



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

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Order Instituting Rulemaking to Review,
Revise, and Consider Alternatives to the
Power Charge Indifference Adjustment.

Rulemaking 17-06-026
(Filed June 29, 2017)

**AMERICAN CLEAN POWER – CALIFORNIA
REPLY COMMENTS ON PHASE 2 DECISION ON POWER CHARGE
INDIFFERENCE ADJUSTMENT CAP AND PORTFOLIO OPTIMIZATION**

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In accordance with Rule 14.3 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, American Clean Power – California (“ACP-California”) submits the following reply comments responding to comments and recommendations in opening comments on the Phase 2 Decision On Power Charge Indifference Adjustment Cap And Portfolio Optimization (“Proposed Decision” or “PD”).

Parties’ opening comments were largely supportive of the Proposed Decision with respect to the proposed allocation structure for RPS attributes from the Investor Owned Utilities’ legacy portfolios. Numerous parties, including the large Investor Owned Utilities (“IOUs”); Cal Advocates, TURN, and CalCCA call for a variety of clarifications of how the Voluntary Allocation and Market Offer (VAMO) will be implemented.¹

Cal Advocates asserts that the VAMO should apply to resources that are in excess of RPS compliance needs for bundled customers.² Cal Advocates opening comments do not indicate over what period of time the Commission should evaluate excess procurement. Since RECs can be banked and RPS compliance requirements will increase under SB 100, then taken to an

¹ See SCE Opening Comments at pp. 2-9; Cal Advocates at p. 2; TURN at p. 3; CalCCA at pp. 10-14.

² See Cal Advocates at p. 2.

extreme, all RPS resource are theoretically needed for compliance. On this issue, the Proposed Decision reaches the most administratively feasible result – i.e., to allow the utilities to decide how and when to offer RPS Resources into the VAMO auctions with evaluation in the regular RPS compliance cycle. The Commission should avoid placing restrictions on managing the IOUs RPS fleet. Doing so would be antithetical to the Commission’s stated policy objectives of ensuring direct access customers benefit from their investments in the PCIA. Placing restrictions on IOU portfolio management would limit direct access customers’ benefits from the REC value because the RECs would presumably be sold or banked for future compliance and not allocated to direct access customers. To avoid this outcome, the Commission should allow the IOUs to prudently manage their RPS portfolios, including existing contracts and bids they may receive for new contracts. We believe the RPS plan filing requirements will provide an appropriate forum to ensure that the IOUs are offering an appropriate volume of RPS attributes into the VAMO on a regular basis by aligning with the same proceeding addressing compliance needs for bundled customers.

Several parties also raised implementation questions concerning the appropriate term for VAMO contracts, particularly short term contracts. ACP-California agrees with TURN that the “minimum duration of any offtake commitments should be aligned with the same duration of as the relevant compliance period.”³ We agree that allowing shorter term contracts poses a material risk that VAMO allocations will not align with the planning periods used in the RPS and the IRP proceedings.

Cal-CCA raises several important implementation concerns that we urge the Commission to consider in this proceeding. For the VAMO to successfully and fairly redistribute the benefits

³ See TURN Opening Comments at p. 2.

of the IOU's legacy portfolios, it is critical that the VAMO mechanism be predictable and work for both the IOUs, the sellers under RPS contracts and the direct access parties. ACP-California agrees that the buyers of VAMO contracts should receive both the RECs and a slice of the RPS energy in the IOU's VAMO portfolios. ACP-California also agrees that the VAMO contracts should be structured to enable LSE should to re-market their VAMO slices. Finally, ACP-California agrees that any implementation issues deferred to the RPS proceeding should be finite in scope and parties should have confidence that the fundamental structure of the VAMO will not change in subsequent RPS decisions.

Finally, like ACP-California, IEP commented on the RFIs for contract assignment and/or modifications and stressed the need to bolster confidentiality protections of any responses.⁴

ACP-California was concerned by the Joint CCA party's comments on the Proposed Decision. The Joint CCA's offer the following without support or reference:

The fact that the amount of excess is declining does nothing to change the fact that these legacy RPS contracts are vastly above-market and in some cases exceptionally long-lived. The cost burdens associated with legacy RPS commitments made by the IOUs and retained in the PCIA will continue to hinder the State's electricity affordability objectives, potentially hamper building and transportation electrification efforts, and continue to obstruct long-term planning necessary by CCAs to deliver deeper transformative solutions to climate change within our communities.⁵

It is important to recognize that the legacy RPS contracts the Joint CCAs complain about were all found to be just and reasonable by the Commission at the time they were executed. The long term contract structures facilitated the development of these resources and support the ongoing operations of these resources. These contracts helped pave the way to lower cost clean

⁴ See IEP Opening Comments at p. 2.

⁵ See Joint CCA Opening Comments at p. 2.

capacity that are now available in the market and should not be seen as a barrier to CCA-driven climate solutions. The Joint-CCA’s suggestion that the IOUs are not prudently managing their contracts by simply continuing to adhere to their contractual obligations under these long term contracts is misplaced. The IOUs should not be faulted for adhering to their contract obligations. Their adherence to their contractual commitments is what has helped bring the price of renewables down over the years. The IOU’s commitment to these legacy contracts has been critical to ensuring a stable investment climate in California. Challenging existing contracts as suggested by the Joint CCAs will fundamentally undermine investor confidence in California, which will lead to the very problems that the Joint CCAs state they are concerned with. Put differently, delivering “deeper transformative solutions to climate change” will require unprecedented development and investment in California. Undermining long term contracts will only chill investor confidence in California.

In sum, ACP-California encourages the Commission to move forward with VAMO structure for RPS resources as contemplated in the Proposed Decision. As noted in our Opening Comments, the Commission should more explicitly incorporate the guiding principle for contract protection as contemplated in D.18-10-019. We also believe the Commission should eliminate the RFI requirement, or at a minimum clarify the confidentiality protections applicable to any RFI responses.

DATED: May 3, 2021

Respectfully submitted,

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