPS VAMO. Obtaining some sales revenues to offset PCIA costs is better than obtaining none because a bid has been rejected for being too low. The Commission should clarify that the RPS Market Offer will not be subject to a bid floor in the interest of maximizing revenues to offset PCIA costs.

E. Distribute Any Unallocated and Unsold RPS to All LSEs Based on Their Vintaged Load Shares or Permit Bundled Customers to Retain at the Full MPB

The PD overlooks the need for balance in its treatment of unallocated and unsold RPS energy. The WG3 Proposal provides for redistribution of any unallocated and unsold RPS energy to all

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44 PD at 17 (emphasis added).
45 PD at 27.
46 *Id.* at 24.
47 *Id.* at 25.
48 *Ibid.*
49 PD at 25.

customers in proportion to their vintaged load shares following the Market Offer.[50] This proposal arose from the Commission's determination in D.19-10-001 that all unsold RPS would be valued at zero in the PCIA calculation.[51] If the RPS energy is treated as having no value, all customers paying the PCIA – not just the IOU bundled customers– should get their fair share of resources to use or bank.

Instead, the PD rejects the WG3 proposed distribution and permits the IOUs to retain all unallocated and unsold RPS volumes.[52] The PD also declines to value unsold RPS volumes at $0 for PCIA calculation, contrary to D.19-10-001.[53] The Commission should adopt the WG3 Proposal distribution, which most equitably resolves the issue of unsold RPS energy. If, however, that proposal is rejected, the Commission should permit bundled customers to retain the unsold RPS energy only at the full MPB. To do otherwise would allow bundled customers an advantage not available to other customers paying the PCIA.

F. Permit LSEs to Resell RPS Energy Procured Through the VAMO

The PD denies LSEs the option to resell allocated RPS energy because it believes resale would increase administrative costs and add regulatory and market complexity. It further notes that the allocations are designed to fluctuate with load. [48] These arguments are unsustainable.

First, resale of allocated RPS amounts need not be any more costly or complex to administer than resale of purchased RPS amounts today. Neither PG&E nor any other party has provided any detail regarding this purported "complexity." Other than a passing reference to resale of allocated RPS resources, PG&E's comments on the WG 3 proposal fail to identify any added cost or increased complexity that would result.[54] PG&E's arguments regarding cost and complexity are aimed at VAMO in general, rather than resale of RPS resources. LSEs regularly sell RPS energy, and that experience will inform the sale of allocated RPS resources. The allocation can be handled through an Edison Electric Institute master sales agreement and confirm, like sales of excess RPS today (and like allocations of GHG-Free energy under the interim methodologies).

Second, whether an allocation is "necessary" to an LSE is irrelevant to whether an LSE should have the opportunity to accept and then resell an allocation. LSEs should have the full value of what

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50 PD at 37.
51 D.19-10-001, Ordering Paragraph 3b at 56.
52 PD at 47.
53 PD at 29.
54 *Opening Comments of Pacific Gas and Electric Company (U 39 E) on the Power Charge Indifference Adjustment Phase 2, Working Group #3 Final Report*, March 3, 2020, at 7-11.

they pay for from the portfolio, and that includes optionality around whether to keep or sell allocated amounts. Indeed, CalCCA does not expect that the IOUs will forego their right to resell bundled customers' RPS allocations, and bundled customers should not be given a preference over unbundled customers in that regard. Optionality benefits all LSEs, enabling them to balance their portfolios on an ongoing basis, and it serves an even more important role in the growing portfolios of new entrants.

Furthermore, a prohibition on resale would substantially reduce the value of allocated RPS resources by eliminating an important right that LSEs typically hold with respect to contracts in their portfolios, *i.e.*, to sell the resource in return for compensation. The PD preserves this right for bundled customers but eliminates the same right for unbundled customers. There is no good reason to reject the ability to resell allocated RPS energy, and the Commission should modify the PD to permit resale.

V. CONCLUSION

CalCCA appreciates the opportunity to submit these comments and requests adoption of the recommended changes proposed herein. For all the foregoing reasons, the Commission should modify the proposed decision as provided in Attachment A.

Respectfully submitted,

Evelyn Kahl
General Counsel to the
California Community Choice Association

April 26, 2021

ATTACHMENT A

Proposed Changes to Findings of Fact, Conclusions of Law and Ordering Paragraphs

FINDINGS OF FACT

~~9. PG&E will likely need to procure replacement resources to meet GHG targets if required to allocate GHG-Free resources after 2023.~~

~~10. WG3 Proposal's approach to PCL accounting for GHG-Free and GHG emitting resources would reduce customer transparency.~~

CONCLUSIONS OF LAW

4. The Commission should approve the WG3 Proposal regarding Voluntary Allocations and Market Offers of PCIA-eligible RPS resources ~~to the extent that it is consistent with the Commission's compliance programs and proceedings, as well as tailored to mitigate risks of unintended consequences~~. RPS energy will be allocated to LSEs on behalf of their customers in proportion to their vintaged load share.

