January 8, 2024

VIA ELECTRONIC MAIL

Ms. Leuwam Tesfai
Executive 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 Pacific Gas and Electric Company's Tier 2 Advice Letter 7105-E Regarding Compliance with Decision 21-05-030, Ordering Paragraph 4

Dear Ms. Tesfai,

Pursuant to the California Public Utilities Commission's (Commission's) General Order (GO) 96-B,[1] the California Community Choice Association[2] (CalCCA) submits this protest of Pacific Gas and Electric Company's (PG&E's) Tier 2 Advice Letter 7105-E Regarding Compliance with Decision (D.) 21-05-030,[3] Ordering Paragraph (OP) 4, filed December 19, 2023 (PG&E Advice Letter). The Commission should reject PG&E's recommendation not to hold another Renewables Portfolio Standard (RPS) Voluntary Allocation Market Offer (VAMO) process at this time. As set forth below, PG&E misinterprets the Phase 2 Decision's parameters for holding a VAMO and ignores the Commission's intent to ensure indifference between bundled and unbundled customers. Instead, the Commission should order PG&E to conduct VAMOs once per Compliance Period (CP), beginning with CP 5 (2025-2027).

I. BACKGROUND

A. The PCIA Phase 2 Decision and RPS VAMO

Throughout 2022-23, load-serving entities (LSEs) (including investor-owned utilities (IOUs) and community choice aggregators (CCAs)) participated in the first VAMO cycle

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[1] References to "General Rules" are to the general rules identified in General Order 96-B.

[2] California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Ava Community Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert 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.

[3] D.21-05-030, *Phase 2 Decision on Power Charge Indifference Adjustment Cap and Portfolio Optimization,* Rulemaking (R.) 17-06-026 (May 20, 2021) (Phase 2 Decision).

ordered by the Phase 2 Decision. The VAMO was established to require the IOUs to equitably allocate and sell power charge indifference adjustment (PCIA)-eligible RPS resources for the benefit of customers who pay for such resources (including customers of the IOUs, CCAs, and electric service providers (ESPs)).[4] This reallocation of IOU PCIA-eligible RPS resources is intended to solve the issue of excess resources in IOU portfolios resulting from customers departing the IOUs for other LSEs (such as CCAs).[5]

The Voluntary Allocation is designed to proportionately redistribute the RPS resources to both bundled and unbundled load based on each LSE's (including the IOU's) current load share.[6] The Market Offer follows the Voluntary Allocation and allows the market sale of any remaining resources. Through the VAMO, departed load can secure the actual market value of the resource through acquiring the resource, which provides a more accurate value than only the average value afforded through the RPS market-price benchmark (MPB). While the MPB is eventually "trued up" to the actual value, the true-up happens many months later and fails to account for the compliance value (i.e., reduction in non-compliance risk) of the resources. In other words, if only bundled customers have access to the resources (and unbundled customers only receive the (even trued up) MPB), bundled customers will still receive an unfair advantage of guaranteed RPS compliance through that access itself. Unbundled customers can be subject to potential noncompliance without such access, especially in a scarce market such as the current RPS market. The disposition of these resources through the VAMO thus ensures true "indifference" among bundled and unbundled customers – i.e., that a customer's choice to stay with the IOU or depart for a CCA or other LSE does not impact the value received from, or access to, the resources for which unbundled customers continue to pay through the PCIA.

B. IOU VAMO Effectiveness Reports and Workshop

The Phase 2 Decision requires each IOU to file a VAMO Effectiveness Report (VAMO Report) within 90 days of completion of a VAMO cycle.[7] The VAMO Report must incorporate the IOU's calculation of remaining shares, propose whether and when to hold a future RPS VAMO, and include best practices and lessons learned.[8] IOUs are also required to hold a

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4 *Id.*, Ordering Paragraph (OP) 2-3, at 63-64.

5 *See id.*, at 12 (citing D.18-10-019 and the R.17-06-026 Scoping Memo as requiring proposals "for more active management of the utilities' portfolios in response to departing load in the future to minimize further accumulation of uneconomic costs").

6 *See id.*, OP 2(a)-(b), at 63 ("Voluntary Allocations shall comprise a "slice" of an IOU's entire PCIA-eligible RPS portfolio" and "LSEs will be offered allocations of the RPS portfolio in proportion to their vintaged, forecasted annual load share").

7 *Id.*, OP 4, at 64-65. The IOUs timely filed their VAMO Reports. *See* R.18-07-003, *Report of Southern California Edison Company (U 338-E) on Effectiveness of Voluntary Allocation and/or Market Offer* (Sept. 21, 2023); *Voluntary Allocation and Market Offer Effectiveness Report of Pacific Gas and Electric Company* (Sept. 28, 2023); *Report of San Diego Gas & Electric Company (U 902-E) on Effectiveness of Voluntary Allocation and/or Market Offer* (Oct. 2, 2023).

