Meeting of the Valley Clean Energy Alliance
Board of Directors
Thursday, September 9, 2021 at 5:00 p.m.
Via Video/Teleconference

Pursuant to the Provisions of the Governor's Executive Orders N-25-20 and N-29-20, which suspends certain provisions of the Brown Act and the Orders of the Public Health Officers with jurisdiction over Yolo County, to Shelter in Place and to provide for physical distancing, all members of the Board of Directors and all staff will attend this meeting telephonically. Any interested member of the public who wishes to listen in should join this meeting via video/teleconferencing as set forth below.

Please note that the numerical order of items is for convenience of reference. Items may be taken out of order on the request of any Board member with the concurrence of the Board. Staff recommendations are advisory to the Board. The Board may take any action it deems appropriate on any item on the agenda even if it varies from the staff recommendation.

Members of the public who wish to listen to the Board of Director's meeting may do so with the video/teleconferencing call-in number and meeting ID code. Video/teleconference information below to join meeting:

Join meeting via Zoom:

a. **From a PC, Mac, iPad, iPhone, or Android device with high-speed internet. (If your device does not have audio, please also join by phone.)**
   https://us02web.zoom.us/j/85375818508
   Meeting ID:
b. **By phone**
   One tap mobile:
   +1-669-900-9128,,85375818508# US
   +1-253-215-8782,,85375818508# US

   Dial:
   +1-669-900-9128 US
   +1-253-215-8782 US
   Meeting ID: #853 7581 8508

Public comments may be submitted electronically or during the meeting. Instructions on how to submit your public comments can be found in the PUBLIC PARTICIPATION note at the end of this agenda.

Board Members: Dan Carson (Chair/City of Davis), Jesse Loren (Vice Chair/City of Winters), Don Saylor (Yolo County), Tom Stallard (City of Woodland), Lucas Frerichs (City of Davis), Wade Cowan (City of Winters), Gary Sandy (Yolo County), and Mayra Vega (City of Woodland)

5:00 p.m. Call to Order

1. **Welcome**
2. **Approval of Agenda**
3. **Public Comment:** This item is reserved for persons wishing to address the Board on any VCE-related matters that are not otherwise on this meeting agenda or are listed on the Consent portion of the agenda. Public comments on matters listed on the agenda shall be heard at the time the matter is called. As with all public comment, members of the public who wish to address the Board are customarily limited to two minutes per speaker, electronically submitted comments should be limited to approximately 300 words. Comments that are longer than 300 words will only be read for two minutes. All electronically submitted comments, whether read in their entirety or not, will be posted to the VCE website within 24 hours of the conclusion of the meeting. See below under **PUBLIC PARTICIPATION** on how to provide your public comment.

CONSENT AGENDA

4. **Approve July 8, 2021 Board meeting Minutes.**
5. **Receive 2021 Long Range Calendar.**
6. **Receive Financial Update – A) June 30, 2021 and B) July 31, 2021 (unaudited) financial statements.**
7. **Receive Legislative update.**
8. **Receive September 3, 2021 Regulatory update provided by Keyes & Fox.**
9. **Receive September 1, 2021 Customer Enrollment update.**
10. **Receive Community Advisory Committee July 22, 2021 and August 26, 2021 meeting summaries.**
11. **Ratify Amendment 25 to Sacramento Municipal Utilities District professional services agreement Task Orders 2, 3, and 4 for annual Consumer Price Index based increase for Compensation for Services.**
12. **Approve Second Amendment to VCE's marketing consultant agreement with Green Ideals to extend the contract one (1) year and increase the not to exceed amount by $200,000.**
13. **Update on SACOG Grant – Electrify Yolo Project.**
14. **Ratify execution of waiver of potential legal conflicts letter for VCE's legal counsel Richards, Watson and Gershon.**
15. **Accept and attest the accuracy of Valley Clean Energy's 2020 Power Content Label for the Standard Green and UltraGreen products.**

REGULAR AGENDA

16. **Receive Operating Budget update. (Informational)**
17. **Receive report and provide direction on a concept for an expanded and cost-recovery based customer rate structure. (Information/Discussion)**
18. **Receive progress update on the VCE carbon neutrality study - Strategic Plan Goal Implementation. (Informational)**
19. **Receive Bi-annual Enterprise Risk Management Report. (Informational)**
20. **Discussion of the Community Advisory Committee structure. (Discussion)**
21. **Board Member and Staff Announcements:** Action items and reports from members of the Board, including announcements, AB1234 reporting of meetings attended by Board Members of VCEA expense, questions to be referred to staff, future agenda items, and reports on meetings and information which would be of interest to the Board or the public.
22. **Adjournment:** The Board has scheduled a regular meeting for Thursday, October 14, 2021 at 5:00 p.m.

PUBLIC PARTICIPATION INSTRUCTIONS FOR VALLEY CLEAN ENERGY BOARD OF DIRECTORS MEETING ON THURSDAY, SEPTEMBER 9, 2021 AT 5:00 P.M.:

PUBLIC PARTICIPATION. Public participation for this meeting will be done electronically via e-mail ***and*** during the meeting as described below.

