



September 19, 2016

California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments of Community Choice Aggregators Regarding the RPS Adjustment and Post-2020 Allowance Allocation Methodology

Dear California Air Resources Board Staff:

On August 2, 2016, the California Air Resources Board (ARB) staff released the draft Staff Report with proposed amendments to the California cap on Greenhouse Gas (GHG) emissions and market-based compliance mechanisms. The Staff Report

included the proposal to eliminate the RPS Adjustment after 2020, and to replace the RPS Adjustment with an allowance allocation mechanism.¹

The Community Choice Aggregators (CCAs) urge the ARB to leave in place the existing RPS (Renewable Portfolio Standard) Adjustment, as well as the existing allowance allocation methodology. Eliminating the RPS Adjustment would reduce competition in the electricity market, create economic hardship for CCAs and potentially slow renewable energy resource utilization amongst California's CCAs.

The CCAs also oppose the proposal to replace the RPS Adjustment by allocating allowances to Electricity Delivery Utilities (EDUs). This alternative mechanism excludes CCAs, which have invested more heavily in renewable resources, as a proportion of total resource commitments, than the Investor Owned Utilities (IOUs). As an unintended consequence, CCAs would suffer competitive disadvantages against their incumbent IOUs – with customers in CCA territories held responsible for corresponding costs, which are expected to increase for Portfolio Content Category 2 (PCC-2) products, as allowed for use under California's RPS Program, following elimination of the currently applicable RPS Adjustment.

Background on CCAs

CCAs are local government entities created by statute for purposes of providing customers with expanded choice within the retail electricity sector. Following the implementation of a CCA, customers have the ability to choose amongst multiple service providers and enjoy the prospect of expanded retail electricity offerings, including green energy options that were not available prior to CCA implementation. In areas served by CCAs, the provision of electric service is shared between the CCA and the incumbent investor-Owned Utility (IOU). The CCA provides electric generation services, while the IOU continues to provide delivery, transmission, and billing services. Customers within the CCA's service territory may opt out of the aggregation program at any time, remaining with the incumbent investor-owned utility as "bundled" customers. When evaluating the prospect of CCA or traditional utility service, customers often consider key service attributes, such as renewable energy content, prospective Greenhouse Gas (GHG) emissions impacts, rate competitiveness and stability, as well as the possibility for direct participation in the CCA's ongoing planning and decision making process. To the extent that legislation and/or related regulations adversely impact the CCA's ability to compete with regard to these attributes, the CCA and its customers may be disadvantaged.

There are currently four operational CCAs in California:

- CleanPowerSF, serving the City and County of San Francisco since May 2016.
- Lancaster Choice Energy, serving the City of Lancaster since May 2015.

¹ Staff Report: Initial Statement of Reasons at page 53.

- Marin Clean Energy (MCE) began serving customers in Marin County in 2010. In 2012, the City of Richmond joined MCE. Unincorporated Napa County and the cities of San Pablo, El Cerrito, and Benicia joined MCE's service area in 2015. In September 2016, MCE started to provide generation service to the cities and towns of Napa County, and the cities of Lafayette and Walnut Creek.
- Sonoma Clean Power (SCP), serving the County of Sonoma since May 2014.

Three additional CCAs are scheduled to begin serving customers soon, including:

- Peninsula Clean Energy in San Mateo County. PCE will begin its first phase of customer enrollment in October 2016, and the second phase will start in April 2017.
- Silicon Valley Clean Energy (SVCE) in Santa Clara County. Customers can expect to receive energy services from SVCE in April 2017. SVCE does not provide services to customers in the cities of Palo Alto and Santa Clara, as those cities have established municipal utilities.
- Apple Valley Choice Energy (AVCE) in the Town of Apple Valley. AVCE plans to commence customer service in April 2017 via a single-phase implementation process.

To date, all operating CCAs have adopted similar missions focused on service reliability, cost-competitiveness, local economic development, and environmental responsibility. Because of these similar goals and objectives, existing CCAs in California tend to invest more heavily in renewable resources than their IOU counterparts, resulting in supply portfolios that exceed prescribed RPS procurement mandates.² Many CCAs have also adopted future RPS goals that far exceed the new standard set by SB 350. For example, in its most recent Integrated Resource Plan (IRP), MCE's Board of Directors adopted the goal to have an 80% RPS-eligible and 95% GHG-free supply portfolio by 2025.³ Sonoma Clean Power has committed to reaching a 50% RPS-eligible portfolio in 2020, ten years ahead of the State's requirement. To achieve these noteworthy clean energy procurement objectives, it is imperative that CCAs retain access to cost-effective renewable energy products within California and throughout the Western United States.

² CCAs typically offer a default electricity product, and a 100% renewable product. Currently, 35% of CleanPowerSF's default product is sourced from renewable generation, so is LCE's default product. SCP's default product contains 36% renewable sources, and MCE offers a 52% renewable default product.

³ Marin Clean Energy—Integrated Resource Plan: 2015 Update at page 8 and 22.

Eliminating the RPS Adjustment Would Impede the CCAs' Ability to Provide Competitively Priced Renewable Energy, and Is Inconsistent with State Policy

Because CCA customers can return to IOU service at any time, it is essential that these organizations prudently manage procurement and price risks to avoid imposing excessive costs on the customers of the CCA program. To the extent that CCA rates materially increase relative to similar rates charged by the incumbent IOU, it is reasonable to assume that customers may elect to opt out of the CCA program. This leaves the CCA with renewable energy purchase commitments that do not decrease with its declining customer base. This can significantly harm early-stage CCAs operations, who have yet to establish financial stability, meaningful financial reserves and/or credit ratings to support ongoing procurement activities at the lowest possible cost. During this period of time, procurement of lower-cost renewable energy options, including PCC-2 products, is an important element of each CCA's resource planning process. Such products are typically procured under shorter-term contracts with prices that are well below available PCC-1 options. This practice promotes cost competitiveness and regulatory compliance with California's RPS program, which allows the use of PCC-2 products for a portion of each retail seller's procurement obligation. The comparative relationship of PCC-1 and PCC-2 prices is substantially dependent upon the RPS Adjustment offsetting carbon costs that would otherwise apply to such transactions.