8 *Id.*, OP 4, at 64-65.

workshop with stakeholders to discuss the VAMO Reports.[9] Finally, within 90 days of the filing of the Report(s), the IOUs are required to file a Tier 2 Advice Letter proposing whether and when to hold a future VAMO (which is PG&E's Advice Letter at issue here).[10]

All three IOUs recommend in their VAMO Reports and Tier 2 Advice Letters that no additional VAMOs be held because the IOUs have no "excess" PCIA-eligible RPS after the first VAMO cycle.[11] The first VAMO (for CP 4) resulted in the IOUs allocating and selling three distinct "products" from the IOU PCIA-eligible RPS portfolios:

(1) "short-term allocations" (i.e., access to resources for the current RPS Compliance Period ending December 31, 2024)) from "short-term contracts" (i.e., IOU PCIA-eligible RPS resource contracts less than ten years remaining);

(2) short-term allocations from "long-term contracts" (i.e., IOU PCIA-eligible RPS resource contracts with ten or more years remaining); and

(3) long-term allocations (i.e., access to the resource for the length of the contract) from long-term contracts.[12]

Any long-term allocations (item (3), above) will prevent those resources from being available in future VAMOs. However, a substantial volume of resources was only committed during the first VAMO cycle for CP 4 through the short-term allocations (items (1) and (2), above). Therefore, substantial volumes of PCIA-eligible RPS will return to IOU portfolios for future compliance periods beginning January 1, 2025. However, PG&E (and the other IOUs) erroneously insist that such resources are not available to allocate in a future VAMO.

C. Substantial PCIA-Eligible RPS Resources Will Return to PG&E's Portfolio in Compliance Period 5

PG&E states in its Advice Letter that "PG&E's excess RPS resources were successfully eliminated in this VAMO cycle, as many, though not all, LSEs elected to receive all or portions of their VA shares, and nearly all remaining volumes were sold in the Market Offer process."[13] In fact, according to PG&E's VAMO Report, "95 percent of the total VAMO-eligible volumes in 2024 have been either allocated or sold to counterparties, including PG&E's voluntary allocation

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9 *Ibid*.

10 *Ibid.*; *see* PG&E Advice Letter; *see also Compliance of Southern California Edison Company with Decision 21-05-030, Ordering Paragraph 4,* AL 5173-E (Dec. 19, 2023); *San Diego Gas & Electric's Recommendation for Voluntary Allocation Market Offer Pursuant to D.21-05-030,* AL 4345-E (Dec. 19, 2023) (SDG&E Advice Letter).

11 *See* PG&E VAMO Report, at 2-5; SCE VAMO Report, at 2-3; SDG&E VAMO Report, at 4-6; PG&E Advice Letter, at 2-3; SCE Advice Letter, at 2; SDG&E Advice Letter, at 4.

12 *See* PG&E VAMO Report, at 4-5; SCE VAMO Report, at 5; SDG&E VAMO Report, at 2-3.

13 PG&E Advice Letter, at 5.

election."[14] PG&E's Advice Letter also states that "[g]iven that PG&E's first RPS VAMO eliminated PG&E's 'excess' RPS position, resulting in PG&E's physical RPS position being immediately short starting with the 2023 delivery year, and given the fact that PG&E is now actively purchasing RPS resources to meet its bundled service customers' RPS compliance needs, PG&E does not recommend holding another RPS VAMO."[15]

PG&E's VAMO Report demonstrates that a significant amount of the total resources offered for allocation and/or market offer sales during the 2023 VAMO were taken as short-term products – i.e., only for the duration of CP 4.[16] This includes all attributes allocated or sold from the resources in the short-term pool, and resources in the long-term pool that were allocated or sold as short-term products. PG&E provides the following chart to demonstrate its estimated calculation of "available VAMO-eligible volumes" coming back into its portfolio in CP 5.[17]

	Estimated Generation (MWh)				
	2023	**2024**	**2025**	**2026**	**2027**
Short-Term Portfolio	72,230	181,600	1,463,262	1,179,126	1,032,526
Long-Term Portfolio	116,275	333,403	3,984,438	3,981,248	3,975,789

The large increases in estimated generation in PG&E's short-term portfolio from 2024 to 2025 demonstrate that a significant volume of RPS comes back into PG&E's portfolio following the expiration of CP 4. The substantial increase in volume in the long-term portfolio beginning in 2025 similarly indicates there were significant short-term allocations from that portfolio that will also return to PG&E's portfolio in 2025.

