BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Senate Bill 520 and Address Other Matters Related to Provider of Last Resort.	R.21-03-011

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S REPLY COMMENTS ON RULING OF THE ASSIGNED COMMISSIONER AND ASSIGNED ADMINISTRATIVE LAW JUDGE REQUESTING COMMENTS ON FINANCIAL SECURITY REQUIREMENTS AND REENTRY FEES, AND MODIFYING THE PROCEEDING SCHEDULE

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The California Community Choice Association[1] (CalCCA) submits these Reply Comments in response to the *Ruling of the Assigned Commissioner and Assigned Administrative Law Judge Requesting Comments on Financial Security Requirements and Reentry Fees, and Modifying The Proceeding Schedule* (Ruling), issued on May 5, 2022; *E-Mail Ruling Granting Request for an Extension of Time to File Financial Security Requirement and Reentry Fee Comments, and Further Modifying the Phase 1 Schedule* (Email Ruling), dated May 24, 2022; and *E-mail Ruling Granting Request for an Extension of Time to File Reply Comments*, dated July 13, 2022.

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[1] 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.

I. INTRODUCTION

In these reply comments, CalCCA responds to parties' opening comments addressing modifications to the existing financial security requirement (FSR) calculation. These include modifications to how forecast procurement costs, forecast revenues, and administrative costs are calculated. These reply comments also address parties' opening comments around the timing of FSR calculations and postings. It is critical that if the California Public Utilities Commission (Commission) adopts any changes in the spirit of making the FSR more accurate, that the Commission adopts all changes that will make the FSR more accurate. An accurate FSR will best reflect the actual costs and revenues the Provider of Last Resort (POLR) can expect to receive upon customer return while considering the risk of customer return occurring. In summary:

- Parties' opening comments put too much weight on administrative simplicity at the expense of community choice aggregator (CCA) customers;
- Cost Allocation Mechanism (CAM) and Demand Response (DR) allocations must be accounted for in the FSR calculation to accurately forecast the amount of Resource Adequacy (RA) procurement the POLR will perform on behalf of returned customers;
- The Commission should not modify the FSR calculation to seasonally differentiate RA costs as there is no readily available seasonal RA cost measurement;
- The Commission must modify forecast generation rates to account for seasonal differences in generation rate;
- The revenue offset must remain in the FSR calculation;
- Using Commission-approved rates that will be in place during the period covered by the FSR calculation is a common-sense change the Commission should adopt;
- Parties' opening comments oversimplify the relationship between the Power Charge Indifference Adjustment (PCIA) and the FSR;
- The FSR minimum only needs to be revised to update it for inflation;
- The Commission should not modify administrative fees based upon the assumption of mass involuntary return;
- The FSR should not be updated more frequently than twice per year; and

- Financing costs to the POLR should not be defined using the POLR's Weighted Average Cost of Capital (WACC).

II. FUNDAMENTAL ISSUES

A. Parties' Opening Comments Put Too Much Weight on Administrative Simplicity at the Expense of CCA Customers

Several parties express concern around the administrative complexity of select FSR proposals that would modify the forecast procurement cost or revenue components of the calculation.[2] Rejecting these proposals based upon these concerns would sacrifice accuracy for simplicity, causing CCAs to unnecessarily tie up potentially millions of dollars of credit capacity or cash. When defining accuracy in the context of the FSR calculation, the Commission should aim to reflect in the calculation actual costs and revenues the POLR can expect upon customer return while accounting for the probability of a return occurring.

