BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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COMMENTS OF CALIFORNIA UNIONS FOR RELIABLE ENERGY ON RELIABLE AND CLEAN POWER PROCUREMENT PROGRAM STAFF PROPOSAL

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Pursuant to the Ruling Seeking Comments on the Reliable and Clean Power Procurement Program (RCPPP) Staff Proposal and the May 15, 2025 Email Ruling Granting Request for Extension of Time to submit comments on the proposal, California Unions for Reliable Energy (CURE) respectfully submits these opening comments. CURE only responds to the GHG Reduction Questions in the Staff Proposal but reserves the right to respond to the Reliability Questions in reply comments.

I. INTRODUCTION

SB 100 (DeLeón), enacted in 2018, mandated that 100% of retail electricity sales in California be supplied with clean power by 2045. Before SB 100, the Renewable Portfolio Standard (RPS) required 50% of in-state retail electric sales be

supplied with eligible renewables by 2030.[1] Building on the RPS, SB 100 increased the RPS mandate to 60% by 2030[2] and directed that "***eligible renewable energy resources*** and ***zero-carbon resources***" supply 100% of sales by 2045.[3] SB 1020 (Laird), enacted in 2022, set interim clean energy targets of 90% by 2035 and 95% by 2040, on the way to the 100% by 2045 target.[4] To meet these targets, electric utilities must significantly increase their procurement of eligible clean energy resources over the next 20 years.

California law clearly defines RPS eligible renewable energy resources. Public Resources Code (PRC) section 25741 states that a "renewable electrical generation facility" means:

> The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells or linear generators using fuels described in this paragraph that otherwise meet the requirements of this subdivision, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

The RPS statute defines "eligible renewable energy resource" to include those resources listed above, with exceptions for certain hydro and waste conversion facilities. Small hydroelectric facilities in operation before 2006 count as RPS-

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[1] Cal. Sen. Rules Comm, *Senate Floor Analysis: SB 100 (DeLeón)* (Aug. 28, 2018) (enacted version), https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180SB100.
[2] Pub. Util. Code § 399.11(a).
[3] *Id.* § 454.53(a). References to "sales" as used herein mean retail sales of electricity to end-use customers in California.
[4] Cal. Asm. Util. & Energy Comm, *Assembly Floor Analysis: SB 1020 (Laird)* (Aug. 29, 2022) (enacted version), https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220SB1020.

eligible, but newer small hydro facilities can only support RPS compliance if they do not "cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow."[5] Further, statute excludes all "municipal solid waste" combustion resources from RPS eligibility.[6]

By contrast, SB 100 did not define "zero-carbon resource." While clean energy procurement beyond the 60% RPS minimum can be met with RPS-eligible renewables, the statute leaves unanswered which zero-carbon, non-renewable or non-RPS-eligible resources may be used to meet the final 40% requirement. Without a statutory definition, the Commission must determine which additional resources should count towards the final 40% requirement.

Moreover, it is the Commission's responsibility to ensure electric utilities procure "best-fit and least-cost" resource portfolios that enable grid reliability and GHG emissions reductions, in addition to SB 100 compliance.[7] Specifically, PUC section 454.51 directs the Commission to (1) "[i]dentify a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy and resource diversity in a cost-effective manner," (2) "establish integrated resource planning [IRP]-based procurement requirements that rely on zero-carbon-emitting resources to the maximum extent reasonable," and (3) design the IRP to achieve SB 100 targets and "any statewide

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[5] *Id.* §§ 399.12(e)(1)(A), (B).
[6] *Id.* § 399.12(e)(2)(A) ("A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable energy resource.").
[7] *Id.* §§ 454.51(a), (b).

greenhouse gas emissions limit established pursuant to the California Global Warming Solutions Act of 2006. . . or any successor legislation."[8]

To date, the Commission has not provided a clear regulatory compliance path for SB 100 beyond RPS program requirements that already exist.[9] While the Commission has developed a preferred system plan (PSP) for "best-fit and least-cost" portfolios in the IRP proceeding, PSPs are planning aids, not procurement mandates. When the Commission realizes the need to issue a procurement mandate, it does so on an order-by-order basis. But the order-by-order approach can be unpredictable, undermining proactive utility procurement and new resource development. According to the Energy Division:

