

Decision 22-06-034 June 23, 2022

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

Order Instituting Rulemaking To  
Continue Implementation and  
Administration, and Consider Further  
Development, of California Renewables  
Portfolio Standard Program.

Rulemaking 18-07-003

**DECISION ESTABLISHING RULES FOR PORTFOLIO CONTENT  
CATEGORY CLASSIFICATION FOR VOLUNTARY ALLOCATIONS OF  
RENEWABLES PORTFOLIO STANDARD RESOURCES**

**TABLE OF CONTENTS**

<b><u>Title</u></b>	<b><u>Page</u></b>
DECISION ESTABLISHING RULES FOR PORTFOLIO CONTENT CATEGORY CLASSIFICATION FOR VOLUNTARY ALLOCATIONS OF RENEWABLES PORTFOLIO STANDARD RESOURCES.....	1
Summary .....	2
1. Background .....	3
1.1. Joint Motion Summary .....	4
1.2. Initial Responses to the Joint Motion .....	5
2. Joint IOUs’ Reply to Initial Responses .....	7
3. Issues Before the Commission.....	7
4. PCC classification of RECs under the Voluntary Allocation Process.....	8
4.1. Comments of Parties.....	8
4.2. Discussion.....	11
5. Subsequent Resale of RPS Contracts and their PCC Classification.....	13
5.1. Comments of Parties.....	14
5.2. Discussion.....	14
6. Review of Executed Contracts.....	18
6.1. Joint IOU Comments .....	18
6.2. Discussion.....	18
7. Conclusion.....	19
8. Comments on Proposed Decision.....	20
9. Assignment of Proceeding .....	21
Findings of Fact.....	21
Conclusions of Law .....	23
ORDER .....	24

**DECISION ESTABLISHING RULES FOR PORTFOLIO CONTENT  
CATEGORY CLASSIFICATION FOR VOLUNTARY ALLOCATIONS OF  
RENEWABLES PORTFOLIO STANDARD RESOURCES**

**Summary**

To ensure the successful implementation of the Voluntary Allocation and Market Offer process, adopted in Decision (D.) 21-05-003, we approve the December 8, 2021 Joint Motion filed by Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company and adopt the following:

1. Voluntary Allocations are not resales for purposes of determining the Portfolio Content Category (PCC) classification of Renewable Energy Credits (RECs) allocated to Power Charge Indifference Adjustment-eligible load serving entities (LSEs) including non-investor-owned utility (IOU) LSEs serving departed load.
2. Subsequent transfer/sale of the allocated RECs will be considered a resale, and the REC PCC classification will change pursuant to D.11-12-052 and other applicable Renewables Portfolio Standard (RPS) law and policy.
3. "PCC 0" status will apply for pre-June 1, 2010 RPS contract RECs to Voluntary Allocations accepted in 2022 for RPS deliveries beginning in 2023 and subsequent Voluntary Allocations, if they occur.
4. The Voluntary Allocation price based on the Market Price Benchmark methodology adopted in D.21-05-030 shall not be modified at this time.
5. The IOUs are not required to submit advice letter filings for Commission approval of executed pro forma Voluntary Allocation contracts. However, the IOUs must obtain Commission approval of executed modified pro forma Voluntary Allocation contracts via a Tier 1 advice letter filing.

## **1. Background**

On December 8, 2021, pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, the Joint investor-owned utilities (Joint IOUs) filed a Joint Motion requesting the California Public Utilities Commission (Commission or CPUC) to (a) expand the scope of this proceeding to include Renewables Portfolio Standard (RPS) related Voluntary Allocation and Market Offer (VAMO) process issues, (b) address Portfolio Content Category (PCC) classification of Renewable Energy Credits (RECs) allocated under the Voluntary Allocation process adopted in Decision (D.) 21-05-030, and (c) clarify the timing and review process for Voluntary Allocation Pro Forma Contracts and executed Voluntary Allocation contracts. (Joint Motion)

Responses to the Joint Motion were filed by Alliance for Retail Energy Markets (AREM), California Community Choice Association (CalCCA), Coalition of California Utility Employees (CUE), The Utility Reform Network (TURN), and Public Advocates Office at the CPUC (Cal Advocates) on December 23, 2021. The Joint IOUs filed a reply to the comments on January 3, 2022.

On April 6, 2022, the assigned Commissioner issued an Amended Scoping Memo and Ruling amending the scope of this proceeding to address VAMO issues related to the RPS program.