Adopting an inaccurate FSR calculation with the intention of limiting complexity can put a disproportionate amount of risk on CCA customers. Southern California Edison Company (SCE) suggests Energy Division's rejection without prejudice of SCE's most recent FSR advice letter[3] "shifts significant risks to CCA customers because they have very little coverage in the FSRs of the Re-Entry Fees in the event of a CCA failure / service termination over the summer forward period."[4] However, unnecessarily high FSRs also shift risk onto CCA customers by taking up liquidity and credit capacity that CCAs could use to support operations during challenging summer periods or to otherwise serve their customers' interests. The Commission must strike the right balance between protecting bundled customers and setting securitization

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2 PG&E Opening Comments at 7-9, SCE Opening Comments at 13, SDG&E Opening Comments at 10, and UCAN Opening Comments at 6. All references to party Opening Comments are to the comments filed in this Docket on July 5, 2022 (Rulemaking (R.) 21-03-011) in response to the Ruling.

3 SCE Advice Letter (AL) 4789-E as supplemented by 4789-E-A and 4789-E-B.

4 SCE Opening Comments at 2-3.

requirements so high that they unreasonably reduce the load-serving entity's (LSE's) liquidity or credit capacity thereby undermining stable operations. Cherry-picking the IOUs' proposed changes while rejecting CalCCA-proposed changes would fail to strike a reasonable balance.

III. FSR CALCULATION

A. Procurement Costs

1. CAM and DR Allocations Must be Accounted for in the FSR to Accurately Forecast the Amount of RA Procurement the POLR Will Perform on Behalf of Returned Customers

San Diego Gas & Electric (SDG&E) does not support reducing forecast RA costs in the FSR calculation by removing CAM and DR RA allocations that will automatically revert back to the investor-owned utility (IOU) as the POLR upon customer return. SDG&E suggests the FSR should not include an adjustment for CAM because, "[w]hile resources may be reallocated to the POLR under the CAM process… updates resulting from customer shifts are not immediate."[5] SDG&E bases its argument on a perceived timing problem that does not exist. That is, SDG&E claims that the resource will not be made available to the IOU in a manner timely for an RA compliance showing. The Commission classifies a resource as a CAM resource if the IOU has procured the resource on behalf of other LSEs and the resource's costs and benefits are shared by all benefiting customers. In practice, the IOU retains the CAM resource as an RA-eligible resource for *all customers* – bundled and unbundled customers alike. Thus, whether a particular customer is bundled or unbundled customer makes no difference from a CAM standpoint: a certain amount of CAM RA resources are held for the benefit of that customer. If a CCA returns its customers, the IOU knows immediately how much it had allocated to the customers through CAM and thus how much is reverting back to serve them. Since the IOU as POLR controls all

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[5] SDG&E Opening Comments at 4.

of this information, including the RA allocations, there should be no delay. The Commission must reject SDG&E's uncredible arguments and adjust the FSR calculation to account for CAM and DR in the forecast RA cost component.

2. The Commission Should Not Modify the FSR Calculation to Seasonally Differentiate RA Costs as There is no Readily Available Seasonal RA Cost Measurement

Currently, the FSR calculation differentiates energy costs by month, thus bringing a strong seasonality to these costs. CalCCA has also proposed that the calculation differentiate customer revenues based on the IOU's actual, verifiable seasonal rates. SCE and SDG&E accordingly suggest that if the Commission addresses seasonality in these respects, it must also adjust reflect seasonality in RA costs.[6]

In concept, SDG&E and SCE raise a valid point regarding the internal consistency of the FSR calculation. In practice, however, it is currently unclear how exactly to determine the amount seasonal differentiation that exists in RA costs. LSEs may not contract for RA in solely monthly (or seasonal) increments and instead often contract for RA in annual increments or longer. This means, in the event an LSE purchases RA for one year, the LSE pays a single average annual price that ensures the generator can cover its costs over the entire year, not different prices for each month of the contract. With uncertainty surrounding the accuracy of monthly RA values – an uncertainty not present in ascertaining seasonal rates – moving to a seasonal RA cost calculation cannot be justified.

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6 SCE Opening Comments at 14, and SDG&E Opening Comments at 16.

