BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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REPLY COMMENTS OF THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION ON THE PROPOSED DECISION

David Peffer
Scott Blaising
BRAUN BLAISING SMITH WYNNE, P.C.
915 L Street, Suite 1480
Sacramento, CA 95814
Telephone: (916) 326-5812
E-mail: peffer@braunlegal.com

Attorneys for the
California Community Choice Association

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In accordance with Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the California Community Choice Association ("CalCCA") respectfully submits the following reply comments on the *Proposed Decision of Commissioner Randolph Setting Requirements for Load Serving Entities Filing Integrated Resource Plans* ("Proposed Decision").

I. SUMMARY

As expected, numerous parties filed opening comments on the Proposed Decision. This is a reflection of the significant work embodied in the Proposed Decision and its relevance to California's ambitious greenhouse gas ("GHG") reduction goals. As CalCCA stated in its opening comments, it is appropriate in light of statutory directives and principles for the Commission to accord deference to local governing boards of Community Choice Aggregation ("CCA") programs, which are working concurrently to achieve these same goals. Based on presumably competitive and parochial interests, however, certain parties support rigid, uniform applications of Integrated Resource Plan ("IRP") requirements to all Load-Serving Entities ("LSEs"). CalCCA urges the Commission to reject these biased arguments, and adopt a balanced outcome for CCA programs that provides necessary Commission oversight while

respecting local prerogatives. CalCCA looks forward to working with the Commission to develop, refine and implement this cooperative approach.

II. COMMENTS

A. Jurisdiction

Several parties submitted opening comments asserting unfettered Commission jurisdiction over CCA IRPs. As noted in CalCCA's opening comments, these comments are based on flawed and incorrect interpretations of Public Utilities Code Sections 454.51 and 454.51, and as such commit errors of law.[1] These arguments assume exclusive Commission jurisdiction, and in doing so fail to recognize the principles of concurrent jurisdiction, including cooperation and comity.[2]

Two specific claims merit closer attention. First, California Unions for Reliable Energy ("CURE") claims that the Commission's legislative mandate to identify a "diverse and balanced portfolio of resources" must, notwithstanding any express language or reasonable inference, mean that uniform control is needed over CCA programs, since according to CURE "there is no reason that the Legislature would have given the Commission this enormous task and required CCAs to submit IRPs to the Commission if the Legislature did not intend the Commission to implement that portfolio." (CURE Comments at 5.) In addition to being unsupported, this argument is contradicted by Section 454.51(b), which expressly requires that investor-owned utilities ("IOUs"), but not CCA programs, base their portfolios on the Commission's "diverse and balanced portfolio." This is only one of various ways in which the Legislature distinguished CCA IRPs from IOU IRPs. (*See, e.g.,* CalCCA Comments at 4-10.) In doing so, the Legislature

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[1] *See, e.g.,* CalCCA Opening Comments at 4-10. Unless otherwise noted, all statutory references are to the Public Utilities Code.

[2] As previously expressed and applied by the Commission, without "conced[ing] or limit[ing] any authority" the Commission has previously acknowledged and implemented shared jurisdiction "in a spirit of cooperation and comity". *See, e.g.,* D-05-08-038 at 25.

expressed an intent that reasonable distinctions exist (*e.g.*, that IOUs are potentially financially conflicted when serving both shareholders and ratepayers, while Community Choice Aggregators are not), and these distinctions must be acknowledged and meaningfully accommodated. The failure to do so is legal error.

Second, The Utility Reform Network ("TURN") incorrectly argues that Section 454.51 permits the Commission to order *general* long-term procurement by the IOUs with non-bypassable charges assigned to customers of all LSEs, including CCAs that do not elect to self-procure. (*See* TURN Comments at 2.) To the contrary, Section 454.51 only allows the Commission to impose non-bypassable charges on CCAs that elect not to self-procure their share of the *renewable integration* resources. Nothing in Sections 454.51 or any other statute expressly authorizes the Commission to impose non-bypassable charges for non-renewable integration resources through the IRP process.

B. IRP Consultant Costs

The Proposed Decision correctly concludes that, among other things, the Commission does not have authority to impose charges on CCA programs or CCA customers, and therefore all IRP-related consultant costs should be assigned to the IOUs. (*See* Proposed Decision at 121 [citing D.06-10-054].) Parties objecting to this allocation incorrectly argue that imposition of such costs would violate statutory cost-shifting prohibitions.

