



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking to Implement
Assembly Bill 843 – the Bioenergy Market
Adjusting Tariff Program.

R.22-10-010

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S
COMMENTS ON ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING
PARTY COMMENTS ON WORKSHOP QUESTIONS AND MODIFYING
PROCEDURAL SCHEDULE**

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TABLE OF CONTENTS

I. INTRODUCTION1

II. BACKGROUND3

III. A PROCESS SHOULD BE ESTABLISHED FOR THE CCAS TO FILE THE STANDARD CCA BIOMAT TARIFFS, CONTRACTS, AND ANCILLARY DOCUMENTS AND FOR IOUS TO MODIFY THEIR TARIFFS TO INCORPORATE CCAS.....6

IV. CCAS SHOULD BE INCORPORATED INTO THE IOUS’ EXISTING METHODOLOGIES FOR BIOMAT QUEUE MANAGEMENT AND CAPACITY ALLOCATION.....6

A. The Commission Should Require Modifications to the Existing Accion BioMAT Online Platforms to Incorporate CCAs7

B. Modifications to Existing Program Participation Request Procedures and Queue Management are Required to Incorporate CCA Project Applicants into IOU Queues.....7

C. Modifications to Current Contract Acceptance, Subscription within IOU Fuel Categories, and Capacity Allocation Methodologies are Necessary to Incorporate CCAs into the BioMAT Program9

V. THE COMMISSION SHOULD APPLY THE SAME STANDARDS FOR OVERSIGHT OF CCA BIOMAT COST RECOVERY AND CONTRACT MANAGEMENT AS IT DOES FOR THE IOUS10

A. BioMAT Costs Should Continue to be Collected from All Customers Through the Public Purpose Programs Charge.....10

B. The Commission Should Adopt a Tier 3 Advice Letter Process for CCA BioMAT Cost Recovery Similar to the Tier 2 Advice Letter Process for the DAC-GT Program.....11

C. The Commission Can Ensure Prudent Contract Management of BioMAT Contracts through the Application Process13

VI. CALCCA’S RESPONSES TO POST-WORKSHOP QUESTIONS TO ADDRESS COMMUNITY CHOICE AGGREGATOR PARTICIPATION IN THE BIOENERGY MARKET ADJUSTING TARIFF PROGRAM15

1. Question #1 – Filing of Tariff and Power Purchase Agreements:15

Table of Contents continued

2.	Question #2 – Commission Oversight: How will the Commission’s Prudent Manager Standard be maintained with CCA as counterparties? This includes, but is not limited to, contract management, receipt of fuel source attestations and quarterly reports on High Hazard Zone biomass fuel stock requirements from facilities, and safety considerations.....	16
3.	Question #3 - Project Submission:.....	16
4.	Question #4 – Queue Management:.....	17
5.	Question #5- BioMAT Capacity Reporting and Pricing Mechanism: Should the IOUs include in their 10-day reports how CCA executed projects impact available BioMAT capacity in each Fuel Resource Category?	18
6.	Question #6 – Cost and Benefit Allocation and Recovery:	18
7.	Question #7 - Environmental and Social Justice Impacts: How does Assembly Bill 843 implementation impact achievement of Environmental and Social Justice Action Goals (e.g., improvement of local air quality, public health, increase in climate resiliency, promotion of economic opportunity)?	20
VII.	CONCLUSION.....	21

SUMMARY OF RECOMMENDATIONS

To implement Assembly Bill (AB) 843's requirement to incorporate community choice aggregators (CCAs) into the Bioenergy Market Adjusting Tariff (BioMAT), the California Public Utilities Commission (Commission) should:

- Establish a process for CCAs to file a standard BioMAT tariff, contract, and ancillary documents, and for the investor-owned utilities (IOUs) to file modifications to their tariffs to incorporate CCAs, to allow party comments prior to the final decision;
- Incorporate CCAs into the IOUs' existing methodologies for BioMAT queue management and capacity allocation through:
 - Incorporating CCAs into the IOUs' existing BioMAT fuel category queues;
 - Continuing IOU management of the statewide BioMAT pricing and fuel category subscriptions;
 - Modifying the existing IOU Accion Online Platforms, and allowing CCAs to establish their own Accion online platform;
 - Modifying the Program Participation Request (PPR) procedures to incorporate CCAs;
- Adopt the proposal of CalCCA in alignment with the IOUs for CCAs to file Tier 3 Advice Letters for CCA BioMAT cost recovery, and for CCAs to file Commission Rule 2 Applications for approval of CCA prudent management of BioMAT contracts;
- Require CCA executed BioMAT contracts to be submitted to the Commission in the same manner as is required of the IOUs (through Tier 2 Advice Letters);
- Continue to require the collection of BioMAT costs from both bundled and unbundled customers through a Non-Bypassable Charge collected through the IOUs' Public Purpose Program charge;
- Allow CCAs to pay for resource adequacy (RA) and renewables portfolio standard (RPS) attributes in the same manner as the IOUs – allowing a credit for RA and RPS attribute market value for customer compliance to the CCAs' or IOUs' balancing account, and debiting that value from the CCAs' or IOUs' BioMAT cost recovery; and
- Allow CCAs to recover (similar to the IOUs) reasonable administrative costs to manage their BioMAT contracts.

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PROCEDURAL SCHEDULE**

California Community Choice Association¹ (CalCCA) submits these comments in response to the *Administrative Law Judge’s Ruling Requesting Party Comments on Workshop Questions and Modifying Procedural Schedule*² (Ruling), dated May 25, 2023, seeking party comments on questions arising from the April 28, 2023 workshop to discuss implementation of Assembly Bill (AB) 843 (Stats. 2021, Ch. 234).

