



April 25, 2022

**VIA ELECTRONIC MAIL**

Mr. Pete Skala  
Interim Director, Energy and Climate Policy  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**Re: California Community Choice Association's Protest of San Diego Gas & Electric Advice Letter 3983-E Approval Request of Market Offer Contracts for Renewables Portfolio Standard Resources Pursuant to Decision 22-01-004**

Dear Mr. Skala,

Pursuant to the California Public Utilities Commission's (Commission's) General Order (GO) 96-B,<sup>1</sup> the California Community Choice Association<sup>2</sup> (CalCCA) submits this protest of San Diego Gas & Electric (SDG&E) Advice Letter 3983-E Approval Request of Market Offer Contracts for Renewables Portfolio Standard (RPS) Resources Pursuant to Decision 22-01-004 (Advice Letter), dated April 4, 2022.

**I. SUMMARY**

- ✓ The Commission should not approve the market offer pro forma contracts (Market Offer Contracts) until potential counterparties receive more information regarding the products, composition of the resource pools available, and other terms and conditions of the market offer that will have a material impact on the value of the resources to be offered. The Market Offer Contracts cannot be adequately reviewed at this time, with many fundamental issues regarding the structure of the market offer and the resources to be made available still unknown.
- ✓ The Commission should extend the protest period for the Market Offer Contracts through the comment period for the investor-owned utilities' (IOUs') market offer process and subsequent confidential sales strategy submission, which comment period is currently scheduled to end in early June 2022.

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<sup>1</sup> References to "General Rules" are to the general rules identified in General Order 96-B.

<sup>2</sup> California Community Choice Association represents the interests of 23 community choice electricity providers in California: Apple Valley Choice Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, East Bay Community Energy, Lancaster Choice Energy, Marin Clean Energy, Orange County Power Authority, 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, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

- ✓ SDG&E's Market Offer Contracts should not be approved unless counterparties to the Market Offer Contracts are provided timely access to meter data, which is necessary for load-serving entity (LSE) operational and planning purposes.

## II. BACKGROUND

SDG&E filed the Advice Letter on April 4, 2022, seeking approval of the Market Offer Contracts. The market offer follows the voluntary allocation as part of the Voluntary Allocation and Market Offer (VAMO) process, as directed by Decision (D.) 21-05-030 in the PCIA proceeding (Phase 2 Decision). Under VAMO, PCIA-eligible RPS resources remaining in the IOUs' portfolios following the voluntary allocation elections will be offered for sale to the market. The Phase 2 Decision requires details of the VAMO process to be worked out in the RPS Proceeding. The Advice Letter, including an opportunity for LSEs to raise concerns on the pro forma contracts, is submitted pursuant to D.22-01-004 in the RPS Proceeding.<sup>3</sup>

On February 28, 2022, SDG&E filed its Tier 2 Advice Letter 3962-E requesting approval of the pro forma contract to be used in the voluntary allocation phase of VAMO (Voluntary Allocation Contract). CalCCA submitted its protest to this Advice Letter on March 21, 2022. Subsequently, SDG&E 3962-E, along with the Advice Letters of Southern California Edison (SCE) and Pacific Gas & Electric Company (PG&E) regarding their pro forma voluntary allocation contracts, was suspended by the Energy Division for a period of up to 120 days beginning March 29, 2022.<sup>4</sup>

By Ruling dated April 11, 2022, the Assigned Commissioner and Assigned Administrative Law Judge in the RPS Proceeding established a revised schedule for the market offer portion of VAMO.<sup>5</sup> This Ruling requires the IOUs to submit a "Market Offer Process" for Commission and stakeholder review by May 2, 2022, followed by a period for comments and reply comments.<sup>6</sup> The Commission's decision on the Market Offer Process is set for the third quarter of 2022.<sup>7</sup>

By Ruling dated April 21, 2022, the Administrative Law Judge modified this schedule to permit each IOU to separately develop and submit confidential market sensitive "Market Offer Sales Strategies" on May 16, 2022, following the submission of the joint Market Offer Process.<sup>8</sup> The comment and reply comment period on the Market Offer Process will now end in early June.

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<sup>3</sup> D.22-01-004, *Decision on 2021 Renewables Portfolio Standard Procurement Plans*, R.18-07-003 (Jan. 13, 2022) (RPS Decision), at 14.

<sup>4</sup> Energy Division Advice Letter Suspension Notice emailed March 29, 2022.