On April 18, 2022, an Administrative Law Judge (ALJ) ruling was issued seeking party comments on the PCC classification of RECs under the VAMO process and whether it was necessary to modify the RPS proceeding schedule to accommodate the new filing requirements due to the VAMO process. (PCC Ruling)

Comments on the PCC Ruling were filed by the AReM, CalCCA, CUE, TURN, Shell Energy North America (US), L.P. d/b/a Shell Energy Solutions (Shell Energy), Green Power Institute (GPI), and Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company (Joint IOUs) on April 28, 2022.

Per the PCC Ruling, reply comments were not authorized.

### **1.1. Joint Motion Summary**

The Joint Motion seeks to 1.) expand the scope of the instant proceeding to include VAMO issues; 2.) request guidance on the PCC Classification for RECs allocated to other Load Serving Entities (LSEs) under the VAMO process; and 3.) request clarification on the timing and approval process for Voluntary Allocation proforma contracts and executed contracts. The April 6, 2022 Amended Scoping Memo resolved the issue of expanding the scope of the RPS proceeding.

The Joint Motion seeks Commission guidance on the issue of the PCC classification of allocated RECs so that Power Charge Indifference Adjustment (PCIA) eligible LSEs can decide whether to accept allocations pursuant to D.21-05-030. The Joint IOUs propose that the REC allocation process authorized in D.21-05-030 should not result in a reclassification of the PCC status of any RECs in the IOU portfolios directly allocated to LSEs of PCIA-eligible customers for whom the RECs were initially procured, such that a PCC 1 REC once allocated by the IOU to a PCIA-eligible LSE would continue to be classified as a PCC 1 REC, and a PCC 3 REC would continue to be classified as a PCC 3 REC, and so on. The Joint Motion states that allocated PCC 0 REC should not be reclassified and should be allocated with the same benefits and limitations that

apply to the IOUs' use of PCC 0 RECs.<sup>1</sup> The Joint Motion further states that the PCC 0 RECs that follow departed load customers should be used without limitation to satisfy RPS compliance requirements.

The Joint Motion contends that PCC 0 RECs are being allocated from IOUs to the LSEs of the customers for whom the RPS-eligible energy was originally procured – RECs are not being “sold” because departed load customers are already bound to pay the above-market costs of such RPS-eligible resources pursuant to the Commission decisions approving rate recovery of RPS contract costs and directing the allocation of a share of such costs to departed load customers.

The Joint Motion further states that post-allocation resale of a PCC 0 REC by a PCIA-eligible LSE should alter the classification of the PCC 0 REC to either PCC 1, PCC 2, or PCC 3 according to the same rules that apply today to any resale under D.11-12-052.

The Joint Motion states that there is no need to identify a Market Price Benchmark (MPB) for PCC 0 RECs. The Joint IOUs argue that creating a new MPB for PCC 0 RECs is not feasible because the market does not acknowledge this category of RECs with an index price.

## **1.2. Initial Responses to the Joint Motion**

Regarding the PCC classification issue in the Joint Motion, CalCCA supports the Joint Motion. CalCCA states that Voluntary Allocations under

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<sup>1</sup> The RPS program classifies all renewable energy procurement acquired from contracts executed on or after June 1, 2010, into one of three PCC. RECs from contracts executed prior to June 1, 2010, are not given a PCC classification and are sometimes referred to as “PCC 0” RECs. Whether RECs are classified as PCC 1, 2, or 3 for compliance with the RPS program is based on certain criteria and done after the end of each compliance period in the RPS compliance determination process.

VAMO are not “resales” that would require reclassification of RECs allocated to PCIA-eligible LSEs. It further states that the VAMO allocation structure is an inherently different construct than the “resales” contemplated by D.11-12-052, and there is no Commission decision requiring RECs allocated under VAMO to be so considered.

TURN and CUE support an expedited resolution of the Joint Motion but state their concerns that the Joint IOUs’ proposal fails to conform to Commission precedent implementing the governing statutory requirements. They state that if the Commission permits IOU PCC 0 resources to retain this classification for volumes allocated to LSEs through the VAMO process, it should affirmatively prohibit this treatment for subsequent allocations or resales. They further contend that the Commission should affirm that any treatment provided to VAMO participants will not open the door to a wide range of other schemes designed by LSEs to skirt the resale rules by transferring or trading RPS compliance attributes through new “allocation” methods.

AReM requests that the Joint Motion be denied. In stating its concerns, AReM recommends that the Commission should not allow the Joint Motion to hinder the VAMO structure within the RPS proceeding by approving the proposal. AReM states that to avoid unintended consequences of rushed implementation, the Commission should ensure that REC transfer is not done at the PCC-1 benchmark prices but rather that it be done at a fair and accurate benchmark price that reflects how IOUs’ PCC-0 RECs are counted toward compliance.