I. INTRODUCTION

Assembly Bill (AB) 843, adopted in September 2021, allows community choice aggregators (CCAs) to join with the three California investor-owned utilities (IOUs) in recovering costs for bioenergy generation contracts through the Bioenergy Market Adjusting Tariff program (BioMAT). The current rulemaking will implement AB 843, adopting the

¹ California Community Choice Association represents the interests of 24 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, Energy For Palmdale’s Independent Choice, Lancaster 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.

² *Administrative Law Judge’s Ruling Requesting Party Comments On Workshop Questions and Modifying Procedural Schedule*, Rulemaking (R.) 22-10-010 (May 25, 2023): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M509/K544/509544258.PDF>.

methodologies necessary to allow CCAs to begin contracting with biomass generation facilities.

The Ruling requests answers to fundamental process questions for incorporating CCAs into the existing BioMAT program, including:

- Given there is a limited allocation of capacity available within each BioMAT fuel category and further within each investor-owned utility's (IOU's) available capacity, how will CCA BioMAT project applicants be fairly allocated a place in a queue along with IOU BioMAT project applicants?
- How will CCAs receive their cost allocations for their BioMAT projects and receive proper contract oversight when IOUs seek cost recovery and findings of prudent contract management in their ERRA Forecast and Compliance Applications (and CCAs have no such annual filings)?
- How will CCAs file their standard BioMAT contracts/tariffs and their executed contracts with the Commission?

CalCCA provides its comprehensive proposal below for incorporating CCAs into the BioMAT program. The overall theme is that CalCCA is not seeking to “reinvent the wheel” of the already established rules and requirements for the BioMAT program. Rather, the proposals below seek to fit CCAs into the existing BioMAT program processes, only proposing modifications given the unique position of CCAs operating within the territories of IOUs who also offer BioMAT contracts. CalCCA also proposes changes when justified to promote streamlining and increased efficiencies. Importantly, CalCCA and the IOUs have collaborated to propose cost recovery and contract oversight methodologies for incorporating CCAs into the BioMAT program. CalCCA's proposal includes requesting that the Commission:

- ✓ Establish a process for CCAs to file a standard BioMAT tariff, contract, and ancillary documents, and for the IOUs to file modifications to their tariffs to incorporate CCAs, to allow party comments prior to the Final Decision;
- ✓ Incorporate CCAs into the IOUs' existing methodologies for BioMAT queue management and capacity allocation through:
 - Incorporating CCAs into the IOUs' existing BioMAT fuel category queues;

- Continuing IOU management of the statewide BioMAT pricing and fuel category subscriptions;
- Modifying the existing IOU Accion Online Platforms, and allowing CCAs to establish their own Accion online platform;
- Modifying the Program Participation Request (PPR) procedures to incorporate CCAs;
- ✓ Adopt the proposal of CalCCA in alignment with the IOUs for CCAs to file Tier 3 Advice Letters for CCA BioMAT cost recovery, and for CCAs to file Commission Rule 2 Applications for approval of CCA prudent management of BioMAT contracts;
- ✓ Require CCA executed BioMAT contracts to be submitted to the Commission in the same manner as is required of the IOUs (through Tier 2 Advice Letters);
- ✓ Continue to require the collection of BioMAT costs from both bundled and unbundled customers through a Non-Bypassable Charge (NBC) collected through the IOUs' Public Purpose Program (PPP) charge;
- ✓ Allow CCAs to pay for resource adequacy (RA) and renewables portfolio standard (RPS) attributes in the same manner as the IOUs – allowing a credit for RA and RPS attribute market value for customer compliance to the CCAs' or IOUs' balancing account, and debiting that value from the CCAs' or IOUs' BioMAT cost recovery; and
- ✓ Allow CCAs to recover (similar to the IOUs) reasonable administrative costs to manage their BioMAT contracts.

II. BACKGROUND

BioMAT is a feed-in-tariff program created by Senate Bill (SB) 1122 and incorporated into California's renewables procurement standard programs through California Public Utilities Code Section 399.20.³ The program as established directs the IOUs to collectively procure 250 megawatts (MW) of generating capacity from developers of small-scale bioenergy projects using fuel from specific categories including biogas, dairy/agriculture, and sustainable forest management.⁴ The IOUs are authorized to offer a standard contract with the price set to adjust

³ All future Section references are to the California Public Utilities Code.

⁴ Procurement targets for the IOUs are the following: PG&E – 111 MW; SCE – 114.5 MW; SDGE – 24.5 MW. D.14-12-081, *Decision Implementing Senate Bill 1122*, R.11-05-005 (Dec. 26, 2014), Table

through a market-based mechanism administered by the IOUs.⁵ Currently, only 47.5 MW of the 250 MW have been procured by the IOUs since the BioMAT program began offering contracts in February, 2016.⁶ The BioMAT program is currently set to end on December 31, 2025.⁷

BioMAT has been modified several times in response to legislative mandates and to clarify rules and increase success of the program.⁸ In D.20-08-043, the Commission modified how BioMAT program costs are recovered, directing costs to be recovered from all customers in each IOU's service territory through a NBC collected through each IOU's PPP charge.⁹ At the time, CCAs participating in the proceeding urged the Commission to allow CCAs to participate in the BioMAT Program (i.e., collect BioMAT procurement expenses) given that CCA customers are among the customers from whom the BioMAT NBC will be collected.¹⁰ However,

4, at 41. These procurement targets are further broken down by fuel resource category within each IOU's overall procurement target. *Id.*

⁵ *Id.* at 50-64.