These resources, which were paid for in part by unbundled customers, should be subject to another VAMO for the same reasons, and on the same methodology, as the attributes required by the Phase 2 Decision to be allocated and/or sold during CP 4 through the 2023 VAMO. While the IOUs have incentive given the current high RPS market prices to keep the resources for their bundled customers, the intent behind the Phase 2 Decision was <u>not</u> that bundled customers should be served first – rather, the intent was to ensure indifference among bundled and unbundled customers.

II. PROTEST

As set forth below, PG&E's recommendation not to hold future VAMOs is based on reasoning not supported by the Phase 2 Decision, and its methodology differs from the

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14 *Ibid*.
15 PG&E Advice Letter, at 2.
16 PG&E VAMO Report, at 5.
17 *Ibid.*

methodology approved by the Commission for the first VAMO. First, PG&E's justification for its recommendation that PG&E's net short RPS position demonstrates it has no "excess" RPS for its bundled customers incorrectly applies the VAMO methodology from the Phase 2 Decision. Second, PG&E fails to utilize the methodology approved by the Commission for allocation of the RPS resource portfolio by load share, and instead inappropriately utilizes a "bundled customer-first" approach. PG&E's recommendation also contravenes the Phase 2 Decision's explicit statement that a VAMO should be held regardless of whether the IOUs need to procure additional RPS in the market. Finally, PG&E's additional stated reasons for not conducting another VAMO, including the time-consuming aspect of VAMO and the uncertainties regarding PG&E's future RPS position without a Commission direction on future VAMOs, are irrelevant and insufficient for the Commission to deny unbundled customers their right to the resources. As a result, PG&E's Advice Letter recommending no additional VAMO should be rejected, and PG&E should be required to proceed with one VAMO per CP, beginning with CP 5.

A. PG&E Incorrectly Applies the Phase 2 Decision's Language Regarding "Excess" Resources to Justify Not Holding Additional VAMOs

PG&E incorrectly applies the Phase 2 Decision's language regarding "excess resources" in concluding and recommending that another VAMO not be held. PG&E bases its recommendation on language in the Phase 2 Decision Conclusion of Law (COL) 2.[18] That language, however, was only intended to provide a framework for the Commission's overall review of a PCIA Working Group 3 (WG 3) proposal for portfolio optimization, which included proposals specific to resource adequacy (RA) as well as renewables portfolio standard (RPS) resources. The language states the Commission should review the WG 3 proposal based on a list of criteria, including that: "[s]olutions should reduce excess and/or uneconomic resources in IOUs' PCIA portfolios."[19] The COL goes on to provide a definition of "excess resources" for these purposes, which are resources "that are not necessary to meet bundled customers' needs and compliance requirements."[20]

PG&E then uses this framework review definition of "excess resources" to claim there is now no need for another VAMO. In its AL, PG&E claims that "[a]s a result of conducting its first RPS VAMO, PG&E currently forecasts a physical, short RPS position," and that it "is not forecasted to have any 'excess' PCIA-eligible RPS resources from 2023 and beyond."[21] Therefore, PG&E concludes that no additional VAMO should be held.[22] PG&E's conclusion is misplaced.

First, PG&E conveniently ignores the words immediately following the cited language in the Phase 2 Decision – namely, that VAMO was intended to reduce excess "and/or uneconomic" resources in the IOUs' portfolios.[23] PG&E also ignores the explicit language in the Phase 2

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18 PG&E Advice Letter, at 2.
19 Phase 2 Decision, COL 2(a), at 58.
20 *Ibid.*
21 PG&E Advice Letter, at 2-3.
22 *Id.* at 3.
23 Phase 2 Decision, COL 2(a), at 58 (emphasis added).

Decision in which the Commission specifically acknowledges that the IOUs' portfolios contain significant amounts of "uneconomic" RPS resources.[24] Thus, whether resources are "excess" (by whatever definition) is simply not the only criteria for holding a VAMO process.