B. Revenues

1. The Commission Must Modify Forecast Generation Rates to Account for Seasonal Differences in Generation Rates

The Public Advocates Office (Cal Advocates) opposes using seasonal generation rates when calculating forecast revenue because "it would decrease the accuracy of the FSR calculation by comparing annual average or seasonally differentiated inputs with biannual inputs."[7] Cal Advocates' proposal would leave a conflict between two most significant components of the FSR – energy costs and the revenue offset. Forecast energy costs today are seasonally differentiated in the calculation by using six months of forecast energy costs from the most recent Intercontinental Exchange (ICE) forwards for the relevant FSR period.[8] Reflecting seasonality in these costs while not reflecting seasonality in the offsetting revenues creates dissonance in the calculation.

Components of the calculation that should incorporate seasonal differentiation to capture variations by season are (1) the forecast energy costs, and (2) the forecast revenues. [9] The price of energy inarguably varies between summer and winter, and the IOUs have different rates to capture this difference. Today, however, only the forecast energy cost component accounts for seasonality. The forecast energy cost calculation today uses average daily peak prices for the *six months* the FSR posting covers from the most recent month's ICE energy forwards. The forecast revenue calculation, on the other hand uses an *annual* average generation rate. Therefore, while Cal Advocates suggests including seasonal generation rates would create an inconsistency

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7 Cal Advocates Opening Comments at 6.

8 Forecast RA and RPS procurement costs do not require seasonally differentiation. For a discussion of seasonally differentiating RA, see Section III.A.2. For RPS, costs do not differ by season, as RPS is a compliance instrument accounting for energy over a period of years, so no seasonal differentiation exists.

between the calculations of revenues and procurement costs, the opposite is true. The calculation today creates an inconsistency between forecast energy costs, which accounts for seasonality, and forecast revenues, which does not. To ensure the FSR calculation accounts for seasonality for all relevant components, the Commission should modify the forecast generation revenue calculation to account for seasonal differences in generation rates.

2. The Revenue Offset Must Remain in the FSR Calculation

In its Ruling, the Commission asks if generation revenues should be backed out of the FSR calculation to account for potential timing differences between a mass involuntary return and the POLR receiving those revenues. This question appears to stem from PG&E's "procurement pool" proposal, in which PG&E proposed to base the FSR calculation upon 2 months of energy costs without offsetting those costs with generation revenues. In response to this question SDG&E notes, "[f]ocusing strictly on timing differences of revenues and costs during the six-month timeframe used in the POLR and FSR calculation, backing out a portion of revenues would help to address the liquidity needs."[10]

The Commission has made clear that the purpose of the FSR is to provide basic financial security, not liquidity, to cover the costs incurred by the POLR, offset by the generation revenues received by the POLR. In Decision (D.) 18-05-022, the Commission found that, "[t]he purpose of the [FSR] statute appears to be more about basic financial security – ensuring that money is available – rather than liquidity."[11] Nothing in the operation of the FSR has changed since that decision was issued. Moreover, while it is possible the POLR may not have the money in hand to cover the re-entry costs immediately, this will not always be the case. When it is the case that the POLR does not have the liquidity to cover the re-entry costs immediately, the liquidity

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[10] SDG&E Opening Comments at 11.
[11] D.18-05-022 at 8.

crunch will be relatively short-lived. In a period of rising energy prices, the IOU will have *increased* liquidity, rather than reduced liquidity, resulting from higher energy prices it receives for its resources than are reflected in customer rates. In other circumstances, the IOU will need to rely – as it does in many other cases – on short-term borrowing. CalCCA has proposed that, in that event, the IOU may charge CCAs a financing cost to recover the cost of short-term financing at the commercial paper rate.[12] Thus, there is no need to address liquidity at this time.

Addressing liquidity by removing the revenue offset to POLR costs would, however, have a material effect on the FSRs a CCA needs to post. Based upon CalCCA estimates of CCA FSR postings from the IOU advice letters in May of 2022, the estimated FSR revenues for all six months, without any offset, is up to $3.7 Billion.[13] Removing such revenue would significantly increase the FSR posting. Since SDG&E is not specific about the amount of revenue that should be removed from the FSR calculation, the impact, benefit, and necessity are unclear. Given the lack of clarity around such a solution, the Commission should instead focus on the accuracy of the FSR calculation and address liquidity in another manner as CalCCA has provided in these and other comments.