⁶ See R.22-10-010, *Order Instituting Rulemaking to Implement Assembly Bill 843 – the Bioenergy Market Adjusting Tariff Program* (Oct. 26, 2022), Table 2 at 5; D.20-08-043, *Decision Revising the Bioenergy Market Adjusting Tariff Program*, R.18-07-003 (Sept. 1, 2020), at 5.

⁷ D.20-08-043, Conclusion of Law (COL) 1, at 60.

⁸ See *id.*; D.18-11-004, *Decision Implementing Assembly Bill 1923 Provisions Related to Interconnection Rules for the Bioenergy Feed-In Tariff Under the California Renewables Portfolio Standard*, R.18-07-003 (Nov. 8, 2018) (implementing changes to interconnection rules for BioMAT projects); D.17-08-021, *Decision Revising Eligibility Requirements for the Renewables Portfolio Standard Feed-In Tariff in Accordance with Assembly Bill 1979 and Assembly Bill 1923*, R.15-02-020 (Aug. 24, 2017) (revising the capacity limits for generation facilities in the BioMAT program to 5 megawatts); D.16-10-025, *Decision Implementing Provisions of Governor's Proclamation of a State of Emergency Related to Tree Mortality and Senate Bill 840 Related to the Bioenergy Feed-In Tariff in the Renewables Portfolio Standard Program*, R.15-02-020 (Oct. 27, 2016) (revising the BioMAT program for facilities using forest biomass as fuel in response to Governor's declared tree mortality emergency); D.15-09-004, *Decision Approving, as Modified, Bioenergy Electric Generation Tariff, Standard Contract, and Supporting Documents to Implement Decision 14-12-081 on Bioenergy Feed-In Tariff for the Renewables Portfolio Standard Program*, R.15-02-020 (Sept. 17, 2015) (approving IOU BioMAT standard tariffs, contracts, and ancillary documents); D.14-12-081 (Dec. 26, 2014) (implementing SB 1122).

⁹ D.20-08-043, COL 3 at 60.

¹⁰ *Id.* at 12.

the Commission denied the CCAs' request, finding that Section 399.20 only allows electrical corporations (and not CCAs) to offer BioMAT as a tariffed program.¹¹

The Legislature responded by passing AB 843 in September 2021, authorizing CCAs to recover costs associated with participating in the BioMAT program. AB 843 adds subdivision (f)(5) to Section 399.20 which provides for CCA cost recovery for eligible bioenergy projects through the BioMAT program if:

- open capacity exists in an allocation category;
- the CCA submits an eligible standard tariff:
 - providing for payment for every kilowatthour (KWh) of electricity purchased from the facility for 10, 15, or 20 years;
 - incorporating the Commission's methodology to determine the market price;
 - providing for the reduction of procurement targets for each allocation category for the IOU in whose service territory the CCA operates; and
 - based on the BioMAT tariff approved by the Commission for the IOUs.¹²
- the CCA develops a standard contract:
 - based on the standard contract approved by the Commission for the IOUs; and
 - with a streamlined contracting process.¹³

As set forth in detail below, CalCCA's proposals to implement AB 843 are all intended to resolve the procedural implications raised by adding CCAs as BioMAT program participants within the IOUs' service territories. Prior to answering the questions in the ALJ Ruling, the following addresses three central process issues related to incorporating CCAs into BioMAT: (1) establishing a process for CCAs to file the a standard BioMAT tariff, contract and ancillary

¹¹ *Id.* at 17.

¹² § 399.20(f)(5)(A), (D).

¹³ § 399.20(f)(5)(B).

documents in this rulemaking; (2) processes for management of both IOU and CCA applicants in each IOU's BioMAT queue as well as capacity allocation once contracts are awarded; and (3) processes for CCA BioMAT cost recovery and ensuring prudent CCA contract management.

III. A PROCESS SHOULD BE ESTABLISHED FOR THE CCAS TO FILE THE STANDARD CCA BIOMAT TARIFFS, CONTRACTS, AND ANCILLARY DOCUMENTS AND FOR IOUS TO MODIFY THEIR TARIFFS TO INCORPORATE CCAS

AB 843 requires that CCA BioMAT tariffs and contracts be developed to align with the standard BioMAT tariff and contract approved by the Commission for the IOUs so long as the terms and conditions are not modified by the CCA.¹⁴ The Commission should establish a process expeditiously within this rulemaking requiring the filing of a CCA pro forma BioMAT Tariff, Contract, and ancillary documents allowing parties an opportunity to comment (and the CCAs an opportunity to reply) prior to the Commission issuing the Final Decision. In addition, to the extent IOU tariffs and processes need modification to incorporate CCAs, the Commission should require IOUs to file such modifications during the same process. Such a process will ensure an expeditious process to allow CCAs to begin contracting for BioMAT contracts as soon as possible.

IV. CCAS SHOULD BE INCORPORATED INTO THE IOUS' EXISTING METHODOLOGIES FOR BIOMAT QUEUE MANAGEMENT AND CAPACITY ALLOCATION

Modifications to the processes for IOU management of their applicant queues for contract acceptance and allocation of BioMAT capacity are necessary to incorporate CCA applicants into the BioMAT program. The IOUs should continue to manage the project applicant queues with CCA project applicants incorporated into such queues. The IOUs should also continue to manage

¹⁴ See § 399.20(f)(5)(D) (“the CCA may base its tariff on the [IOU’s] approved tariff, so long as the terms and conditions of the tariff are not modified by the [CCA]”); see also § 399.20(f)(5)(H) (“[a] [CCA] shall use the standard contract approved by the commission for use by the [IOUs] . . . , so long as the terms and conditions of the contract are not modified by the [CCA]”).

statewide BioMAT pricing and subscription according to Section 399.20 and Commission mandates regarding the statewide pricing pool.¹⁵ Given the statewide price adjusts in each fuel category based on market interest and subscription, the depth of applicants within a fuel category queue is crucial to the BioMAT price. As discussed below, incorporation of CCA project applicants into the IOU queues will require modifications to the following: (1) the online “Accion” platform utilized by IOUs to manage their BioMAT programs; (2) the processes set forth in IOU tariffs for PPR acceptance and placement of applicants into the IOUs’ queues; and (3) the processes for contract acceptance and allocation of capacity within the IOUs’ queues.