PG&E also ignores the significant fact that the language regarding "excess" resources does not appear in the paragraph ordering the RPS VAMO. The language quoted above states the general goal of the VAMO process, as summarized in the conclusions of law. But the Commission excluded this language in the ordering paragraph that sets out the methodology for determining RPS subject to the first VAMO. In adopting the RPS VAMO framework, the Commission's ordering paragraph requires the Voluntary Allocation to "comprise a 'slice' of an IOU's entire PCIA eligible RPS portfolio."[25] In addition, in the VAMO LSEs (including IOUs) are to be "offered allocations of the RPS portfolio in proportion to their vintaged, forecasted annual load share."[26]

Finally, notwithstanding IOU arguments that a VAMO should not be held if the IOUs require RPS for their bundled customers' compliance needs, the Commission has already determined this fact alone would not be enough to preclude a VAMO.[27] The Commission instead recognized that a VAMO may be appropriate even if at that time an IOU would have to go to the market to satisfy bundled customers' needs:

> SDG&E and PG&E argue that the Commission should not require IOUs to dispose of resources needed for bundled service customer compliance. PG&E . . . flag[s] that Voluntary Allocations could increase costs for bundled ratepayers if IOUs must procure additional resources for compliance. However, . . . legacy RPS contracts originally procured for customers that subsequently departed IOU service are uneconomic compared with today's RPS prices. We expect that IOUs should generally be able to procure replacement RPS contracts with lower costs, while acknowledging that replacing resources could still increase costs for bundled ratepayers.[28]

While the RPS prices may have increased since the time of the Phase 2 Decision, the fact remains that the Commission clearly considered that while bundled ratepayer costs may increase with such market prices, departing load should still have access to the resources for which they

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24 *Id.* at 17, 19.
25 *Id. at* OP 2(a), (b) at 63 (emphasis added).
26 *Ibid.*
27 *Id.* at 19.
28 *Id.* (emphasis added). The Commission went on to consider PG&E's concerns about mitigating costs risks and noncompliance risks.

paid. With the return of the volumes of RPS allocated and sold in the 2023 VAMO to PG&E's portfolio, the same circumstances exist as those pertaining when the first VAMO was ordered.

The Phase 2 Decision clearly envisioned more than one VAMO, and merely deferred consideration of the timing of subsequent VAMO processes until the success of the first was established. The Commission should order another VAMO now, and at least one VAMO process per future CP.

B. The Methodology for Calculating Amounts Subject to a New VAMO Should be Identical to the Methodology Used in the First VAMO

In addition to ignoring inconvenient language in the Phase 2 Decision, PG&E performed a different methodology in making its recommendation than the methodology that was adopted in the Joint IOUs' Advice Letter regarding the first VAMO. That Advice Letter, approved in relevant part by the Commission on October 25, 2021, provided that all LSEs (including the IOUs) would be offered their allocation based on each LSE's annual, vintaged load share of the entire PCIA-eligible portfolio.[29] Nothing in this language permitted the IOUs to take their "share" first – i.e., to consider whether there are sufficient resources in the PCIA-eligible pools to satisfy bundled customers' needs before calculating all LSEs' (including the IOUs') shares for allocation.

Notwithstanding the absence of Commission direction or permission to do so, PG&E performed a different analysis to determine "whether and when" to hold a subsequent VAMO. PG&E stated that it "determined whether it would have 'excess' resources, defined as resources which are not necessary to meet bundled service customers' needs and compliance requirements."[30] However, nothing in the Phase 2 Decision suggests, or permits, that the holding of a subsequent VAMO would be based on a different methodology than that adopted for the first.

If, as PG&E suggests, there is no need for a second (or subsequent) VAMO depending solely on whether bundled customers' compliance needs are met, the entire first VAMO will have resulted, in effect, with the non-IOU LSE customers having "borrowed" the RPS attributes from the IOUs for less than two years (the remaining period of CP 4). But the resources allocated and sold as short-term products may have contract lives extending well into CPs 5 and 6. These resources still qualify as "short term" for the purposes of VAMO. Because the first VAMO offered short-term allocations or Market Offer sales only during the period of CP 4, unbundled customers had no opportunity to obtain the benefits of those "short-term" resources attributes

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[29] *Joint Tier 2 Advice Letter of Southern California Edison Company, Pacific Gas and Electric Company and San Diego Gas & Electric Company to Propose Load Forecasting and Renewables Portfolio Standard Methodologies for Voluntary Allocation of the RPS Attributes of the Power Charge Indifference Adjustment Eligible Portfolio*, Southern California Edison Advice Letter 4569-E, Pacific Gas and Electric Company Advice Letter 6305-E, San Diego Gas & Electric Company Advice Letter 3835-E (Aug. 23, 2021), at 6.

[30] PG&E Advice Letter, at 4.

past 2024. If PG&E's logic is followed and no further VAMO is held, the benefits of those resources (as discussed above) are lost to non-IOU customers forever.