3. Using Commission-Approved Rates That Will be in Place During the Period Covered by the FSR Calculation is a Common-Sense Change the Commission Should Adopt

Cal Advocates opposes including future rate changes approved by the Commission in the forecast revenue component of the FSR calculation, suggesting such a change would "lead to greater inaccuracy and less transparency."[14] Cal Advocates makes this assertion based upon the

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12 *California Community Choice Association's Comments on Administrative Law Judge's Ruling Distributing Workshop Agenda and Providing Questions for Additional Post Workshop Comments* (R.21-03-011), Mar. 28, 2022, at 10-11, and CalCCA Opening Comments at 24.

13 Estimate based upon CCA energy consumption forecasts and the retail generation rates of PG&E, SDG&E, and SCE.

14 Cal Advocates Opening Comments at 7.

timing of the Energy Resource Recovery Account (ERRA) forecast filed on May 15 of each year. While approved rate changes may not be incorporated in the ERRA at the time of the FSR calculation, they will be when the ERRA updates.

CalCCA has proposed using forecast future rates *only if* those rates are known with certainty at the time the calculation is made. Reflecting the most current rates ensures that the forecast costs and offsetting revenues are reasonably aligned. Omitting known rate information from the FSR calculation would make it less accurate, because the calculation will be based on outdated rates that will not actually be in place during the time period covered by the FSR. For this reason, the Commission should reject Cal Advocates' arguments that including Commission approved future rates in the FSR calculation will make the calculation less accurate and less transparent.

Pacific Gas and Electric Company (PG&E) and SDG&E oppose including future approved rate changes in the calculation, suggesting the added complexity would outweigh the benefit given the frequency and timing of rate increases.[15] As described in section II.A., parties overstate the complexity of modifications proposed to improve the accuracy of the FSR calculation. The IOU calculates the energy cost monthly and to do so must have the monthly energy usage of the customers of the CCA. To calculate the energy revenues based upon the rates that have been approved and will be implemented during the FSR period could use this same data and apply the rates for the correct months rather than sum the energy and calculate it as an aggregate. This will ensure the calculation reflects the actual rates that will be in place in the event customers return during the timeframe covered by the FSR calculation.

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[15] PG&E Opening Comments at 9, and SDG&E Opening Comments at 10-11.

4. Parties' Opening Comments Oversimplify the Relationship Between the PCIA and the FSR

In its Ruling, the Commission asked if the calculation of incremental generation revenues received by the POLR should incorporate existing PCIA obligations. In response to this question, the Utility Consumers' Action Network (UCAN) stated:

> However, UCAN acknowledges that the FSR calculation may need to take more into account than just market costs at current market conditions and revenues at current retail rates in order to be fair to market competition. For instance, the IOU bundled generation rate is based on a forecast of fuel and purchased power costs that could be wrong and is more likely to be wrong in times of market volatility. It may not be fair for an IOU to raise FSR requirements on CCAs because its own rates were forecasted too low to properly recover its costs.[16]

CalCCA agrees. As explained in opening comments,[17] addressing one element of the PCIA – SCE's PCIA rate netting proposal – without recognizing and addressing the other related PCIA-related issues further weighs against CCAs in the balance. UCAN points out one reason the removal of the PCIA rate component in the calculation of an FSR, as SCE proposed, is imprecise. In part, this is due to the fact that the timing of the FSR calculation to establish the security and the PCIA calculation do not match. Therefore, the view of what future prices will hold are not consistent between the two methods, making a one-for-one reduction of the generation rate by the PCIA vintage inaccurate.

In section III.D.1, CalCCA discusses how this differential can be exacerbated if the FSR calculation is performed even more frequently than the current semi-annual calculation which already suffers from the issue noted by UCAN.