A. The Commission Should Require Modifications to the Existing Accion BioMAT Online Platforms to Incorporate CCAs

To guarantee comparable experiences for IOU and CCA BioMAT project applicants, Accion websites currently utilized by IOUs for BioMAT project management should be created for CCAs participating in BioMAT. A link from both the IOU and CCA websites should direct users to a central BioMAT page, providing links to either the IOU or CCA Accion sites for project applicants. Functionalities inside of the Accion sites include the processes set forth below with respect to PPRs and contracts.

B. Modifications to Existing Program Participation Request Procedures and Queue Management are Required to Incorporate CCA Project Applicants into IOU Queues

The current methodologies for IOU PPR acceptance, placement in the applicable fuel category queue, and offering contracts in queue order is relatively straightforward for IOUs administering their own programs. However, incorporating CCA applicants into an IOU’s

¹⁵ The statewide starting price adjusts separately for each bioenergy technology type. D.14-12-081 at 56. However, the Director of Energy Division is authorized to initiate a review process at any time after the price for any technology category reaches \$197/MWh and remains at that price, or increases, over two program periods. *Id.*

process to ensure equivalent experiences for IOU and CCA applicants and confidentiality of applicant information requires modifications to the queue management process, PPR procedures, and PPR review process.

The existing IOU BioMAT tariffs outline the PPR, queue management, and capacity allocation procedures. Each CCA will need to adopt its own standard tariff, as required by AB 843. CalCCA recommends that the CCAs utilize the existing IOU BioMAT tariffs as a base, with revisions to the process only to accommodate the addition of CCA project applicants. Accordingly, CalCCA recommends the following process changes to the procedures set forth in the IOU tariffs to incorporate CCAs into the existing, Commission approved methodologies:¹⁶

- Applicant submits a PPR to the CCA through the CCA’s Accion platform;
- Applicant pays the PPR Fee (\$2/kilowatt multiplied by the project’s Contract Capacity, as set forth in the IOUs’ tariffs)¹⁷ to the CCA;
- Supporting documentation for the PPA, including all attestations and information required in the IOUs’ tariffs,¹⁸ submitted to the CCA;
- CCA then confirms (within fifteen (15) business days rather than the current twenty (20) business days set forth in the IOU Tariffs),¹⁹ whether the applicant’s PPR is complete and satisfies the Tariff Eligibility Criteria. Within five (5) business days of CCA’s confirmation that the PPR is complete, CCA will notify the IOU through the Accion platform, that the applicant is to be automatically entered into the IOU’s queue for the applicable fuel category. The applicants’ identity and location of the project will be kept confidential – the only information necessary for the CCA to provide to the IOU includes that the PPR is complete, the fuel category, and the size of the project. The Accion platform will

¹⁶ Section references herein are to PG&E’s Commission-approved tariff. SCE’s and SDGE’s tariffs contain the same methodologies, but section references may differ.

¹⁷ See PG&E Tariff, § 5.2.a.

¹⁸ See *id.*, § 5.2.d. (requiring (1) copy of most recent Interconnection Study, (2) Cover Sheet with description of project, facility drawing, single line diagram and site map outlining site control; (3) percentage ownership attestation; (4) attestations regarding site control; developer experience, daisy chaining, Self-Generation Incentive Program, and fuel resource category; (5) geographic system file of project boundary information; (6) acknowledgment and plan regarding climate risk; and (7) other information and documentation required by the CCA to verify compliance with the Tariff’s eligibility criteria.).

¹⁹ See *id.*, § 5.2.e.

maintain the timestamp for the CCA's notification to the IOU, which will determine the applicant's position in the IOU queue.

- Queue positions of project applicants should be available to CCA BioMAT participants at all times.

C. Modifications to Current Contract Acceptance, Subscription within IOU Fuel Categories, and Capacity Allocation Methodologies are Necessary to Incorporate CCAs into the BioMAT Program

IOUs should continue to manage subscriptions during each bi-monthly contract period, as set forth in the IOUs' tariffs.²⁰ Also as required by the IOUs' tariffs, the Contract Price for each Statewide Pricing Category will be published on each IOU's website and/or online platform by the first business day of every Period.²¹ CCA BioMAT Program participants can provide a link from their website and/or their online platform to the IOU site setting forth the Period's prices.

Additional modifications to incorporate CCA BioMAT Program participants include:

- Within seven (7) business days after the first business day of a period, applicants already in the IOU queue must provide the CCA with notice indicating whether the applicant is willing to execute a BioMAT PPA based on the applicable Contract Price. Within ten (10) business days after the first business day of a period, the CCA shall notify IOU through the Accion platform if applicants are willing to execute a BioMAT PPA with the CCA.²²
- Within ten (10) business days following the deadline for CCAs or IOU applicants to notify the IOU that applicants are willing to execute a BioMAT PPA, the IOU will then award and/or notify the CCA through the Accion platform to award BioMAT PPAs to applicants in queue number order until the available allocation for the fuel resource category during that period (i.e., 6 MW) is met.²³
- Within ten (10) business days of the execution of a BioMAT PPA by both the CCA and the CCA Project applicant, the CCA shall notify the IOU through the Accion platform that the BioMAT PPA is executed and the IOU should allocate the capacity in that fuel category to that project.²⁴

²⁰ See *id.*, §§ 6.2, 6.3.

