BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

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REPLY OF THE ALLIANCE FOR RETAIL ENERGY MARKETS TO COMMENTS ON INTEGRATED RESOURCE PLANS

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REPLY OF THE ALLIANCE FOR RETAIL ENERGY MARKETS TO COMMENTS ON INTEGRATED RESOURCE PLANS

In accordance with the Administrative Law Judge's September 17, 2018 email and the May 14, 2018 Amended Scoping Memo, the Alliance for Retail Energy Markets ("AReM")[1] submits this reply to September 12, 2018 comments on Integrated Resource Plans ("IRPs"). Specifically, AReM replies to comments submitted by the California Environmental Justice Alliance and the Sierra Club ("CEJA/Sierra Club"), California Wind Energy Association ("CalWEA"), Pacific Gas and Electric Company ("PG&E"), Southern California Edison Company ("SCE"), and The Utility Reform Network ("TURN"). AReM's reply focuses on assertions and requests aimed at Electric Service Providers ("ESPs") generally, as well as comments directed at individual AReM members, including Calpine Energy Solutions, LLC ("Calpine Solutions"), Constellation NewEnergy, Inc. ("CNE"), and Direct Energy Business, LLC ("DEB").

[1] AReM is a California mutual benefit corporation formed by electric service providers that are active in California's direct access market. The positions taken in this filing represent the views of AReM but not necessarily those of individual members or affiliates of its members with respect to the issues addressed herein.

I. Electric Service Providers Will Endeavor to Meet Long-Term RPS Procurement Requirements

CalWEA asserts that IRPs prepared by ESPs "do not address the [RPS] long-term contracting requirement" and that "the Commission should inform … each ESP of the options available to meet these obligations and the consequences of failing to do so, including the potential levy of penalties."[2] Contrary to CalWEA's assertion, the IRPs prepared by the ESPs do address the RPS long-term contracting requirement and acknowledge the ESPs' intentions to meet the long-term contracting obligations.[3] To the extent CalWEA is arguing that the ESPs should have speculated as to which specific RPS resources in the IRP would be associated with future long-term contracts beyond those which have already been signed, this information is impossible to determine with accuracy and was not required by the IRP filing. As the AReM ESPs enter into additional long-term contracts to meet the RPS requirement, they will update future IRPs to reflect that procurement. Furthermore, CalWEA's suggestion that ESPs need a reminder of this obligation is unfounded and unnecessary, as the Commission has issued decisions setting forth the RPS long-term procurement requirement and the penalties that apply for failing to achieve RPS procurement obligations.

Furthermore, CalWEA incorrectly claims that "an ESP appears to contemplate not meeting the long-term contracting requirements," referencing DEB's IRP and DEB's position that it would place greater focus on long-term contracting to ensure compliance with the new long-term procurement obligations.[4] CalWEA's interpretation of DEB's IRP is wholly incorrect—CalWEA interprets DEB's IRP language as DEB merely considering the option of long-term contracting,

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[2] CalWEA Comments, pp. 2, 4.

[3] See, e.g., CNE's IRP at p. 10.

[4] CalWEA Comments, p. 2, citing DEB's IRP pp. 10, 13, and 14.

rather than DEB's intent which is to place more emphasis on long-term contracting to meet its statutory requirements. In fact, DEB has every intention of meeting long-term procurement obligations. CalWEA's misplaced interpretation of DEB's IRP and DEB's intention should be wholly disregarded by the Commission as nothing more than its effort to imply that DEB and ESPs generally will not meet their RPS obligations in order to bolster support for CalWEA's proposal to utilize a central RPS procurement entity (a proposal which is discussed separately below).

II. TURN's and CalWEA's Suggestion to Mandate Use of a Central Procurement Entity for ESPs is Unjustified

Several parties suggest that use of a procurement entity could facilitate compliance with the RPS long-term contracting requirement.[5] While TURN recognizes the fact "that ESPs do not have long-term customer commitments and typically project forward for no longer than three years with any degree of confidence," TURN distorts this fact in seeking to require "the Commission to consider more comprehensive centralized procurement approaches that can enter into long-term resource commitments on behalf of aggregated ESP customer loads."[6]

That TURN and CalWEA support having some entity under direct CPUC control procure resources on behalf of all load is not new. The problem here is the contention that the manner in which the ESPs have presented their IRPs support the need for central procurement, when in fact, there is nothing in the ESP IRPs suggesting that ESPs cannot or will not meet the long-term procurement obligations. Indeed, TURN fails to provide any support for its concern that long-

[5] *See* CalWEA Comments, p. 4; TURN Comments, pp. 13-14.