<sup>5</sup> *Assigned Commission and Assigned Administrative Law Judge's Ruling Identifying Issues and Schedule of Review for 2022 Renewables Portfolio Standard Procurement Plans and Denying Joint IOUs' Motion to File Advice Letters for Market Offer Process*, R.18-07-003 (Apr. 11, 2022).

<sup>6</sup> *Id.*, Attachment A.

<sup>7</sup> *Id.*

<sup>8</sup> *Administrative Law Judge's Ruling Modifying the Schedule for Track 1 of the 2022 Renewables Portfolio Standard Procurement Plan*, R.18-07-003 (April 21, 2022).

There is intended to be no change to the schedule for the Commission's decision on the Market Offer Process.

### **III. PROTEST**

#### **A. The Advice Letter Should not be Approved Until More Information is Available to Counterparties Regarding the Market Offers**

At this time there is little to no guidance regarding the contents of the market offers to be made by SDG&E, and several significant commercial terms that will greatly influence the decisions of counterparties who may want to submit bids in response remain unclear. Ongoing discussions with SDG&E regarding the Market Offer Contracts, which are generic form documents, indicate many terms are still under discussion internally at SDG&E. For example, although the Market Offer Contracts are drafted as Western System Power Pool (WSPP) form agreements, SDG&E has indicated it would be amenable to recasting these documents as Edison Electric Institute (EEI) confirmations. SDG&E has also expressed that bidders for the bundled product will not be required to bid on the unbundled product, and vice versa. Finally, it is CalCCA's understanding that SDG&E will be holding internal discussions to determine whether the products offered will be sold for delivery as "firm" or "as available." These are obviously material terms, yet none of these positions are clear from the current versions of the Market Offer Contracts. SDG&E should be required to confirm these points via supplements to this Advice Letter before the Market Offer Contracts can be approved.

Without the basic context for the offers establishing what product will be sold, and under which mechanism, it is impossible to determine whether the proposed pro forma contracts are adequate. At this stage it is also impossible to determine whether other terms that may be included in the Market Offer Process could impact the conditions of the sale. Thus, it is unreasonable to expect potential counterparties to provide a thorough review of the Market Offer Contracts at this time.

To facilitate the portfolio optimization efforts ordered by the Commission in the Phase 2 Decision and the success of the VAMO process, the Market Offer Contracts must be carefully reviewed in the context of the actual offer. It would be unfortunate if successful completion of VAMO is hampered by terms that are commercially unreasonable, or that fail to account for the specifics of the products actually offered through the Market Offer Process.

CalCCA respectfully requests the protest period for this Advice Letter be extended through the comment period for the IOUs' Market Offer Process. In the alternative, CalCCA requests additional time to protest the Advice Letter following the submission of the IOUs' Market Offer Process and any supplemental filings to this Advice Letter. CalCCA anticipates additional comments on the Market Offer Contracts following its full review of the Market Offer Process.

**B. The Market Offer Contracts Must Require SDG&E to Provide LSEs With Timely Access to Meter Data**

As CalCCA noted with respect to the Voluntary Allocation Contracts, counterparties receiving energy and/or RECs from SDG&E through the market offer process require timely access to data regarding their purchases for operational and planning purposes. Unlike a traditional “firm” contract for energy and/or RECs, the Market Offer Contracts offer a varying quantity of energy and/or RECs based on actual generation from a “slice” of a pool of resources. Because this volume is inherently variable, information regarding amounts delivered is crucial.

SDG&E receives initial data shortly after the delivery month. Counterparties require at least initial, non-binding meter data of the Contract Quantity as soon as reasonably practicable, but no later than fifteen (15) calendar days following the delivery month. The information is used for forecasting, portfolio management, as well as contract validation and administrative purposes. As CalCCA has also noted with respect to the Voluntary Allocation Contract, the disadvantage to CCAs from limited access to this generation data impedes both their ability to plan for their future needs, and to account for the purchases they are making on their customers’ behalf. Ultimately, this additional uncertainty reduces the value of the associated RECs compared to what could be purchased under improved terms. CalCCA therefore requests that the Commission require SDG&E to provide preliminary, non-binding, meter data to a market offer counterparty within fifteen (15) calendar days of the end of each delivery month.

**IV. CONCLUSION**

CalCCA thanks the Energy Division for its review of this protest, and strongly advises against approval of the Market Offer Contracts until the issues set forth herein are addressed.

Respectfully,

CALIFORNIA COMMUNITY CHOICE  
ASSOCIATION



Evelyn Kahl  
General Counsel and Director of Policy

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