²¹ See *id.*, § 8.2.

²² See *id.*, § 9.1.

²³ See *id.*, § 9.3.

²⁴ See *id.*, § 9.8.

- The CCA shall follow Commission requirements for filing executed BioMAT PPAs as discussed in response to Ruling Question 1(b), below.

V. THE COMMISSION SHOULD APPLY THE SAME STANDARDS FOR OVERSIGHT OF CCA BIOMAT COST RECOVERY AND CONTRACT MANAGEMENT AS IT DOES FOR THE IOUS

As reflected in many of the ALJ's Ruling questions below, two significant issues in incorporating CCAs into the BioMAT program are (1) how CCAs will seek cost recovery for their BioMAT contracts as BioMAT costs are allocated to all customers through the IOUs' PPP charge, and (2) what processes should be adopted for CCA BioMAT contract management oversight and prudence review. As set forth below, CalCCA and the IOUs have had discussions on the appropriate processes to ensure CCA cost recovery and prudence review are held to the same standards as that required for the IOUs. CalCCA and the IOUs have aligned on a proposal for CCA Tier 3 Advice Letters for cost recovery (similar to the Advice Letter process utilized for the Commission for CCA cost recovery in the Disadvantaged Communities Green Tariff (DAC-GT) program). CalCCA and the IOUs have also aligned on a proposal for CCAs to file Applications for prudence review of their BioMAT contracts.

A. BioMAT Costs Should Continue to be Collected from All Customers Through the Public Purpose Programs Charge

The Commission should continue to allocate BioMAT program costs through a NBC to all customers in each IOU's service territory through the public purpose program (PPP) charge.²⁵ As noted in D.20-08-043, both bundled and unbundled customers currently pay the costs of the BioMAT program. For the IOUs, the net costs for BioMAT-related procurement are collected through each IOU's BioMAT Non-Bypassable Charge Balancing Account (BNBCBA)

²⁵ D.20-08-043, *Decision Revising the Bioenergy Market Adjusting Tariff Program*, R.18-07-003 (Aug. 27, 2020), 11-16, COL 3 at 60.

subaccount.²⁶ For all BioMAT program costs, the BioMAT rate must be approved by the Commission through the IOUs' ERRA Forecast proceedings and added to the PPP charge.²⁷ Incorporating CCAs into the BioMAT program requires the Commission to decide the processes for CCAs to recover their BioMAT costs given CCAs do not have an annual filing seeking cost recovery analogous to the IOUs' ERRA Forecast proceedings.

B. The Commission Should Adopt a Tier 3 Advice Letter Process for CCA BioMAT Cost Recovery Similar to the Tier 2 Advice Letter Process for the DAC-GT Program

CalCCA and the IOUs have aligned on a proposal for CCAs to seek recovery for their BioMAT costs through an annual Tier 3 Advice Letter prior to the IOUs filing their ERRA Forecast Applications. Given that CCA rates and services are not regulated by the Commission, CCAs do not regularly file applications as do IOUs in their ERRA Forecast to seek a revenue requirement or recovery of costs in general. CCAs may file for cost recovery in particular situations in which they participate in programs, such as the DAC-GT program. Given the CCAs will only be filing for cost recovery and contract oversight for BioMAT, a Rule 2 Application process for CCAs for cost recovery is neither necessary nor efficient. Indeed, the amount of money under review for all IOU programs in ERRA proceedings is very large as compared to only the IOU's BioMAT revenue requirement. For example, PG&E's 2022 ERRA Forecast Application included a 2023 revenue requirement for rate-setting of \$4.5 billion, with an \$18.6 million revenue requirement request for BioMAT.²⁸

²⁶ *Id.*

²⁷ *Id.*

²⁸ *See Application of Pacific Gas and Electric Company (U 39 E) for 2023 Energy Resource Recovery Account and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue Return and Reconciliation, A.22-05-029 (May 31, 2022), at 4.*

CalCCA therefore recommends adopting an Advice Letter process analogous to the process used for the DAC-GT program. For DAC-GT, CCAs file Tier 2 Annual Budget Advice Letters (ABAL) in February, forecasting a CCA’s expected costs and budget for the upcoming year, and trueing up costs from the prior year.²⁹ CCAs provide workpapers and demonstrate that the costs and budget requested are reasonable.³⁰ Energy Division then rules on the ABAL and if approved, the CCA budget requests get incorporated into the IOU ERRA Forecast Application submitted in May or June.³¹ When the Commission approves the IOU’s ERRA Forecast Application (by the end of the year), the IOU files its Annual Electric True-Up Advice Letter to formalize its budget request.³² Once funded, the approved CCA budget request gets recorded into a DAC-GT sub-account for that CCA of the IOU’s DAC-GT balancing account.³³ The IOU then remits the approved program funds to the CCA in four quarterly installments over the year.³⁴

Similar to DAC-GT, CCAs can establish the reasonableness of their costs and budget proposals for BioMAT in an annual budget Advice Letter filing. CCAs can establish their own non-comingled accounts to track their costs and revenues associated with the BioMAT contracts.

²⁹ See Resolution E-4999 (May 30, 2019) (allowing CCAs to participate in DAC-GT); *see also* Resolution E-5102 (Nov. 5, 2020) (approving Clean Power Alliance’s Advice Letter to create DAC-GT and Community Solar Green Tariff (CSGT) rates and program design).