[6] TURN Comments, pp. 13-14.

term procurement obligations will not be satisfied.[7] TURN's position also ignores the fact that ESPs fully have the ability to manage their portfolios through sales and purchases of renewables. This ability ensures that even with long-term load uncertainty, ESPs can undertake sufficient long-term procurement to meet RPS procurement obligations while optimizing procurement levels through the use of additional purchases and/or sales of renewable products as needed as their load positions change.

More importantly, however, TURN's suggestion that a procurement entity be required for ESP long-term resource commitments would defeat the goals of retail competition and choice, needlessly driving up costs to consumers (which, it must be noted, directly contradicts one of TURN's overarching mission goals of affordability). For these reasons, TURN and CalWEA's recommendation to mandate use of a procurement entity to undertake ESP renewable procurement should be afforded no weight by the Commission, and should be rejected.

III. Refiling IRPs at this Time to Reflect SB 100 is Premature

TURN suggests that the "Commission should reject any IRP submission that does not assume compliance with [SB 100] RPS targets" and that IRPs "that do not conform to the SB 100 [Procurement Quantity Requirements] PQRs and fail to apply the Portfolio Content Category requirements to the revised targets" should be resubmitted.[8] While all AReM members are in the process of evaluating how to adjust their future procurement efforts to meet SB 100 requirements, TURN's suggestion should be rejected for a number of reasons.

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[7] It is also puzzling that while TURN advocated so strongly to implement the 65% long-term procurement requirement as part of SB 350, they now appear to suggest, before the requirement even begins, that certain LSEs will be incapable of meeting this requirement on their own.

[8] TURN Comments, p. 2.

First, requiring LSEs to resubmit IRPs every time there is a change in law would set a burdensome precedent for LSEs, the Commission, and the public, and seems unnecessary since IRPs will be filed every two years. As noted by the Commission, the two year process "was proposed to achieve the state's policy goals by balancing a system-wide perspective with a consideration of the unique circumstances of each individual LSE."[9] Requiring additional updates beyond the established two-year cycle would disrupt this balance and negate the careful consideration the Commission gave in implementing a 2-year IRP cycle.

In addition, D.18-02-018 describes how "the purpose of the reference system portfolio is to point the ***general direction*** for planning purposes, for individual LSEs and policymakers, while being updated with better information at least every two years."[10] While SB 100 does increase certain RPS obligations *after 2020*, the filed IRPs, particularly in the near term (through 2020), provide "general direction" for planning purposes, as contemplated by the Commission. Furthermore, the 42 million metric tons ("MMT") target adopted by D.18-02-018 is already very close to the SB 100 targets.[11] Accordingly, IRPs already sufficiently provide general direction for planning purposes and need not be updated at this time.

Finally, TURN's suggestion fails to account for the fact that the Commission has not yet adopted requirements to implement SB 100. Actual RPS Procurement Quantity Requirements for

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[9] D.18-02-018, p. 14.

[10] D.18-02-018, pp. 90-91, emphasis added.

[11] While SB 100 sets a target of 60% renewables by 2030, the 42 MMT target adopted by D.18-02-018 assumes a 2030 renewable target of 57%. (*See* Preliminary RESOLVE Modeling Results for Integrated Resource Planning at the CPUC, p. 44, available at http://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/UtilitiesIndustries/Energy/EnergyPrograms/ElectPowerProcurementGeneration/irp/17/CPUC_IRP_Preliminary_RESOLVE_Results_2017-07-19_final.pdf.)

post-2020 compliance periods have not been established.[12] Given that actual RPS procurement requirements have yet to be adopted by the Commission, TURN's request is premature and must be rejected.

IV. ESPs Properly Evaluated Disadvantaged Communities and Pollutants in their IRPs

CEJA/Sierra Club allege that "the ESPs' [air quality] AQ and [disadvantaged communities] DAC analyses are disappointing and for the most part do not meet the requirements of the Commission's Decision or SB 350."[13] Similarly, SCE alleges that certain ESPs, including CNE, "did not include [air pollutant emissions] estimates at all, or did not estimate them for the full forecast period, despite Commission direction to do so."[14] SCE asserts that D.18-02-018 requires all "LSEs to include in their IRPs '[d]etailed estimates of emission of … local air pollutants (including at least, nitrogen oxides and particulate matter), as well as annual starts of natural gas plants. These emissions estimates shall include emissions due to cycling as well as normal operations.'"[15]

During the course of preparation of the IRPs, ESPs explained to staff the reasons why is it not possible for ESPs to estimate the level of emissions in DACs. First, ESPs have no control over the dispatch of emitting facilities located in DACs and have no insight into how they will be started and stopped, therefore, detailed estimates are impossible to make. Second, ESPs do not

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[12] While SB 100 does set targets for final years of compliance periods, it does not specify what targets should be used for intervening years of compliance periods. Although TURN recommends that the "Commission should assume the adoption of the 'linear trend' approach to calculating Procurement Quantity Requirements for each multi-year compliance period," the Commission has yet to make that determination and actual Procurement Quantity Requirements for post-2020 compliance periods are unknown at this time. (TURN Comments, p. 2, footnote 2.)