> The current approach of issuing individual procurement orders is somewhat unpredictable for LSEs [load-serving entities] and presents barriers to efficient procurement and reliability by failing to address load migration, facilitate proactive LSE self-provision of required resource attributes, or expressly address existing resource retention. Any of these barriers to efficient procurement may put reliability at risk. Further, factors such as the increased role of community choice aggregators, reduced options for capacity contracts, limited new resource supply, uncertain load growth due to data centers and electrification, and more ambitious GHG reduction goals have created an urgent need for more procurement.[10]

Therefore, the RCPPP Staff Proposal aims to "establish a clear and predictable set of long-term procurement requirements" allowing electric utilities "to better plan

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[8] *Id.* § 454.51.
[9] RCPPP Staff Proposal, p. 47 ("Staff would complete a stakeholder process to determine zero-carbon resources eligible for the CES [Clean Energy Standard], which would include consideration of currently non-RPS eligible resources.").
[10] *Id.*, p. 11.

and implement their procurement of reliable and clean electric resources."[11] Unfortunately, the proposal as written falls short.

CURE agrees that clearer and more predictable procurement guidance is important to provide greater market certainty and stimulate much needed investment in new resources to meet SB 100 targets. Moreover, greater predictability should encourage proactive procurement, and in turn, promote rate stability and affordability.

That said, CURE is deeply concerned that Energy Division's proposed Clean Energy Standard (CES) fails to extend critical procurement guardrails applicable to the RPS program across all SB 100 procurement. Specifically, the proposal fails to extend the RPS' long-term contracting[12] and "Bucket One" requirements to all SB 100 procurement above the 60% RPS minimum. These requirements are essential to support robust development of high-quality eligible resources over the long-term to create a stable, reliable, and carbon-free market for retail electricity sales in California by 2045.

Also concerning, the staff proposal fails to propose a definition of eligible "zero-carbon resource" or exclude unbundled RECs from CES compliance eligibility. Without a definition of zero-carbon resource, the impact of the CES on new resource

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[11] *Id.*, p. 1.

[12] Pub. Util. Code § 399.13(b)(1) ("[A]t least 65 percent of the procurement a retail seller counts toward the renewables portfolio standard requirement of each compliance period shall be from its contracts of 10 years or more in duration or in its ownership or ownership agreements for eligible renewable energy resources.").

development remains unclear. The Commission must create a forum to litigate and establish this definition before taking action to adopt the CES.

In any case, unbundled RECs should never count as a zero-carbon resource because they are not. Unbundled RECs represent paper compliance, not genuine emission reductions. Consequently, they are severely limited for RPS compliance. Under the RPS program, electric utilities may not use unbundled RECs to support more than 10% of their RPS compliance obligations.[13] This strict limitation for RPS compliance is appropriate given that unbundled RECs are paper credits for renewable electricity sales, which are not tied to electric delivery in California and do not reduce GHG emissions. Accordingly, as the Commission works to define zero-carbon resource, unbundled RECs must be excluded.

As the remainder of these comments explain, the CES will not send the appropriate market signals to support the development of a balanced and diverse portfolio of eligible clean energy resources unless the Commission (1) adopts a long-term contracting requirement, (2) extends the RPS Bucket 1 requirements to all SB 100 procurement above the 60% RPS minimum, and (3) provides a clear definition of "zero-carbon resource" that excludes unbundled RECs.

II. RESPONSE TO GHG REDUCTION QUESTIONS

1. Should existing IRP and RPS processes be used or modified to achieve the electric sector's GHG emissions reduction goals instead of a new CES framework? If so, why?

[13] *Id.* § 399.16(c)(2).

PUC section 454.51 directs the Commission to ensure electric utilities procure a diverse, balanced, reliable and cost-effective portfolio of resources needed to satisfy SB 100 requirements and state GHG emissions reduction targets.[14] Implementing these requirements, the IRP process culminates every two years with the adoption of a "Preferred System Plan (PSP)" of least-cost, best-fit resources to "serve[] as the recommended plan and portfolio" for electricity procurement.[15] The IRP and PSP are foundational regulatory planning tools with broad influence over California's path to 100% clean energy.