Cost-*shifting* prohibitions do not apply to this situation, as it is governed by cost-*allocation* rules, since these are not "stranded costs" but rather future costs principally associated with IOU-related *generation* activities. In addition, any proposal to impose costs on CCA customers through *distribution* rates must be subjected to rigourous scrutinty. This has not occurred in this proceeding, and even if it were to have occurred, the allocation of generation-

related IRP costs through distribution rates would be found wanting, since such an outcome would violate competitive neutrality and cost-causation principles.[3]

C. The Clean Net Short Proposal

CalCCA, along with Peninsula Clean Energy, University of California ("Regents"), California Municipal Utilities Association ("CMUA"), and the Governor (through his veto message of Assembly Bill ("AB") 79), support letting the California Energy Commission ("CEC") complete its AB 1110 proceeding (16-CEC-05) to establish GHG reporting guidelines, rather than have the Commission "tip-the-scales" and pre-judge the outcome by adopting PG&E's Clean Net Short ("CNS") proposal. (*See, e.g.,*CMUA Comments at 3; Regents Comments at 3.) As the Regents note, the CEC's latest AB 1110 implementation proposal (which proposes annual calculation) was issued the same day as opening comments were filed in this proceeding. (*See* Regents Comments at 3.) The Utility Reform Network ("TURN") also rightly observes that adoption of PG&E's CNS proposal could lead to the CEC and the Commission "administer[ing] conflicting methodologies" that "cannot be easily reconciled." (TURN Comments at 9.) Moreover, the Regents and CMUA claim that PG&E's CNS proposal, submitted as an *ex parte* presentation to the CEC, does not meet the Commission's evidentiary standards for adoption and does not provide parties a full and fair opportunity to comment. (*See* Regents Comments at 2-3; CMUA Comments at 1.)

As even PG&E admits, PG&E's CNS proposal does not give credit to LSEs that provide, and more importantly pay to operate, the additional GHG-free energy delivered to California's electric grid, thus unfairly penalizing the very same LSEs that are helping California achieve its

[3] *See, e.g.,* D.97-08-056 at 8 ("[W]e will not permit allocations of generation cost to distribution customers."); *see also* D.13-03-032 at 71 and D.14-12-024 at 48 (holding that costs and benefits from generation-related efforts only for bundled customers must be allocated through generation rates, not distribution rates).

GHG-reduction goals. (*See, e.g.,* CMUA Comments at 6.) Finally, the Regents state that it is not clear that the "complex calculations and the exponential increase in necessary data" to implement PG&E's CNS proposal could be met by the June 1 IRP filing deadline. (Regents Comments at 2.)

D. Standard and Alternative Plans

The Proposed Decision would adopt distinct filing requirements for LSEs based on a threshold of 700 GWh of annual load served. Southern California Edison Company ("SCE") submitted comments opposing this distinction, arguing that all LSEs, regardless of size, should be subject to the same IRP requirements. (*See* SCE Comments at 7-8.) SCE's argument for a "one size fits all" approach is merely a statement of its preference, and is unsupported by legal authority or record evidence. Moreover, SCE's argument is at odds with Sections 454.51 and 454.52, which clearly authorize – and require – different IRP requirements for different categories of IRPs. The 700 GWh threshold has been well established in this proceeding,[4] is consistent with statutory principles,[5] and should be maintained as written in the Proposed Decision. Moreover, parties' attempts to impose additional requirements on Alternative IRPs should be rejected. Any additional requirement should be considered after the test year, when empirical evidence can be brought forward to support the need for such additional requirements.

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[4] The 700 GWh threshold was proposed by the Energy Division in the May 16, 2017 *Staff Proposal on Process for Integrated Resource Planning*, and has been thoroughly discussed by parties through multiple rounds of subsequent comments.

[5] In addition to statutory distinctives set forth in Sections 454.51 and 454.52, the 700 GWh threshold is also established as reasonable in Section 9621(a) (applicable to publicly owned utilitieis) and Section 454.52(e) (applicable to electrical cooperatives). *See also* Proposed Decision at 124; Conclusion of Law 5.

III. CONCLUSION

CalCCA thanks the Commission for its consideration of these reply comments.

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Respectfully submitted,

/s/ David Peffer

David Peffer
Scott Blaising
BRAUN BLAISING SMITH WYNNE, P.C.
915 L Street, Suite 1480
Sacramento, CA 95814
Telephone: (916) 326-5812
E-mail: peffer@braunlegal.com

Attorneys for the
California Community Choice Association