Cal Advocates do not provide specific comments on the issues presented in the Joint Motion but request that the Parties should have the opportunity to be heard and to build a complete record for Commission consideration.

No party filed comments on the Joint Motion's issue on executing pro forma Voluntary Allocation contracts' timing and approval process.

## **2. Joint IOUs' Reply to Initial Responses**

In their Joint Reply, the IOUs focused on comments filed by TURN and CUE. The Joint IOUs contend that their PCC classification proposal is consistent with Commission precedent while agreeing with TURN and CUE that the Commission should prohibit the retention of PCC classification for any subsequent allocations or sales by LSEs receiving an allocation from the Joint IOUs. The Joint IOUs argue that they do not dispute that existing RPS decisions should remain undisturbed.

## **3. Issues Before the Commission**

In this decision, we will review the following issues before the Commission consistent with the PCC Ruling:

1. Should the Voluntary Allocation under the VAMO process be considered "resales" for purposes of determining PCC classifications? Why or why not?
  - a. If the Voluntary Allocation should be considered a resale, how should PCC classification for pre-June 1, 2010 RPS contract RECs be determined?<sup>2</sup>
  - b. If the Voluntary Allocation is not considered a resale, how should PCC classification for pre-June 1, 2010 RPS contract RECs be determined?
2. If the Commission determines that PCC-0 designation should be retained for this initial Voluntary Allocation from IOUs to LSEs, how should subsequent resale of these contracts by an LSE affect their REC PCC classification?
3. Voluntary Allocation contract approval process.

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<sup>2</sup> The pre-June 1, 2010 RPS contract RECs are referred to as PCC 0 RECs.



The PCC Ruling asked parties to comment on whether the RPS-VAMO schedule needs to be revised. Any potential modifications to the schedule will be addressed via an ALJ ruling.

#### **4. PCC classification of RECs under the Voluntary Allocation Process**

This section addresses whether a Voluntary Allocation should be considered resale of an RPS contract to determine PCC classification.

##### **4.1. Comments of Parties**

In their comments on the PCC Ruling, the Joint IOUs, CalCCA, GPI, and Shell Energy recommend that RECs allocated through the Voluntary Allocation process to non-IOU LSEs serving departed customers should not be considered “resales” to determine PCC classification and, instead, all RECs should retain their original PCC classification. The Joint IOUs, CalCCA, GPI, and Shell Energy state that a Voluntary Allocation is not a traditional “sales” transaction but a regulatory mechanism in which the IOUs are required to allocate RECs from their portfolios to the LSEs of the customers for whom the RPS-eligible energy was originally procured. These parties further state that the Voluntary Allocation process intends to preserve and distribute the fair share of past procurement cost and value benefits, including PCC-0 energy and RECs, and allocate the RPS benefits to customers already paying above-market costs through the PCIA.

The Joint IOUs state that the Voluntary Allocation process is not a sales transaction, as there are no negotiated terms related to price, counterparty (only LSEs serving departed load are eligible), or quantity. The Joint IOUs further state that altering the classification of PCC 0 RECs allocated to departing load customers through the Voluntary Allocation process could reduce their value in violation of statutory cost indifference principles.

TURN and CUE disagree with the Joint Motion and recommend that Voluntary Allocations be considered resales to determine PCC classifications. TURN and CUE argue that D.21-05-030 determined that the allocation of contracts under the VAMO should be treated as a resale to comply with the long-term contract requirements in the Public Utilities Code Section 399.13(b). TURN and CUE state that under D.11-12-052, any resale of energy and/or RECs associated with such a contract must be assigned the PCC that would apply if the resource was first contracted after June 1, 2010. TURN and CUE further contend that the Commission has already addressed resales requirements of RPS products in D.11-12-052, D.12-06-038, D.17-06-026, and D.18-05-026 while asserting that the key elements of these decisions should not be disturbed.

The Joint IOUs and CalCCA disagree with TURN and CUE and state that D.21-05-030 did not decide that Voluntary Allocation RECs should be treated as a resale and did not resolve this issue. The Joint IOUs and CalCCA argue that Section 399.13(b) addresses the percentage of long-term and short-term contracts for RPS energy that a retail seller is required to hold, and there is no statutory language or Commission decision directly addressing the question of PCC classification in the context of a Voluntary Allocation of RPS resources. Joint IOUs agree with TURN and CUE that prior RPS decisions should not be disturbed. However, the Joint IOUs assert that none of these decisions have addressed the Voluntary Allocation of the IOU's PCIA-eligible resources and that it is not seeking modification of D.11-12-052. CalCCA states that TURN and CUE's arguments are misplaced because resale is not the key to changing the PCC classification. CalCCA points to D.11-12-052 and argues that unbundling and selling of energy and RECs separately changes the classification.