When the first VAMO was performed parties had no reason to believe that, if successful, a further VAMO would not be held to continue transferring the benefits of the IOUs' RPS portfolio to the other LSEs' customers. Further, following recommendations from IOU representatives, the original WG 3 Co-Chairs proposed limiting the amount of the IOUs' long-term RPS portfolios that was to be made available for long-term allocation.[31] This proposal was ultimately adopted in the Phase 2 Decision.[32] Not holding a VAMO in each of the Compliance Periods therefore permanently deprives non-IOU customers of the remaining attributes of these resources-resources for which those customers have already paid.

Thus, accepting PG&E's recommendation not to hold another VAMO would, contrary to the Phase 2 Decision, effectively preclude the non-IOU LSEs from access to the remaining short-term and long-term resource pools. This directly contradicts the portfolio optimization efforts that lie at the heart of the Phase 2 Decision.

C. Subsequent VAMOs Should Be Held Regardless of Whether PG&E is Physically "Short" RPS

PG&E claims that its revised methodology, and the recommendation not to hold a subsequent VAMO, are based on the circumstance that following the expiration of Compliance Period 4 "holding another VAMO cycle would increase the amount of additional RPS volumes PG&E would need to procure for bundled service customers and significantly accelerate its timeline for procurement versus if another VAMO were not held."[33] However and as discussed above, the Phase 2 Decision explicitly addressed this situation. The Phase 2 Decision makes clear that another VAMO may be required regardless of whether the IOUs would, at that time, be required to enter the market to procure attributes for their compliance obligations.[34] PG&E simply ignores this language in the Phase 2 Decision in recommending another VAMO not be held.

PG&E should be precluded from inserting its "revised" methodology to determine whether there are "excess" resources and thereby contravene the Phase 2 Decision. The Commission has already determined that an IOUs' short position with respect to its bundled customers' compliance needs is not sufficient justification for not holding another VAMO. PG&E provides no rationale for basing its recommendation on a circumstance the Commission has already determined is insufficient to justify withholding non-IOU LSEs' access to the IOUs' PCIA-eligible RPS portfolios.

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31 R.17-06-026, *Final Report of Working Group 3 Co-Chairs: Southern California Edison Company (U-338-E), California Community Chose Association, and Commercial Energy* (Feb. 21, 2020), at 39-40.

32 Phase 2 Decision, at 23.

33 PG&E Advice Letter, at 5.

34 Phase 2 Decision, at 19.

D. PG&E's Remaining Arguments against another VAMO Should be Rejected

PG&E also claims another VAMO should not be held for other reasons, none of which justify departing from the intent of the Phase 2 Decision. Among the reasons cited is that the first VAMO was "quite time consuming and lengthy."[35] This argument is irrelevant, and even PG&E acknowledges that much of this concern would be alleviated if the contracts and solicitations that were already approved were to be used again.[36]

Other reasons cited as to why no further VAMO should be held indicate PG&E's concerns are with its own internal processes, not the correct implementation of the Phase 2 Decision. For example, PG&E claims "there may not be sufficient time to bring new resources online before the exhaustion of PG&E's banked RECs."[37] In addition, according to PG&E, the "uncertainty" created by further VAMOs "makes portfolio optimization activities, such as the addition of long-term PPAs or sale of short-term Renewable Energy Credits (REC), as PG&E laid out its 2023 Draft RPS Plan, difficult to conduct and exposes bundled customers to higher costs and compliance risk."[38] These difficulties, however, will actually be lessened upon the Commission's decision, even assuming the decision is to hold further VAMO processes. Certainly, once that decision is made, PG&E can revise its strategies on the understanding that there will be further VAMO processes to factor into their calculations. In addition, none of these potential risks justify depriving unbundled customers access to PCIA-eligible RPS resources for which they have already paid.

III. CONCLUSION

As determined in the Phase 2 Decision, LSEs have paid for and are entitled to their load share percentage slices of the short- and long-term portfolios. This is as true for future Compliance Periods as it was CP 3, regardless of whether PG&E calculates it will be "short" during that Compliance Period with respect to its bundled customers' obligations. It was never the intent of the Phase 2 Decision that the IOUs have a preferred position in using the attributes of PCIA-eligible RPS resources for compliance.

CalCCA thanks the Energy Division for its review of this protest, and strongly urges rejection of PG&E's recommendation not to hold future RPS VAMOs. CalCCA also requests that the Commission order subsequent VAMO cycles be held in each future Compliance Period, beginning with Compliance Period 5.

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35 PG&E Advice Letter, at 6.

36 *See id.* at 7 ("PG&E views potential in a more expeditious review if the contracts and solicitation materials that have already been approved are used, which should make Commission review and approval more streamlined").

37 *Id.* at 5.

38 *Id.* at 7.

Respectfully,

CALIFORNIA COMMUNITY CHOICE ASSOCIATION

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