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16 UCAN Opening Comments at 6.

17 CalCCA Opening Comments at 16-19.

C. Administrative Costs

1. The FSR Minimum Only Needs to be Revised to Update it For Inflation

Parties who support updates to the FSR minimum generally base their arguments around the need to cover administrative costs. SCE states that the $147,000 minimum was "not designed to cover the administration component of the FSR or Re-Entry Fee calculations," and proposes that the Commission modify the CCA and Electric Service Provider (ESP) FSR minimums to eliminate the negative procurement offset in the FSR calculation so that the FSR never drops below the administrative costs.[18] For the reasons described below, the Commission should not adopt SCE's proposal to remove the negative procurement offset that applies to both procurement costs and administrative costs. Instead, the Commission should update FSR minimum for inflation, as it did in D.18-05-022.

The FSR minimum should not be revised to equal the administrative costs. Put simply, the FSR calculation is the sum of the anticipated costs (energy, RA, RPS, and Administrative), minus the anticipated revenues. If the sum of all costs are completely covered by the anticipated revenues, there is no rational reason to select a single cost element as the basis for an FSR minimum. In D.18-05-022, the Commission correctly allowed negative procurement costs to offset incremental administrative costs.[19] This decision followed the same approach adopted for ESPs in D.13-01-021, where the Commission found:

> The negative incremental procurement costs shall be allowed to offset up to 100% of the calculated incremental administrative costs. Since both administrative costs and procurement costs are incurred in connection with an involuntary return of DA customers to bundled service, it is reasonable to consider the net effect of both

[18] SCE Opening Comments at 16-17.
[19] D.18-05-022 at 12.

> elements of costs in determining the amounts, if any, necessary to compensate the IOU and to avoid cost shifting to other customers.[20]

To avoid an FSR of $0 when the negative procurement costs totally offset incremental procurement and administrative costs, the Commission adopted a minimum FSR of $100,000 in D.13-01-021, and increased the minimum to $147,000 for CCAs in D.18-05-022 to account for inflation.[21] D.18-05-022 correctly allowed the negative procurement to offset both procurement costs ***and*** administrative costs. The revenues the POLR receives from returned customers will offset all costs the POLR incurs on behalf of the returned customers, including administrative costs in the event revenues exceed procurement costs. Therefore, the FSR minimum does not need to be revised to equal administrative costs by removing the negative procurement offset as SCE suggests.

Practically, taking SCE's approach would create significant differences among service territories. As discussed in CalCCA's opening comments, the per customer administrative fee for the three IOUs differ substantially: SCE and SDG&E's administrative fees are around $0.50 per customer, and PG&E's administrative fee is $4.24. For a CCA with 100,000 customers, this would result in a $50,000 minimum in SCE's service area and a $424,000 minimum in PG&E's service area. The Commission should not adopt an FSR minimum based upon unjustified, significantly higher administrative fees that could significantly drive up the FSR posting amount for CCAs within PG&E's territory. This is especially true given the POLR will receive revenues from serving returned customers that will be used to offset administrative costs.

The Commission correctly allowed revenues to offset administrative costs when establishing the CCA FSR and must continue to do so. The Commission should, therefore, only

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[20] D.13-01-021 at 31.

[21] D.18-05-022 at 12.

adjust the FSR minimum to account for inflation between when the FSR minimum was established in D.18-05-022 and now. Using inflation data for the Bureau of Labor Statistics, this would amount to an FSR minimum of $173,000.[22]