In its comments on the PCC Ruling, TURN refers to the proposed decision on Modified Cost Adjustment Mechanism (MCAM) in Rulemaking 20-05-003 and recommends that the Voluntary Allocation should be treated as a resale, as it is in the MCAM's proposed decision.

In its comments on the PCC Ruling, AReM states that it is indifferent to whether we consider Voluntary Allocations as resales to determine PCC classification. AReM protests the Joint Motion using the annual PCC 1 MPB as the cost of PCC 0 RECs and proposes a weighted PCC 0 REC price based on MPB for each PCC classification. It further states that if allocated PCC 0 RECs cannot be priced as proposed by AReM, allocated RECs should be considered resales, and reclassification should occur as they assert was decided in the PCIA proceeding.

Regarding AReM's position on MPB, the Joint Motion states that AReM's argument that the MPB overvalues PCC 0 RECs is incorrect. The Joint Motion further states it is not feasible to create a new MPB for PCC 0 RECs because the market does not acknowledge this category of RECs with any type of index price and under the current methodology, IOUs utilize the MPB established in D.18-10-019 and D.19-10-001 for PCC 0 RECs. The Joint IOUs contend that revising these benchmarks is not within the scope of the RPS proceeding.

GPI also commented on the issue of MPB raised by AReM. GPI provided its analysis on the impact of PCC 0 on the Voluntary Allocations and pointed out that there is a rapid rate of PCC 0 retirement, and they may not contribute substantially to RPS compliance by the end of compliance period 2021-2024 and in future compliance periods.

## 4.2. Discussion

In D.21-05-031, we state that our goal in establishing the RPS VAMO is to create an effective way to allocate and sell RPS resources as needed over time.<sup>3</sup>

To implement this goal, we adopted specific features for Voluntary Allocations in D.21-05-030.<sup>4</sup> First, the Commission determined that Voluntary Allocations are a slice of an IOU's entire PCIA-eligible RPS portfolio distributed to a PCIA-eligible LSE where the LSE may accept or decline its allocation share.<sup>5</sup> Second, the Commission adopted that the PCIA-eligible LSEs will be offered allocations of the RPS portfolio in a fixed proportion to their vintaged, forecasted annual load share and must pay the IOU the applicable year's MPB for attributes received.<sup>6</sup> Finally, D.21-05-030 also established a market offer process that requires the IOUs to sell all remaining/ unallocated PCIA-eligible RPS energy after a Voluntary Allocation.<sup>7</sup>

We agree with the Joint IOUs, CalCCA, GPI, and Shell Energy that the Voluntary Allocation process does not intend for sales between IOUs and LSEs to alter future PCC designations. The Joint IOUs and CalCCA make a reasonable argument that neither statute nor CPUC decisions have directly determined whether Voluntary Allocations under VAMO are resales or not. We find merit in the reasoning that under Voluntary Allocations, IOUs are not authorized to negotiate terms related to the underlying contract, such as price, counterparty (only LSEs serving departed load are eligible), or quantity, unlike a resale

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<sup>3</sup> See D.21-05-030 at 34.

<sup>4</sup> See D.21-05-030 Ordering Paragraph (OP) 2.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See D.21-05-030 OP 3.

transaction. The voluntary distribution/ allocation process is distinct from a market-based transaction, and Voluntary Allocations should not be considered resales. Therefore, all allocation shares (RPS energy and/or RECs) distributed under the Voluntary Allocation mechanism should retain their original PCC classification, including PCC-0 RECs. In contrast, since the resources purchased by an LSE through the Market Offer process are a market-based sales transaction, the RECs will be classified pursuant to D.11-12-052.

This decision does not change the PCC classification rules adopted in the previous RPS decisions and merely clarifies that a Voluntary Allocation is not to be treated as a newly contracted resource, such as a resale transaction would. By determining that Voluntary Allocations are not resales, the resources allocated to PCIA-eligible LSEs will allow customers who paid for those RPS benefits to continue to receive the benefits they have already been paying for through the PCIA. With this decision, D.21-05-030's intent to maintain the "bundled nature of energy and compliance attributes" for departed customers through Voluntary Allocations remains unchanged.<sup>8</sup>

AReM's comments seeking to reset the MPB for PCC 0 RECs is outside the scope of this proceeding and is not feasible to evaluate and implement so close to the Voluntary Allocations. There are no index prices for PCC 0 (or for any PCC classification other than PCC 1). In D.21-05-030, this issue was litigated, and the Commission determined that LSEs would accept allocations at the applicable year's MPB.