Unlike the IOUs, CCAs do not have guaranteed cost recovery for commodity costs. The IOUs' commodity costs are evaluated and adjusted through the annual Energy Resource Recovery Account (ERRA) proceeding, overseen by the California Public Utilities Commission (CPUC). As a result, the IOUs' commodity costs and electricity revenues are "decoupled." However, these commodity costs and electricity revenues are not decoupled for CCAs. To ensure that the CCAs can offer competitively priced energy products, CCAs must balance the costs of resource procurement against their electricity sales. Therefore, the RPS Adjustment is especially crucial for emerging CCAs to provide competitive rates before they have the financial ability to procure more directly delivered RPS resources.

If the RPS Adjustment is eliminated, PCC-2 firming and shaping transactions will be far less cost-effective when compared to directly delivered RPS imports (PCC-1). By denying the RPS Adjustment to entities which have purchased environmental attributes from out-of-state, RPS-eligible generators as a component of each PCC-2 transaction, the ARB would have the effect of substantially increasing procurement costs for CCAs and other wholesale renewable energy buyers within California, which may result in CCAs needing to defer planned renewable energy procurement due to budgetary and rate-related impacts. Needless to write, impeding mandatory or voluntary renewable energy purchases seems to conflict with California's prevailing environmental policy objectives.

Furthermore, by eliminating the RPS Adjustment, the ARB may impede the general development of CCAs in California. In addition to the operating and emerging CCAs, approximately 20 jurisdictions are currently exploring either forming their own CCAs or joining existing CCAs.⁴ Pacific Gas and Electric Company (PG&E) has estimated that 50% of its current load will depart for CCAs in the future.⁵ The growth of CCAs is possible because existing regulations provide such entities with the flexibility to choose from different types of renewable products, each of which has different cost structures, economic development benefits and communication implications amongst other considerations. Thus far, CCAs have been able to provide customers with cleaner electricity than their IOU counterparts while still offering comparable rates. The use of PCC-2 resources does not remove a CCA's obligation to match load and supply resources. CCAs are exposed to the same imbalance costs and must procure sufficient resource adequacy in the same manner as EDUs.

Allowances Should Be Allocated to All LSEs to Ensure Fairness

If the ARB insists on eliminating the RPS Adjustment, the proposed allowances should be allocated to CCAs as well. While the CCAs understand that the intention of this proposal is to protect electricity consumers, the proposed allocation is flawed and will unfairly impact CCA customers. The CCAs understand that Publicly Owned Utilities (POUs) are able to utilize allowance allocation for the benefits of ratepayers or for compliance of the RPS program. Since the CCAs have the intention to maximize emissions reduction, and as entities that are similar to the POUs that are not beholden to shareholders, it is appropriate to allocate allowances to CCAs.

As explained earlier, the IOUs have the ability to recover their commodity costs through their ERRAs accounts, with oversight by the CPUC. Unlike the IOUs, if the costs of renewable resources rise, CCAs will have to face the difficult choice between reducing the level of renewable procurement or raising their generation rates. Given the growth of CCAs, the impact of increased rates will affect a larger number of ratepayers after 2020.⁶ To the extent that CCA rates materially exceed those of the incumbent utility, customers would likely opt out of CCA service to receive electricity from the incumbent IOU. As IOU generation is more emissions-intensive, the net result on the climate would be an increase in GHGs.

To ensure that there is a leveled playing field between LSEs, and that there is adequate ratepayer protection for all customers, the ARB should make the allowances available to CCAs. Since CCAs are not direct energy importers, CCAs should have the ability to transfer the allocation to importers based on the volume of electricity purchased.

⁴ California Community Choice: An Interactive Map, Clean Power Exchange.
<http://cleanpowerexchange.org/california-community-choice/>

⁵ PG&E Notice of Ex Parte Communication at the CPUC, Application 14-05-024. Notice filed on August 29, 2016.

⁶ In addition to the growth in PG&E's service territory, as referenced in Footnote 5, Southern California Edison (SCE) will likely see two-thirds of their loads departing for CCAs in Los Angeles County, Riverside County, and San Bernardino County. See California Energy Markets, No.1401 at page 12. September 2, 2016.

Conclusion

The CCAs thank the ARB staff for taking the time to review these comments. Should questions arise, please feel free to contact C.C. Song, Regulatory Analyst of MCE at csong@mcecleanenergy.org. The CCAs look forward to engaging in open dialogues with the ARB staff to create regulations that optimize the environmental and energy goals of California.

Sincerely,

Cathy DeFalco
Energy Manager- Regulatory
Lancaster Choice Energy
(661) 723-6185
cdefalco@cityoflancasterca.org

C.C. Song
Regulatory Analyst
Marin Clean Energy
(415) 464-6018
csong@mcecleanenergy.org

Jan Pepper
Chief Executive Officer
Peninsula Clean Energy
jpepper@peninsulacleanenergy.com

Deb Emerson
Director of Power Services
Sonoma Clean Power
(707) 978-3469
demerson@sonomacleanpower.org

Tom Habashi
Chief Executive Officer
Silicon Valley Clean Energy
(408) 730-7742
tomh@svcleanenergy.org