2. The Commission Should Not Modify Administrative Fees Based Upon the Assumption of Mass Involuntary Return

PG&E and SDG&E both suggest that administrative costs may differ from the costs set in the general rate case (GRC) in the event of a mass involuntary return. PG&E states, "PG&E's current calculation of the administrative costs is based on the pre-existing CCA customer return fees. These fees were not calculated to consider the costs associated with a mass involuntary customer return," where such costs could include incremental labor, training, or marketing materials.[23] SDG&E suggests that the current approach for calculating administrative costs by multiplying the forecast number of service accounts by the Reentry Fee "does not adequately cover actual administrative costs that could be incurred in the event of mass involuntary customer return."[24] The Commission should not modify the administrative fee based upon the IOUs' contentions that administrative costs will be higher than what was adopted in the GRCs. The IOUs have not offered, nor has the Commission approved, these increases in the allocation of costs to mass involuntary return in the IOUs' rate cases. Additionally, as described in section III.C.1. above, PG&E's administrative costs are already significantly higher than those of the other IOUs and it is unable to provide supporting workpapers to justify such costs. The Commission should not further modify the administrative fees based upon unsupported claims that mass customer return would result in different costs.

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22 https://www.bls.gov/data/inflation_calculator.htm using May 2018 to the most recently available data of June 2022 with a starting point of $147,000.

23 PG&E Opening Comments at 10.

24 SDG&E Opening Comments at 12.

D. Timing of FSR Calculations and Postings

1. The FSR Should Not be Updated More Frequently Than Twice Per Year

PG&E, SCE, and UCAN support more frequent updates to the FSR. PG&E supports a more frequent calculation as long as the calculation is based on two months of energy costs.[25] SCE supports quarterly calculations as a way to account for market volatility.[26] UCAN supports a monthly FSR.[27] The Commission should reject these proposals and maintain the current FSR update schedule of every six months. Updating the FSR amount every six months strikes the right balance by avoiding potential large swings in FSR posting amounts over a short time period, providing stability for CCAs who need to post the FSR, and incorporating energy price differences between the summer and winter season. Updating the FSR more frequently, such as quarterly as SCE suggests or monthly as UCAN suggests, would increase the volatility in the amount of FSR CCAs have to post.

Updating the FSR more frequently would further exacerbate the misalignment between FSR forecast costs and the costs forecast in customer rates. While the FSR is updated every six months, the PCIA is updated annually. Updating the FSR more frequently without also triggering a PCIA change increases the likelihood of divergence between the prices used when the PCIA was set, and the prices used in the FSR calculation. This is especially true if SCE's proposal to reduce the PCIA component of the FSR revenue offset is adopted and the hedge value of the PCIA ignored. For these reasons, the Commission should maintain the FSR update frequency of every six months to strike the right balance of maintaining stability in the FSR posting amounts

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25 PG&E Opening Comments at 13.
26 SCE Opening Comments at 18.
27 UCAN Opening Comments at 8-9.

and accounting for seasonal differences between costs and revenues expected in the summer and winter seasons.

In fact, an argument can be made to extend the FSR period to one year as doing so would have the period of the requirement match the typical length of the financial instruments that CCAs typically use to provide the security. In addition, moving to annual would obviate the need to adjust the summer and winter generation rate revenues as an annual calculation using average annual rates would be sufficient.

IV. CAL ADVOCATES ALTERNATIVE FSR PROPOSAL

1. Financing Costs to the POLR Should Not be Defined Using the POLR's WACC

Cal Advocates offers an alternative FSR proposal that would require CCAs to post cash to cover the financing costs to the POLR for obtaining adequate liquidity for two months. Cal Advocates' proposal would define financing costs as the POLR's Weighted Average Cost of Capital ("WACC") applied to the forecasted incremental procurement costs for each CCA.[28] WACC is the wrong measure to use in the context of the FSR. WACC is a capital weighted average of the return on equity, (stock issued by the IOU) and the cost of debt (long- and short-term borrowing costs). If an IOU were to finance short-term liquidity, it would not issue stock or procure long-term debt to do so. Instead, as CalCCA proposed, returning customers should compensate the IOU for its short-term financing costs at the commercial paper rate as it does with other balancing account functions.

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[28] Cal Advocates Opening Comments at A-6.

V. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests consideration of the recommendations herein and looks forward to an ongoing dialogue with the Commission and stakeholders.

Respectfully submitted,

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