As explained in the Staff Proposal, the PSP "determines the overall amount of clean energy resources needed to meet the CPUC's electric sector GHG target."[16] If adopted, the CES would translate these GHG targets "into individual LSE obligations and actionable metrics" for electric utility compliance.[17] Specifically, the CES would establish an "annual clean energy target as a percentage of retail sales for LSEs (*i.e.*, total clean energy divided by total energy)."[18] Compliance would be assessed using "backwards looking three-year compliance periods," mirroring the compliance periods under the RPS program.[19]

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[14] *Id.* § 454.51.
[15] R.25-06-019, *Order Instituting Rulemaking to Continue Oversight of Electric Integrated Resource Planning and Procurement Processes* pp. 4-6 (July 2, 2025), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M571/K276/571276511.PDF.
[16] Staff Proposal, p. 41.
[17] *Id.*
[18] *Id.*, p. 42.
[19] *Id.*

In this context, it is not clear why Staff asks whether "existing IRP and RPS processes be used or modified to achieve the electric sector's GHG emissions reduction goals ***instead of*** a new CES framework."[20] The CES itself is a modification and extension of existing IRP and RPS policies aimed at facilitating SB 100 compliance beyond the base RPS requirements to ensure those targets facilitate GHG emissions reductions. Indeed, the CES would identify zero-carbon resources eligible for SB 100 compliance and iteratively influence the future PSPs adopted through the IRP process. The question is not whether the CES should be adopted in place of existing IRP and RPS program requirements, but how to expand on existing programs to put electric utilities on a glide path to comply with SB 100 requirements beyond the RPS and streamline clean energy resource development consistent with PUC section 454.51 requirements to ensure a diverse, balanced, reliable and cost-effective resource portfolio.

To that end, CURE urges the Commission to adopt two key RPS program requirements for the CES: (1) the long-term contracting requirement and (2) Bucket 1 product content requirements, thus prohibiting the use of unbundled RECs beyond the 10% allowed for RPS compliance (*i.e.*, allow 10% unbundled RECs for the first 60% of sales and none for the remaining 40% of sales). The Staff Proposal as written does not include either of these requirements.

Under the RPS program, 65% of contracts must be long-term (*i.e.*, 10 years or longer) or qualify as utility-owned generation, sending a strong market signal to

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[20] *Id.*, p. 54 (emphasis added).

invest in durable, long-term clean energy resources, including new, utility-scale RPS-eligible renewable generation.[21] Long-term contracting requirements are essential to stimulate investment in long-lead time resources and emerging clean energy technologies. These contracts provide greater assurance to project developers and investors that they will be able to recoup project costs over 10 years, thereby limiting project risks and encouraging greater investment in clean energy generation. Further, long-term contracting requirements can help encourage clean energy development as the Trump administration rolls back federal tax credits for clean energy projects, creating new financial and regulatory risks associated with these projects. Accordingly, CURE urges the Commission to extend the long-term procurement requirement to all SB 100 procurement, not just procurement tied to the 60% RPS requirement.

Likewise, the Commission should require all SB 100 procurement beyond the 60% RPS minimum to conform with "Bucket 1" product content category requirements, defined in Public Utilities Code section 399.16(b)(1), and prohibit using unbundled RECs for any compliance beyond the 10% allowed by statute for the 60% RPS obligation. Under the RPS, electric utilities are required to meet at least 75% of their procurement obligations with Bucket 1 resources that either:

> (A) Have a first point of interconnection with a California balancing authority, have a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or are scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source. The use of another source to provide real-time ancillary

[21] Pub. Util. Code § 399.13(b)(1).

services required to maintain an hourly or subhourly import schedule into a California balancing authority shall be permitted, but only the fraction of the schedule actually generated by the eligible renewable energy resource shall count toward this portfolio content category. [or]

(B) Have an agreement to dynamically transfer electricity to a California balancing authority.[22]

Bucket 1 resources are statutorily-preferred resources because they actually deliver energy to the end-use customer in real time rather than delivering non-preferred energy that is papered over with unbundled RECs. The customer is actually getting clean electricity rather than an accounting illusion. Accordingly, the Commission should require all SB 100 procurement beyond the 60% RPS minimum to comply with Bucket 1 product content category requirements.

Under the RPS statute, electric utilities can meet up to 10% of their RPS compliance obligations with "Bucket 3" resources, defined as "[e]ligible renewable energy resource electricity products, or any fraction of the electricity generated, including unbundled renewable energy credits [RECs], that do not qualify under the criteria" for Bucket 1 and Bucket 2 resources.[23] Unbundled RECs are just paper certificates that represent a unit of RPS-eligible electricity, irrespective of where that energy was generated or delivered. These are non-preferred resources because the electrons associated with unbundled RECs may or may not support grid reliability in California and do not offset the need for electricity generation or

[22] *Id.* §§ 399.16(b)(1)(A)-(B), (c)(1).
[23] *Id.* §§ 399.16(b)(3), (c)(2).

demand in California. Therefore, they do not help California electric utilities reduce GHG emissions.