We find merit in GPI's comments that PCC 0 contracts will become extinct once expired or resold in market offers while no new PCC 0 RECs are being

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<sup>8</sup> See D.21-05-030 at Conclusion of Law 10.

created. Considering that PCC 0 RECs are declining and may not contribute substantially to future compliance periods, it is unreasonable to devote resources to a comprehensive review of an issue that may have little relevance. Evaluation of potential new MPBs cannot be resolved in time to apply to the 2022 allocations. Therefore, the MPB pricing adopted in D.21-05-030 shall apply in the Voluntary Allocation cycle for RPS Compliance Period 2021-2024.

This decision reviews how to determine PCC classification for pre-June 1, 2010, RPS contract RECs under a Voluntary Allocation. We decline to adopt TURN's recommendation regarding using the MCAM analogy to consider Voluntary Allocations under the VAMO process as a resale because the PCC 0 status issue under consideration here is different from issues under review in the MCAM. Under MCAM, the Commission will decide on allocation and recovery of net costs resulting from mandated incremental procurement by IOUs, which results from contracts executed in 2019 or later and does not include RECs with PCC 0 status. Although there could be similarities for allocating renewable energy attributes across MCAM and VAMO, reclassifying PCC 0 status is only relevant to this decision.

#### **5. Subsequent Resale of RPS Contracts and their PCC Classification**

Considering that we have determined that the PCC-0 designation should be retained for the first Voluntary Allocations in 2022 from IOUs to LSEs, in the above section, the next question we will address is how subsequent resale of these contracts by an LSE affects their REC PCC classification. We also guide future reporting requirements on the resale of Voluntary Allocation of shares pursuant to D.21-05-030.

### **5.1. Comments of Parties**

In their opening comments on the PCC Ruling, all parties, except AReM, unanimously recommend that any downstream transfers of the RPS attributes (e.g., through another form of allocation or a sale) of Voluntary Allocation product should be considered a “resale” to determine PCC classification pursuant to D.11-12-052. AReM states that it has no recommendation on how subsequent resales of PCC 0 products should be classified.

The Joint IOUs state that while reselling a PCC 0 REC should change its classification, it recommends that retaining the PCC 0 classification not only applies to the Voluntary Allocations in 2022 for RPS deliveries beginning in 2023 but should also apply to any future Voluntary Allocation to PCIA-eligible LSEs.

TURN and CUE state that if the Commission decides to retain the PCC-0 classification, it should affirmatively prohibit this treatment for subsequent allocations or resales. They recommend that the Commission ensure that such treatment does not open the door for LSEs to transfer or trade RPS compliance attributes through new methods that skirt the resale rules.

GPI and AReM recommended that IOUs provide sufficient details of allocated PCC 0 product for the receiving LSE to engage in a resale.

### **5.2. Discussion**

Pursuant to D.21-05-030, LSEs are subsequently free to resell those Voluntary Allocations subject to the exact RPS compliance requirements, which already apply to IOU sales of RPS resources in their portfolios today.<sup>9</sup> If an LSE exercises this option, the resources should be treated as if an IOU sold previously procured resources.

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<sup>9</sup> See D.21-05-030 OP 2(f).

We agree with the parties and determine that any subsequent transfer of Voluntary Allocation shares are resales. Under the Voluntary Allocations, RPS benefits are meant to transfer to the customers for whom the RECs were procured. In contrast, any subsequent transaction of the allocated share of RPS resources is not an allocation but a resale. The RPS benefits associated with those transactions would transfer to a new set of customers provided that the conditions for allowing the resale of part or all of a contract for RPS procurement meet the criteria of § 399.16(b).<sup>10</sup> Therefore, any subsequent transfer to new customers should be subject to the PCC classification and compliance provisions of D.11-12-052.

We find the Joint IOU recommendation that LSEs retain PCC 0 classification for any future Voluntary Allocation of RECs to PCIA-eligible LSEs reasonable. In section 4.2, we approve that Voluntary Allocations are not resales, and PCC 0 RECs should not be reclassified. Therefore, unless the Commission changes its determination on the VAMO process, the rules adopted in this decision on not reclassifying PCC 0 after Voluntary Allocations should apply for future allocations if they occur.

The IOUs can present their recommendations on PCC classification in the report on the effectiveness of the first RPS VAMO and the Tier 2 advice letter process to help the Commission evaluate the issue of PCC classification for future Voluntary Allocations.<sup>11</sup>

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<sup>10</sup> See D.11-12-052 at p. 36 and p. 52.

<sup>11</sup> See D.21-05-030, OP 4. The Commission requires the following: Within 90 days of completing an RPS Voluntary Allocation and/or Market Offer, each IOU shall file and serve in this proceeding a report on the effectiveness of its RPS Voluntary Allocation, Market Offer(s), and/or first RPS RFI, as applicable.