³⁰ See Resolution E-5102 (requiring CCAs to establish through a Tier 3 Advice Letter how it will abide by all rules and requirements for the DAC-GT and CS-GT programs established in D.18-06-027); *see* D.18-06-027, *Alternate Decision Adopting Alternatives to Promote Solar Distributed Generation in Disadvantaged Communities*, R.14-07-002 (June 22, 2018) at 54, and O¶ 15, at 104 (requiring “all costs related to the implementation and operation” of the DAC-GT and CSGT programs to be tracked and reviewed in the IOU’s ERRA proceedings).

³¹ See Resolution E-5102, at 8; *see also* Resolution E-5124 (April 15, 2020) (approving Advice Letters of CleanPowerSF, East Bay Community Energy, Marin Clean Energy, Peninsula Clean Energy, and San Jose Clean Energy to create DAC-GT/CSGT programs and approving the Annual Budget Advice Letter process).

³² See Resolution E-5102, at 8.

³³ See D.18-06-027, at 54, O¶ 15 (requiring IOUs to establish two-way balancing accounts to track costs for the implementation and operation of the DAC-GT programs).

³⁴ Resolution E-5102, at 8-9.

As part of the annual budget Advice Letter filing, CCAs will provide workpapers supporting their request for cost recovery. Once approved, the IOU in whose territory the CCA operates can include the CCA's budget request in its own ERRA Forecast Application. The IOU can also establish subaccounts to its BNCBA for each CCA participating in BioMAT, under which the amounts funded for that CCA through the ERRA Forecast Application can be recorded. Like DAC-GT, the IOU can remit the approved funds to the CCA (into the CCA's non-comingled account) in four quarterly installments throughout the year.

While CalCCA believes a Tier 2 Advice Letter is sufficient, CalCCA has aligned with the IOUs to propose a Tier 3 Advice Letter to ensure Commission oversight of the costs of the BioMAT program for IOUs (through the ERRA Forecast proceedings) and CCAs (through the Tier 3 Advice Letter process). In addition, CCA Tier 3 Advice Letters approved in advance of the IOU's ERRA Forecast Applications creates a streamlined process for seeking recovery of CCA costs through the IOU Forecast proceeding, and the collection by the IOUs of the BioMAT costs through the PPPC.

C. The Commission Can Ensure Prudent Contract Management of BioMAT Contracts through the Application Process

CalCCA has aligned with the IOUs to propose that CCAs file individual Rule 2 Applications, like the IOUs file in their annual ERRA Compliance Applications, to allow the Commission to ensure prudent contract management of BioMAT contracts and balancing account entries. The IOU ERRA compliance proceedings allow the Commission to comprehensively review IOU activities over the past year to ensure prudent contract management, least-cost dispatch, efficient fuel procurement, and accurate management of the

IOU balancing account.³⁵ The Commission’s review is intended to ensure that costs recovered through rates are “just and reasonable” as required by Public Utilities Code section 451.³⁶ While hundreds of pages of testimony to support the IOU’s compliance application are typically filed, the BioMAT section to review BioMAT management may consist of a few pages of testimony and charts.³⁷ Given that each CCA’s Application will only seek review of that CCA’s management of its BioMAT contracts, the scope of the Commission’s review will be a fraction of the process required for the IOUs’ ERRA Compliance Applications. Nevertheless, the CCAs acknowledge they are seeking BioMAT cost recovery from ratepayers and thus the prudence review through an Application as is applicable to the IOUs should also apply to the CCAs in this particular case.

³⁵ See, e.g., D.21-07-013, *Decision Resolving Phase One of Pacific Gas and Electric Company’s ERRA Compliance Application for the 2019 Record Year*, A.20-02-009 (July 15, 2021), at 9 (as part of the ERRA compliance review, the Commission considers whether the utility has prudently administered its contracts, including administration of all contracts within the terms and conditions of those contracts).

³⁶ Public Utilities Code § 451.

³⁷ See, e.g., A.23-02-018, *Application of Pacific Gas and Electric Company (U 39 E) for Compliance Review of Utility-Owned Generation Operations, Portfolio Allocation Balancing Account Entries, Energy Resource Recovery Account Entries, Contract Administration, Economic Dispatch of Electric Resources, Utility-Owned Generation Fuel Procurement, and Other Activities for the Period January 1 through December 31, 2022* (Feb. 28, 2023) (PG&E 2023 ERRA Forecast Application), Prepared Testimony of PG&E, at 9-7 (describing the Energy Settlement team as working on BioMAT contracts); 9-11 (one paragraph discussing the management of BioMAT contracts), Table 9-1 at 9-16 (displaying zero new BioMAT contracts executed), Table 9-2 at 9-17 and Table 9-8 at 9-30 (displaying one new 3 megawatt BioMAT contract began delivery in 2022), Table 9-3 at 9-18, and Table 9-11 at 9-41 (displaying zero BioMAT contracts expired and 2 BioMAT contracts terminated), Table 9-6 at 9-25 (three BioMAT contract extensions), Table 9-7 at 9-27 (demonstrating one BioMAT contract that missed a Commercial Operation Date milestone); at 10-2 (including the BNBCBA in a list of balancing account allocations); Table 10-1 at 10-3 (listing 2022 CAISO settlement charges/revenues by balancing account, including BioMAT); 10-4 (describing the BNBCBA’s purpose to record the net costs of BioMAT contracts); 13-1, n.2 and 13-4, n.7 (listing the non-bypassable charge balancing accounts, including the BNBCBA); and 13-2 stating that the RPS and RA attribute value associated with PG&E’s PCIA-eligible resource portfolio are transferred from various recovery accounts (including the BNBCBA) for recovery from bundled customers).