Prohibiting further use of unbundled RECs is a critical policy guardrail. It is essential to ensure that CES-compliant procurement in excess of the 60% RPS minimum is limited to statutorily-preferred Bucket 1 resources that actually deliver carbon-free electricity to California end-use customers. Accordingly, CURE strongly urges the Commission to prohibit using unbundled RECs for CES compliance except as statutorily authorized for the 60% RPS obligation.

Adopting each of these policy guardrails—long-term contracting requirements, Bucket 1 procurement requirements, and a prohibition on unbundled RECs beyond what the RPS statute allows—will help ensure that CES requirements effectively result in the procurement of a diverse, balanced, reliable and cost-effective portfolio of resources needed to satisfy SB 100 requirements and state GHG emissions reduction targets as required by PUC section 454.51.[24]

2. Should the CPUC adopt the Clean Energy Standard and create Zero-Emission Credit (ZEC) instruments as proposed by Staff with or without modifications?

See CURE responses to questions 1, 3, 4 and 6.

3. What considerations should be taken into account to ensure that all RECs and ZECs used for CES compliance would align with how CARB regulates GHG emissions in its Mandatory Reporting Regulation (MRR) and GHG Emissions Inventory?

[24] *Id.* § 454.51.

As explained in response to question 1, electric utilities are prohibited from using unbundled RECs to meet more than 10% of their RPS procurement obligations because these resources do not support California grid reliability or offset electricity demand in-state, whether that demand is served by renewable or non-renewable, fossil-fueled resources. For these reasons, the California Air Resources Board and the Commission have repeatedly held that unbundled RECs do not offset GHG emissions and should not play a role in state GHG accounting mechanisms.[25] Consistent with these decisions, CURE urges the Commission to adopt a definition of "zero-carbon resource" that excludes unbundled RECs.

Further, the Commission should prohibit using unbundled RECs to support SB 100 compliance outside of the 60% RPS obligation. When the bucketing requirements were established, the market for renewable energy was nascent, meaning it was more appropriate to allow greater use of unbundled RECs to spur clean energy development broadly. Over time, RPS program requirements have ratcheted down the amount of unbundled RECs that electric utilities can use to demonstrate RPS compliance from 25% of RPS requirements in 2013, to 15% in 2016, and 10% for all compliance periods thereafter.[26]

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[25] CARB, Final Statement of Reasons for Rulemaking Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions pp. 108-10 (Oct. 28, 2011), http://www.arb.ca.gov/regact/2010/ghg2010/mrrfsor.pdf ("[F]or the emissions profile of electricity generated and procured, RECs play no role in GHG accounting); D.08-08-028, pp. 6-7, 22-23 ("[A] REC used for RPS compliance should not be used as a GHG offset. . . once counted for RPS compliance (and thus 'otherwise regulated'), a REC can have no GHG offset value.").

[26] Pub. Util. Code § 399.16(c)(2).

In 2025 and beyond, the Commission should not allow any unbundled RECs to count towards SB 100 compliance beyond the limit set in the RPS statute. Defining "zero-carbon resource" to exclude unbundled RECs is a simple and effective way of adopting this important policy guardrail.

4. **Which zero-carbon resources should be eligible for the CES?**

Zero-carbon resources should be defined in Commission regulations to explicitly include RPS-eligible renewables and explicitly exclude unbundled RECs for the reasons provided in response to questions 1 and 3. Further, the Commission should engage in a robust stakeholder process to determine which other resources should be eligible zero-carbon resources.

As explained in the introduction, the definition of RPS-eligible renewables is specific, limiting eligibility to a defined list of resources. The Commission should prioritize considering which additional resources should qualify as zero-carbon even if they do not qualify as eligible renewable energy resources.

5. **Are there alternative approaches to GHG reductions that should be considered and why?**

CURE reserves the right to respond to this question in reply comments.

6. **Should the CPUC further develop a GHG reduction approach through a certain forum (e.g., workshops)? How could guardrails be implemented so that LSEs continue to procure toward future GHG targets while gathering more stakeholder input on an effective and efficient GHG framework?**

With respect to guardrails, CURE principally recommends (1) expanding the RPS' long-term contracting requirement to all SB 100 procurement, (2) adopting

Bucket 1 product content category requirements for SB 100 procurement above the 60% RPS minimum and (3) defining "zero-carbon resource" to exclude unbundled RECs. CURE reserves the right to expand on this question in reply comments.

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Respectfully submitted,

/s/

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