Pursuant to D.21-05-030, the RPS proceeding must establish LSE reporting requirements for the resale of Voluntary Allocation shares.<sup>12</sup>

For future resale transactions, we direct applicable LSEs' compliance reporting to include information linking the resale to that LSE's acquisition of the RECs through the voluntary allocation process but not be limited to the following:

- The contract volume or allocation share,
- The expected PCC classification(s) status before the Voluntary Allocation and after the resale,
- The bundled or unbundled nature of the RECs before the Voluntary Allocation and after the resale, and
- The remaining contract duration at the time of the Voluntary Allocation and the resale.

For RPS compliance reporting for VAMO transactions, Energy Division staff will provide reporting guidance with next year's updated RPS compliance report template. Energy Division and LSEs should work together to refine reporting requirements for voluntary allocations, resales, market offers, and unsold volumes.

The above reporting requirements address GPI and AReM's recommendation in setting additional provisions to ensure IOUs provide sufficient information to LSEs on PCC classification for resale purposes.

In its opening comments on the proposed decision, GPI recommends that the Commission order Energy Division staff to provide VAMO transaction reporting guidance with next year's updated RPS compliance report template. It is unclear from GPI's comments what "next year" refers to. The Compliance

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<sup>12</sup> See D.21-05-030, OP 2(f).

Reports due on August 1, 2022, will not include VAMO information. However, next year's reports will require 2022 VAMO information and for which Energy Division will do the outreach and revise templates as directed above. We do not see a need to set requirements for Energy Division in addition to the above guidance on developing revised Compliance Report templates.

GPI recommends that for the 2022 VAMO process, IOUs must provide information to LSEs on the subsequent resale PCC classifications that comprise PCC-0 Voluntary Allocation offers. In the reply comments, the Joint IOUs disagree with GPI and state that PCC classification upon resale is determined pursuant to Public Utilities Code Section 399.21(a) and D.11-12-052. The Joint IOUs state that they should not and cannot be the guarantors of how the Commission and its staff interpret D.11-12-052 in the future. The Joint IOUs contend that RPS Sales Agreements, approved in D.22-01-004, do not guarantee a particular PCC classification to buyers. The Joint IOUs further argue that the framework assumes that LSE buyers are sophisticated market participants and can review the law and regulation to determine the PCC classification of a purchased REC.

We agree with the Joint IOUs and find that the IOUs should not be required to provide information or assurance about the PCC classification of RECs provided to LSEs on resale after Voluntary Allocation as suggested by GPI. Resales cannot be pre-determined, and PCC classification are dependent on the contract. Therefore, requiring the IOUs to report the PCC classification of other LSEs' subsequent Voluntary Allocation resale as part of the 2022 VAMO process is unreasonable.

## **6. Review of Executed Contracts**

This section clarifies the process of reviewing Voluntary Allocation contracts.

### **6.1. Joint IOU Comments**

In the opening comments, the Joint IOUs state that the PCC Ruling incorrectly concludes that the process to review Voluntary Allocation contracts was already resolved and needed no further consideration. The Joint IOUs point to D.22-01-004, which superseded the timeline in D.21-05-030 to provide each IOU's pro forma Voluntary Allocation contracts through a Tier 2 Advice Letter process following the submittal of Final 2021 RPS Plans.

The Joint Motion seeks to clarify that only Allocation Contracts materially deviating from the pro forma would be subject to further review through a Tier 1 Advice Letter. In the opening comments, the Joint IOUs state that unless the contract is modified from the approved pro forma resulting from the Tier 2 Advice Letter process, there is no need for Energy Division to review an executed Voluntary Allocation contract.

### **6.2. Discussion**

We recognize the ambiguity in the PCC Ruling, as explained by the Joint IOUs in their comments. This decision clarifies that we are not reverting to the modified timeline adopted in D.22-01-004 to require the upfront approval of pro forma Voluntary Allocation contracts through a Tier 2 Advice Letter process.

We find the Joint IOUs' assertion that the Commission should not require advice letter filings each time they sign a Voluntary Allocation contract using the pro forma Voluntary Allocation contract is reasonable. Voluntary Allocation contracts deviating from the pro forma contract will be subject to further review

through a Tier 1 Advice Letter. Moreover, the Voluntary Allocation pro forma contract shall be used unless the parties mutually agree to a modification.

In their opening comments on the proposed decision, Cal CCA requested clarification on whether LSEs are required to seek approval for Voluntary Allocation contracts per May 20, 2022, ALJ Ruling setting the RPS VAMO schedule (Row 22). We clarify that while LSEs should provide in their August 15, 2022 Motions to Update any information obtained regarding their Voluntary Allocations after filing the original draft RPS Plans on July 1, 2022, LSEs need not request approval of executed pro forma Voluntary Allocation contracts.