7. Voluntary Allocations of RPS resources should include the following features:

a) LSEs may elect to take a short-term allocation, a longterm allocation, or may choose to decline all or a portion of their allocation. The allocation will comprise a "slice" of the RPS portfolio to bundled and unbundled customers in proportion to their vintaged load share;

b) Each election must be made in l0 percent increments of the LSE's forecasted annual load share.

c) LSEs electing to accept allocations should be required to pay the IOU the applicable year's MPB for attributes received and may be required to meet certain credit or collateral requirements, netting agreements or other commercial arrangements.

d) Long-term allocations should last through the end of the term of the longest contract in the particular PCIA vintage, with the exclusion of evergreen contracts and utility-owned generation resources. Once accepted, the LSE may not decline its long-term allocation election in future years.

e) An LSE's long-term allocation election should be set at a fixed percentage of its forecasted, vintaged, annual load share. Both the LSE's forecasted vintaged, annual load shares and the RPS energy deliveries will change from year to year based on the updated forecasts of vintaged, annual loads and the actual RPS energy volumes realized in each year of the allocation term.
f) LSEs should ~~not~~ be able to resell Voluntary Allocation shares of RPS energy.
g) Unallocated and unsold RPS energy will be distributed to all customers proportionally based on their vintage load shares.
Or, in the alternative:
g) Unallocated and unsold RPS energy may be retained by the IOUs for the benefit of bundled customers and will be valued at the MPB in calculating the PCIA.

8. Market Offers of RPS resources should include the following features:
a) The Market Offer should offer for sale all PCIA-eligible RPS energy remaining after a Voluntary Allocation. The RPS Market Offer will not be subject to a bid floor.
b) The Market Offer process should be based upon existing processes, rules, oversight requirements, and reporting requirements for IOU REC solicitations previously approved in the Commission's RPS proceeding.
c) The Market Offer process should include rules for IOU participation in solicitations they administer.

13. The RPS VAMO should be held at least ~~no more than~~ once an RPS compliance period, prior to the beginning of that compliance period. After the first RPS VAMO, any LSE may file a Tier 2 advice letter to request an RPS VAMO. After a VAMO is held during a compliance period, any newly formed LSE may file a Tier 1 advice letter to request a Voluntary Allocation after filing its implementation plan in the year prior to the first year they serve load. The LSE should serve the advice letter to the service lists of this proceeding, the RPS proceeding, and the IRP proceeding. Within 30 days of service of an LSE's request, the IOU should file a Tier 2 advice letter to propose the calculation of the Voluntary Allocation shares.

20. The Commission should ~~not~~ adopt the WG3 Proposal regarding GHG-Free resources.

~~21. The Commission should consider in this proceeding whether GHG-Free resources are under-valued in the PCIA methodology, and if so, the appropriate way to address this problem.~~

~~22. The Commission should authorize SCE to continue to apply the approach to GHG-Free resources approved in Resolution E-5095 through December 31, 2023.~~

New Conclusion of Law (and renumbering of subsequent):

4. The Commission should approve the WG3 Proposal regarding Voluntary Allocations and Market Offers of System and Flexible RA resources.

ORDERING PARAGRAPHS

2. RPS energy will be allocated to LSEs on behalf of their customers in proportion to their vintaged load share. Voluntary Allocations of Renewables Portfolio Standard (RPS) resources shall include the following features:

(a) Load serving entities (LSEs) may elect to take a short-term allocation, a long-term allocation, or may choose to decline all or a portion of their allocation. The allocation will comprise a "slice" of the RPS portfolio to bundled and unbundled customers in proportion to their vintaged load share.

(b) Each election shall be made in l0 percent increments of the LSE's forecasted annual load share.

(c) LSEs electing to accept allocations shall be required to pay the applicable year's market price benchmark (MPB) for attributes received and may be required to meet certain credit or collateral requirements, netting agreements or other commercial arrangements.

(d) Long-term allocations shall last through the end of the term of the longest contract in the particular Power Charge Indifference Adjustment vintage, with the exclusion of evergreen contracts and utility-owned generation resources. Once accepted, the LSE may not decline its long-term allocation election in future years.

(e) An LSE's long-term allocation election shall be set at a fixed percentage of its forecasted, vintaged, annual load share. Both the LSE's forecasted vintaged, annual load shares and the RPS energy deliveries will change from year to year based on the updated forecasts of vintaged, annual loads and the actual RPS energy volumes realized in each year of the allocation term.

(f) LSEs shall ~~not~~ be able to resell Voluntary Allocation shares of RPS energy.

g) Unallocated and unsold RPS energy will be distributed to all customers proportionally based on their vintage load shares.

Or, in the alternative:

g) Unallocated and unsold RPS energy may be retained by the IOUs for the benefit of bundled customers and will be valued at the MPB.

3. Market Offers of Renewables Portfolio Standard (RPS) resources shall include the following features:

(a) The Market Offer shall offer for sale all Power Charge Indifference Adjustment -eligible RPS energy remaining after a Voluntary Allocation. The RPS Market Offer will not be subject to a bid floor.

(b) The Market Offer process shall be based upon existing processes, rules, oversight requirements, and reporting requirements for REC solicitations previously approved in the Commission's RPS proceeding.

(c) The Market Offer process should include rules for utility participation in solicitations they administer.

9. The Renewables Portfolio Standard (RPS) Voluntary Allocation and Market Offer (VAMO) shall be held at least ~~no more than~~ once an RPS compliance period, prior to the beginning of that compliance period. After the first RPS VAMO, any load serving entity (LSE) may file a Tier 2 advice letter to request an RPS VAMO. After a VAMO is held during a compliance period, any newly formed LSE may file a Tier 1 advice letter to request a Voluntary Allocation after filing its implementation plan in the year prior to the first year they serve load. The LSE should serve the advice letter to the service lists of this proceeding, the RPS proceeding, and the integrated resource planning proceeding. Within 30 days of service of an LSE's request, the investor-owned utility shall file a Tier 2 advice letter to propose the calculation of the Voluntary Allocation shares.

New Ordering Paragraph:

1. The WG3 Proposal regarding Voluntary Allocations and Market Offers of System and Flexible RA resources is adopted in its entirety.

2. The WG3 Proposal regarding GHG-Free resources is adopted in its entirety.