VI. CALCCA’S RESPONSES TO POST-WORKSHOP QUESTIONS TO ADDRESS COMMUNITY CHOICE AGGREGATOR PARTICIPATION IN THE BIOENERGY MARKET ADJUSTING TARIFF PROGRAM

1. Question #1 – Filing of Tariff and Power Purchase Agreements:

- (a) What BioMAT tariff and Power Purchase Agreement (PPA) requirements should the California Public Utilities Commission (Commission) adopt for CCAs (e.g., interconnection requirements, attestations, program participation request (PPR) forms and fees, supporting documents, etc.)?**

The Commission should require CCAs to adopt the same standard Tariffs, Contracts and Forms as required of the IOUs. See Section III., above.

- (b) How should CCAs file tariffs, BioMAT standard PPAs, and executed BioMAT contracts? Should CCAs be required to file all via Tier 2 advice letters, Tier 3 advice letters, or through another regulatory process?**

Processes for CCAs to file tariffs, BioMAT standard PPAs, and executed BioMAT contracts should align with the processes adopted for the IOUs. In D.14-12-081, the Commission required the IOUs to submit within the IOU BioMAT rulemaking a standard tariff, standard contract and ancillary documents to implement the BioMAT program.³⁸ The Commission then issued D.15-09-004 approving, as modified, the tariff, contract and supporting documents.³⁹ The IOUs were required in D.15-09-004 to file within 30 days of the Decision a Tier 2 Advice Letter with the (clean and redlined) tariff, standard contract, and all ancillary documents to conform with the decision.⁴⁰

Similar to the process required by D.14-12-081, the Commission should require within this rulemaking that the CCAs provide a pro forma tariff, contract, and ancillary documents, and

³⁸ D.14-12-081, O¶2 at 91.

³⁹ D.15-09-004, O¶¶ 1-2, at 74.

⁴⁰ *Id.*, O¶ 1, at 74.

allow parties to comment on (and CCAs to reply to) the submissions. The Commission should rule on the pro forma tariff, contract and ancillary documents in the Final Decision in this proceeding. Subsequently, any individual CCA wishing to participate in the BioMAT program should be required to file a Tier 2 Advice Letter adopting the pro forma tariff, contract, and ancillary documents for its CCA and providing all information required by the Commission to implement its BioMAT program.

After BioMAT contracts are executed, CCAs (like IOUs currently) should be required to file their executed contracts as Tier 2 Advice Letters if no changes are made to the contracts.⁴¹ If any changes are made the contract amendments should be filed as Tier 3 Advice Letters – the same process required of IOUs.⁴²

2. **Question #2 – Commission Oversight:** How will the Commission’s Prudent Manager Standard be maintained with CCA as counterparties? This includes, but is not limited to, contract management, receipt of fuel source attestations and quarterly reports on High Hazard Zone biomass fuel stock requirements from facilities, and safety considerations.

CCAs should be held to the same prudent manager standard, with the same forms and attestations required under the tariffs and contracts. See Section V., above.

3. **Question #3 - Project Submission:**

- (a) **How should BioMAT project submission and access be managed?**

See section IV., above.

- (b) **Should CCAs receive PPRs via their own portal from potential project owners that will be submitted to the investor-owned utility (IOU) for eligibility review?**

See section IV., above. The CCAs should perform eligibility review for their Project applicants. When the CCA submits the completed PPR to be placed in the IOU queue, the IOU

⁴¹ D.20-08-043, O¶ 2, at 63.

⁴² *Ibid.*

should not perform any additional eligibility review, but should instead automatically place the applicant (based on the CCA's representation that the PPR is complete based on the requirements of the tariff) in the queue.

- (c) Should CCAs be provided access to the IOU's Accion platforms to perform eligibility review?**

See section IV., above.

- (d) If process (b) or (c) should not be adopted, what alternative process do you recommend?**

See section IV., above.

4. Question #4 – Queue Management:

- (a) How should the BioMAT queue(s) be managed given potentially multiple retail seller counterparty options?**

See section IV., above.

- (b) Should projects seeking a CCA BioMAT PPA be merged into the current BioMAT queue or have a separate CCA-specific queue? Describe why your choice is the preferred option.**

See section IV., above.

- (c) What entity should manage either a merged or separate BioMAT queue? For each scenario, describe why your choice is the preferred option.**

See section IV., above.

- (d) If CCAs have a separate queue, what process/protocol should be followed to verify if PPRs in CCA queues are complete?**

See section IV., above.

- (e) What process/protocol should be followed to track and oversee projects in the CCA queues?**

See section IV., above.

- (f) **If CCAs and IOUs have separate queues, what process/protocol should be followed to determine which projects are offered a contract in each program period?**

See section IV., above.

5. **Question #5- BioMAT Capacity Reporting and Pricing Mechanism:** Should the IOUs include in their 10-day reports how CCA executed projects impact available BioMAT capacity in each Fuel Resource Category?

Yes. Useful additional columns in the 10-day reports will include whether the applicant is applying to the IOU or a CCA (and designate the CCA) and the remaining BioMAT capacity in the applicable Fuel Resource Category.

6. **Question #6 – Cost and Benefit Allocation and Recovery:**

- (a) **What mechanism or process should be used for CCA BioMAT cost recovery, tracking, and allocation?**

See Section V, above.

- (b) **What mechanism or process should be used for CCA BioMAT oversight and treatment of resource adequacy (RA) and Renewable Portfolio Standard (RPS) attributes?**

CCAs should pay for and receive RA and RPS attributes, as IOUs currently do. See answer to Ruling question 6(e), below.

- (c) **Should CCA BioMAT non-bypassable charges be recovered from customers through the Public Purpose Program surcharge? If not, how should they be recovered and why?**

See Section V., above.