## **7. Conclusion**

We grant the December 8, 2021, Joint Motion and conclude that Voluntary Allocations are not resales for purposes of determining the PCC classification of RECs allocated to PCIA-eligible LSEs customers.

We determine that retaining the PCC 0 status applies to these Voluntary Allocations elected in 2022 for RPS deliveries beginning in 2023 and future Voluntary Allocations if they occur. Any subsequent transfer of these allocation shares will be considered a resale such that their REC PCC classification would be consistent with D.11-12-052 and other applicable RPS laws and policy.

We determine that the IOUs are not required to file an advice letter for executed Voluntary Allocation contracts based on approved pro forma contract templates. However, if the contracting parties deviate from the approved pro forma Voluntary Allocation contract language, the IOU must submit a Tier 1 Advice Letter to the Energy Division for review and approval.

## **8. Comments on Proposed Decision**

The proposed decision of ALJs Manisha Lakhanpal and Nilgun Atamturk in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3. Comments were filed on June 3, 2022 by GPI and on June 9, 2022 by the Joint IOUs and Cal CCA. Reply comments were filed on June 14, 2022 by the Joint IOUs.

Modifications are made throughout this decision to address parties' comments. In its opening comments, Cal CCA seeks clarification on requirements for RPS reporting for LSEs that choose not to participate in the VAMO. Cal CCA refers to Energy Division's guidance at the May 31, 2022 webinar that set the requirement for LSEs to explain in their July 1, 2022, RPS Plan the reasons why they plan to or not to participate in the VAMO. Cal CCA states that LSEs electing not to participate in the voluntary allocation, or the market offer should merely state in their RPS Plans that they chose not to participate. Cal CCA further states that LSEs may provide an optional, general description of the basis for that decision. We agree with Cal CCA that a description should help the Commission understand its position to not participate in the VAMO. However, we disagree with Cal CCA's argument that it should be optional to provide such information, or merely stating its participation status should suffice for CPUC review. Understanding the reasons for an LSE's decision not to participate in the VAMO will enable the CPUC to assess potential issues with the VAMO framework and formulate solutions for the future implementation of VAMO or other processes and reasonableness of LSE's overall RPS Procurement Plan. Therefore, we expect LSEs to provide their reasons for not participating in the VAMO.

## **9. Assignment of Proceeding**

Commissioner Clifford Rechtschaffen is the assigned Commissioner, and Manisha Lakhanpal and Nilgun Atamturk are the assigned ALJs in this proceeding.

### **Findings of Fact**

1. The IOUs filed a Joint Motion on December 8, 2021, seeking Commission guidance on the PCC classification of allocated RECs under the VAMO process so that PCIA-eligible LSEs can decide whether they will accept their allocation shares pursuant to D.21-05-030.

2. The Joint Motion seeks clarification on the Voluntary Allocation contract approval process.

3. D.21-05-030 set requirements for Voluntary Allocations.

4. Under Voluntary Allocations, only PCIA-eligible LSEs may participate.

5. Voluntary Allocations are a slice of an IOU's entire PCIA-eligible RPS portfolio distributed to a PCIA-eligible LSE that may accept or decline its allocation share.

6. PCIA-eligible LSEs will be offered allocations of the RPS portfolio in a fixed proportion to their vintaged, forecasted annual load share and must pay the IOU the applicable year's MPB for attributes received.

7. Contract terms related to price, counterparty, or quantity are not negotiable under Voluntary Allocations, unlike a resale transaction of RPS resources.

8. Under VAMO's market-based process, IOUs must sell unallocated PCIA-eligible RPS energy remaining after a Voluntary Allocation.

9. D.21-05-030 did not opine whether Voluntary Allocation of RECs is a resale for RPS purposes and subsequent PCC classification issues.

10. The Commission addressed resales requirements of RPS products in D.11-12-052, D.12-06-038, D.17-06-026, and D.18-05-026, but these decisions do not address the Voluntary Allocation of RPS products for PCIA-eligible LSEs.

11. The Joint Motion is not seeking to modify past Commission decisions.

12. AReM proposes a weighted PCC 0 REC price based on the MPB for each PCC classification.

13. The Joint IOUs state that it is not feasible to create a price for PCC 0 RECs because the market does not acknowledge this category of RECs with an index price.

14. There are no index prices for PCC 0 (or for any PCC classification other than PCC 1) and under the current methodology, IOUs utilize the MPB methodology established in D.18-10-019 and D.19-10-001.