[13] CEJA/Sierra Club Comments, p. 34.

[14] SCE Comments, p. 12.

[15] SCE Comments, p. 12, citing D.18-02-018, Ordering Paragraph 7.

have access to the level of detail requested by CEJA/Sierra to include items like cycling. The most accurate information that ESPs can provide regarding air pollutant emissions is an assessment of whether the ESP has energy procurement contracts with fossil fuel resources. The responses provided by ESPs comply with IRP requirements and the direction provided by staff by noting when certain requested data was unavailable or not possible to obtain and by addressing any energy procurement contracts with fossil fuel resources in DACs and associated pollutants, as follows:

> In its IRP, CNE stated:
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> > CNE does not currently have any energy procurement contracts with fossil fuel resources and does not include any such resources for future procurement in its Baseline Resource Data template. As such, CNE does not have any nitrogen oxides or particulate matter estimates to report.[16]

Accordingly, CNE properly responded to the request for emissions data.

> DEB's IRP states:
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> > Because DEB does not dispatch specific resources or have firm commitments for any fossil units, it is unknown what specific emissions occur in DACs. In addition, DEB currently does not have any contracts with emitting units in DACs for longer than five years.[17]

Again, DEB's IRP complies with the requirements for this analysis as directed by Commission staff.

> Calpine Solutions' IRP states:
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> > Calpine Solutions does not directly contract with any fossil-fired generation to meet its energy needs, and has no plans to in the future. All gas generation in each portfolio is from CAISO system power. … Calpine Solutions has no specific information on how these emissions impact disadvantaged communities. Because the gas generation

[16] CNE IRP, p. 8.

[17] DEB IRP, p. 12.

> represents a slice of the entire CAISO system, these emissions should be spread over all gas generation in the system.[18]

Calpine Solutions' IRP similarly complies with applicable requirements as directed by staff.

In summary, CEJA/Sierra and SCE's comments suggesting the AReM members' filings are deficient are inaccurate as each AReM member addressed the emissions estimate requirements in their respective IRPs.

With respect to quantitative data about the number of customers served in DACs, staff recognized that due to the prohibition on residential load taking Direct Access service, data requirements with respect to population served in DACs was largely inapplicable to ESPs. Staff informed ESPs that the Standard Plan IRP template requirement that LSEs specify the "total disadvantaged population number served as a percentage of total number of customers served"[19] should be based on the percentage of customers ESPs have in ZIP codes identified as being in DACs by the CalEnviroScreen tool, and that such data could be reported in aggregate. That is precisely what each AReM member did in its IRP. CEJA/Sierra Club's contention that "most of the ESPs supply little to no information about their customers in disadvantaged communities, such as what types of industries they serve," [20] are entirely misplaced, as such information was not required.

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[18] Calpine Solutions IRP, p. 16.

[19] Standard LSE Plan Template (Attachment A to D.18-02-018), p. 7.

[20] CEJA/Sierra Club Comments, p. 35.

V. ESPs Properly Sought Confidentiality

TURN and PG&E both express concern over ESP assertions of confidentiality, yet recognize that redaction is necessary and authorized by statute and the Commission.[21] For example, TURN acknowledges that "it is reasonable to permit ESPs to claim confidentiality for some types of information."[22]

AReM members properly asserted confidentiality in accordance with the Commission's confidentiality protections described in D.06-06-066, D.08-04-023, and the Matrix of Allowed Confidential Treatment for Energy Service Provider Data ("ESP Matrix") attached as Appendix B to the latter decision. Additionally, D.18-02-018 explicitly states that "ESP load information (consistent with IEPR Confidential Form 7.1) is considered confidential" along with GHG benchmarks.[23] And finally, the requirements and instructions for Standard LSE Plans provided in the Standard LSE Plan Template and attached to D.18-02-018, provides that "ESP load forecasts should be filed under seal, and the Commission staff will aggregate the ESP submittals to protect confidentiality."[24] Given this clear language that ESP load forecasts are confidential, ESP motions to file their load information under seal were properly filed and should be granted, TURN and CEJA/Sierra's desire to get the ESPs' confidential data notwithstanding.