- (d) **Should CCA BioMAT forecasted costs and forecasted revenues be recorded, trued up, and recovered in the IOU's Energy and Resource Recovery Account (ERRA) proceedings? If so, should CCAs file forecasted costs in an advice letter or application? If ERRA proceedings are not the correct regulatory venue, describe a regulatory process to record, true up, and recover CCA BioMAT costs.**

See Section V., above.

- (e) **Should the amount that CCA customers pay for RA and RPS attributes be calculated the same as the IOU's current BioMAT non-bypassable charge methodology? If not, how should the amount be calculated and why.**

Yes, the amount that CCA and IOU customers pay for the RA and RPS attributes should be the same. As described in Section V., above, D.20-08-043 required each IOU to establish a BioMAT NBC balancing account (the BNBCBA) to collect the net costs for BioMAT-related procurement.⁴³ The RA and RPS attribute market value is calculated using the market price benchmark established in the power charge indifference adjustment proceeding (R.17-06-026)). The RPS and RA attribute market value used for bundled customer's compliance is credited to the BNBCBA and then debited to the IOU's ERRAs.⁴⁴

For the CCAs, and as set forth in Section V. above, CalCCA proposes that each participating CCA establish their own non-co-mingled BioMAT account that will receive funds from an IOU BNBCBA subaccount for that CCA funded through the IOU's ERRAs Forecast proceeding. The CCA, through its Annual Budget Advice Letter, will include its forecast of its BioMAT revenue requirement detailing its net costs including the BioMAT contract costs net of energy and ancillary service charges and revenues the BioMAT resource receives in CAISO. The market value of the RPS and RA attributes used for the unbundled customer's compliance will then be credited to the non-comingled BioMAT account and a debit will be recorded in its forecast of its BioMAT revenue requirement.

⁴³ *Id.*, at 14.

⁴⁴ *See, e.g.*, PG&E 2023 ERRAs Forecast Application, Prepared Testimony at 13-2 (describing how PG&E records the portfolio value for RPS and RA attributes used for bundled customers' compliance are transferred from the various recovery accounts, including the BNBCBA, to ERRAs for recovery from bundled customers).

(f) Are there other cost allocation issues that need to be resolved that relate to administrative costs, customer load migration, new or closing retail sellers?

Similar to the IOUs, CCAs will seek recovery of reasonable administrative costs to manage their BioMAT contracts. CCAs will seek a reasonableness review in connection with their BioMAT Application discussed in Section V. above for contract management review.⁴⁵ CCAs will also include in their Tier 3 Advice Letters seeking cost recovery a budget for such administrative costs.

In addition, CCAs with a BioMAT contract intend to claim the contract toward their Integrated Resource Proceeding (IRP) individual procurement requirements, including the requirements set forth in the mid-term reliability decision, D.21-06-035.⁴⁶

7. Question #7 - Environmental and Social Justice Impacts: How does Assembly Bill 843 implementation impact achievement of Environmental and Social Justice Action Goals (e.g., improvement of local air quality, public health, increase in climate resiliency, promotion of economic opportunity)?

AB 843 increases the number of load-serving entities (LSEs) able to receive cost recovery for BioMAT contracts thus increasing opportunities for electrical generation from eligible renewable resources.⁴⁷ Encouraging bioenergy projects is important from both an environmental and economic perspective. Biomass helps local air districts reduce emissions by preventing open burning of 1.5 million tons of agricultural and forestry residues each year.⁴⁸

⁴⁵ CCAs seek similar reasonableness review for recovery of administrative costs with respect to the DAC-GT/CSGT programs (through a Tier 2 Advice Letter), and the Percentage of Income Payment Plan Pilots. *See* Resolution E-5125 (Aug. 5, 2021), at 7 (ordering administrators of the DAC-GT and CSGT programs to submit a Tier 2 annual budget Advice Letter to ensure the proposal annual budgets receive proper scrutiny and are reviewed for reasonableness); *see also* Resolution E-5200 (Dec. 15, 2022), at 47 (allowing CCAs to propose budgets to recovery administrative costs for managing the PIPP pilots).

⁴⁶ D.21-06-035, *Decision Requiring Procurement to Address Mid-Term Reliability (2023-2026)*, R.20-05-003 (June 30, 2021).

⁴⁷ § 399.20(a)(1) (“[i]t is the policy of [California] and the intent of the Legislature to encourage electrical generation from eligible renewable energy resources”).

⁴⁸ California Biomass Energy Alliance: <https://www.calbiomass.org/general-statement/>.

From an environmental justice perspective, many stakeholders view small biomass facilities more favorably than large-scale biomass facilities because the emissions are incrementally less. For facilities that are located in disadvantaged communities or in federal severe or extreme nonattainment areas, expansion of the BioMAT program to these areas may be welcomed. In addition, the biomass industry supports both direct jobs and biomass facilities and also indirect jobs in the fuel supply infrastructure.⁴⁹ Many of these jobs exist in rural areas of California. Lastly biomass energy produced from sustainable forest management (as required under the BioMAT program), has the added benefit of reducing the threat of devastating wildfires and making forests more resilient.⁵⁰

VII. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests consideration of its proposals to incorporate CCAs into the BioMAT program and looks forward to an ongoing dialogue with the Commission and stakeholders.

Respectfully submitted,



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CALIFORNIA COMMUNITY CHOICE
ASSOCIATION

June 15, 2023

⁴⁹ *Id.*

⁵⁰ California Air Resources Board, *2022 Scoping Plan for Achieving Carbon Neutrality* (Dec. 2022), at 251 (discussing management of forests and shrublands, with the removed biomass going toward useful purposes including bioenergy).