15. GPI's analysis of PCC 0 on the Voluntary Allocations shows a current rapid rate of PCC 0 power purchase agreement termination.

16. Voluntary Allocations may take place once during an RPS compliance period.

17. LSEs can resell their Voluntary Allocation shares in compliance with D.11-12-052.

18. After a resale, PCC 0 status terminates, and RECs will be classified as either PCC 1, PCC 2, or PCC 3 per D.11-12-052.

19. Joint IOUs request to retain PCC 0 status for any future Voluntary Allocation to PCIA-eligible LSEs.

20. TURN and CUE recommend prohibiting retaining PCC 0 status for subsequent allocations or resales.

21. RPS VAMO processes, if they occur, in the subsequent RPS compliance period will be based on best practices and lessons learned presented to the Commission after the 2021-2024 round of VAMO.

22. D.22-01-004 superseded the advice letter timeline set in D.21-05-030 to review each IOU's pro forma Voluntary Allocation contracts.

23. The Joint Motion proposes that unless the Voluntary Allocation contract is modified from the approved pro forma resulting from the Tier 2 Advice Letter review and approval process, there is no need for Energy Division to review an executed Voluntary Allocation contract.

### **Conclusions of Law**

1. VAMO allocation structure is fundamentally different from the market-based resale process set in D.11-12-052.

2. Altering the status of PCC 0 RECs allocated to departing load customers through the Voluntary Allocation process could reduce their value in violation of statutory cost indifference principles.

3. The voluntary distribution/ allocation process is distinct from a market-based solution, and the Voluntary Allocation share is not a newly contracted resource.

4. Voluntary Allocations should not be considered resales to determine PCC classification.

5. There is no statutory language or Commission decision directly addressing PCC classification in a Voluntary Allocation of RPS resources.

6. Pre-June 1, 2010 contract RECs allocated under the Voluntary Allocation process should retain PCC-0 status.



7. By not classifying Voluntary Allocations as resales, the resources allocated to PCIA-eligible LSEs will allow customers who paid for those RPS benefits to continue to receive the benefits intended in D.21-05-030.

8. Resetting the MPB for PCC 0 RECs is outside the scope of this proceeding.

9. Any downstream transfers of the RPS attributes conveyed through a Voluntary Allocation should be considered a resale to determine PCC classification pursuant to D.11-12-052.

10. IOUs entering modified pro forma Voluntary Allocation contracts with non-IOU LSEs should submit the modified executed contracts to CPUC for approval via a Tier 1 Advice Letter.

11. It is reasonable to approve the Joint Motion.

## **O R D E R**

### **IT IS ORDERED** that:

1. December 8, 2021, Joint Motion of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company is granted.

2. Voluntary Allocations of Renewables Portfolio Standard resources pursuant to Decision 21-05-030 shall not be considered resales for purposes of determining the Portfolio Content Category classification of renewable energy credits allocated to all Power Charge Indifference Adjustment-eligible load serving entities (LSEs) including investor-owned utilities (IOUs) and non-IOU LSEs serving departed load.

3. Pre-June 1, 2010 Renewables Portfolio Standard contract renewable energy credits (RECs) allocated from the investor-owned utility's (IOU) Power Charge Indifference Adjustment (PCIA) eligible portfolio to PCIA-eligible load serving entities through the Voluntary Allocation process pursuant to Decision 21-05-030

shall retain their Portfolio Content Category status and have the same benefits and limitations that would have applied to the IOU's use of RECs pursuant to Public Utilities Code Section 399.16(d) and Decision 11-12-052.

4. Resales of renewable energy credits allocated to a Power Charge Indifference Adjustment (PCIA) eligible load-serving entity (LSE) under Voluntary Allocations, authorized pursuant to Decision (D.) 21-05-030, are subject to the exact Renewables Portfolio Standard (RPS) rules that already apply to RPS energy resales in any LSE's portfolio pursuant to D.11-12-052, D.12-06-038, D.17-06-026 and D.18-05-026.

5. The Voluntary Allocation pro forma contract approved by the Commission shall be used unless the parties mutually agree to a modification.

6. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall submit, no later than December 31, 2022, any executed modified pro forma Voluntary Allocation contracts of Renewables Portfolio Standard resources via a Tier 1 Advice Letter for the Commission's approval.

7. The provisions of the Renewables Portfolio Standard compliance requirements adopted in Decision (D.) 11-12-052, D.12-06-038, D.17-06-026, and D.18-05-026 shall remain unchanged.

8. Rulemaking 18-07-003 remains open.

This order is effective today.

Dated June 23, 2022, at San Francisco, California.

ALICE REYNOLDS

President

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE L. HOUCK

JOHN R.D. REYNOLDS

Commissioners