Not only does the clear language in D.18-02-018 dictate that the ESP motions to file load information under seal are appropriate and should be granted, but load information beyond the

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[21] TURN Comments, p. 14; PG&E Comments, pp. 3, 7, 18.

[22] TURN Comments, p. 14.

[23] D.18-02-018, p. 121. D.18-02-018 provides that "[b]ecause ESP load information (consistent with IEPR Confidential Form 7.1 is considered confidential, the GHG Emissions Benchmark would be determined for all ESPs in aggregate" and that "each ESP would be required to calculate its own confidential GHG Emissions Benchmark." (D.18-02-018, p. 121; *see also* D.18-02-018, Attachment A, p. 5.)

[24] D.18-02-018, Attachment A, p. 3.

ESP Matrix's front three years' "window of confidentiality" must also be redacted to prevent the disclosure of confidential load information within the front three years (which falls squarely within the ESP Matrix's window of confidentiality). In ESP IRPs, much of the retail sales forecast data provided beyond the front three years by ESPs was based specifically on forecasted load data within the front three years (therefore falling within the Commission-approved window of confidentiality).[25] This is also true for certain resource and procurement assumptions in ESP IRPs (§§ II.B and V.A of the ESP Matrix deem resource adequacy supply data and market purchases of energy and capacity confidential), which are properly treated as confidential by ESPs in accordance with the Commission's confidentiality requirements.

Finally, PG&E's recommendation that "[f]uture IRP cycles should consider what cost information is needed from non-IOU LSEs to assess the cost impacts of the Commission's IRP policies"[26] ignores Commission confidentiality rules which protect ESP cost information. Sections I.C, IV.A, IV.B, and IV.C of the ESP Matrix provide that ESP cost information is confidential. Accordingly, PG&E's attempt to obtain cost information from ESPs is unfounded and should be rejected.

VI. CEJA/Sierra Club Fail to Recognize Jurisdictional Limitations

CEJA/Sierra Club "suggest that any authorized procurement from an … ESP … meet [specific] standards."[27] This suggestion must be rejected given that the Commission does not have jurisdiction over ESP wholesale energy purchases. Based on this lack of jurisdiction, it is

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[25] For example, DEB notes in its IRP that "DEB assumed for planning purposes that its customer count would remain constant," despite the reality that DEB, as an ESP, is likely to have its customer count change given "the dynamic nature of being a direct access provider." (DEB IRP, pp. 4-5.) Similarly, Calpine Solutions' IRP was developed "assuming forecasted 2019 demand levels." (Calpine Solutions IRP, p. 3.)

[26] PG&E Comments, p. 24.

[27] CEJA/Sierra Club Comments, p. 46.

improper for the Commission to review, approve, or otherwise dictate procurement activities of ESPs, including wholesale energy purchases, solicitations, transactions, and retail contract terms and conditions (other than verifying compliance with RPS and RA procurement obligations).

VII. CEJA/Sierra Club Fail to Recognize Uncertainty for ESP Forecasting

CEJA/Sierra Club "request that the Commission disapprove or decertify an LSE's plan if the LSE materially changes to [sic] its planned procurement." Unlike the IOUs, the load for ESPs is fully contestable, such that all of an ESP's customers may, at the end of their contract term, decide to renew with that ESP, take service from another ESP or from a CCA if their load is within the territory of an established CCA, or return to utility service. Additionally, ESP retail customer commitments rarely exceed 36-months. Therefore, all forecast load data is subject to change. Not only does this make long-term forecasting significantly more difficult and less accurate for ESPs than for IOUs, but it necessitates that ESPs must dynamically respond to changing loads to ensure compliance with various procurement obligations. While ESPs have included forecast information in their IRPs as accurately as possible, the reality is that loads will change based on customer decisions and ESPs have no control over such decisions. Accordingly, it is not only unrealistic that ESPs undertake future procurement solely in line with forecasts provided in the IRP, but doing so would be uneconomical, impractical, and could result in RPS or RA scarcity for other LSEs, resulting in higher costs for California customers.

VIII. Conclusion

For the reasons outlined in this reply, the recommendations of CEJA/Sierra Club, CalWEA, PG&E, SCE, and TURN described herein should be rejected. Furthermore, the Commission should conclude that ESPs properly followed and addressed applicable IRP requirements.

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Respectfully submitted,

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