Public participation via e-mail: If you have anything that you wish to be distributed to the Board and included in the official record, please e-mail it to VCE staff at Meetings@ValleyCleanEnergy.org. If information is received by 3:00 p.m. on the day of the Board meeting it will be e-mailed to the Board members and other staff prior to the meeting. If it is received after 3:00 p.m. the information will be distributed after the meeting, but within 24 hours of the conclusion of the meeting.

Verbal public participation during the meeting: If participating during the meeting, there are two (2) ways for the public to provide verbal comments:

1) If you are attending by computer, activate the "participants" icon at the bottom of your screen, then raise your hand (hand clap icon) under "reactions".
2) If you are attending by phone only, you will need to press *9 to raise your hand. When called upon, please press *6 to unmute your microphone.

VCE staff will acknowledge that you have a public comment to make during the item and will call upon you to make your verbal comment.

Public Comments: If you wish to make a public comment at this meeting, please e-mail your public comment to Meetings@ValleyCleanEnergy.org or notifying the host as described above. Written public comments that do not exceed 300 words will be read by the VCE Board Clerk, or other assigned VCE staff, to the Committee and the public during the meeting subject to the usual time limit for public comments [two (2) minutes]. General written public comments will be read during Item 3, Public Comment. Written public comment on individual agenda items should include the item number in the "Subject" line for the e-mail and the Clerk will read the comment during the item. Items read cannot exceed 300 words or approximately two (2) minutes in length. All written comments received will be posted to the VCE website. E-mail comments received after the item is called will be distributed to the Board and posted on the VCE website so long as they are received by the end of the meeting.

Public records that relate to any item on the open session agenda for a regular or special Board meeting are available for public review on the VCE website. Records that are distributed to the Board by VCE staff less than 72 hours prior to the meeting will be posted to the VCE website at the same time they are distributed to all members, or a majority of the members of the Board. Questions regarding VCE public records related to the meeting should be directed to Board Clerk Alisa Lembke at (530) 446-2750 or Alisa.Lembke@ValleyCleanEnergy.org. The Valley Clean Energy website is located at: https://valleycleanenergy.org/board-meetings/.

Accommodations for Persons with disabilities. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials, should contact Alisa Lembke, VCE Board Clerk/Administrative Analyst, as soon as possible and preferably at least two (2) working days before the meeting at (530) 446-2754 or Alisa.Lembke@ValleyCleanEnergy.org.

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 4

TO: Board of Directors

FROM: Alisa Lembke, Board Clerk / Administrative Analyst

SUBJECT: Approval of Minutes from July 8, 2021 Board Meeting

DATE: September 9, 2021

RECOMMENDATION

Receive, review and approve the attached July 8, 2021 Board meeting Minutes.

MINUTES OF THE VALLEY CLEAN ENERGY ALLIANCE
BOARD OF DIRECTORS REGULAR MEETING
THURSDAY, JULY 8, 2021

The Board of Directors of the Valley Clean Energy Alliance duly noticed their regular and Special meetings scheduled for Thursday, July 8, 2021 at 5:00 p.m., to be held via Zoom webinar. Chair Dan Carson announced that the Special meeting will be held concurrently with the regular meeting. Chair Carson established that there was a quorum present and began the meeting at 5:02 p.m.

Board Members Present:	Dan Carson, Jesse Loren, Tom Stallard, Don Saylor, Mayra Vega, Gary Sandy, Lucas Frerichs (arrived at 5:30 p.m.)
Members Absent:	Wade Cowan

Welcome	Chair Carson welcomed everyone.
Approval of Regular Meeting Agenda	Motion made by Director Jesse Loren to approve the July 8, 2021 meeting agenda, seconded by Director Gary Sandy. Motion passed with Directors Wade Cowan and Lucas Frerichs absent.
Public Comment – General and Consent	Chair Carson opened the floor for public comment for items not listed on the agenda and items listed on the Consent Agenda. Board Clerk informed those present that there were no verbal or written comments.
Approval of Consent Agenda (Resolutions 2021-016, 2021-017, and 2021-018)	Motion made by Director Tom Stallard to approve the consent agenda, seconded by Director Loren. Motion passed with Directors Cowan and Frerichs absent. The following items were approved, ratified, and/or received: 4. June 10, 2021 Board meeting Minutes; 5. 2021 Long Range Calendar; 6. Financial update – May 31, 2021 (unaudited) financial statement; 7. Legislative update from Pacific Policy Group; 8. June 30, 2021 Regulatory update provided by Keyes & Fox; 9. June 30, 2021 Customer Enrollment update; 10. Community Advisory Committee June 24, 2021 meeting summary; 11. Copy of Amendment 2 to Jim Parks Consulting Agreement for consulting services increasing the not to exceed amount; 12. signed Amendment 24 to the Sacramento Municipal Utilities District professional services agreement Task Order 2 changing Call Center Staffing hours as Resolution 2021-016; 13. the Interim General Manager to exercise VCE's option to extend the River City Bank Revolving Line of Credit (RLOC) and Term Note through January 31, 2022 as Resolution 2021-017; and,

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	14. consulting services agreement with Energeia USA to conduct a 100% carbon free portfolio study report for a not to exceed amount of $60,000 to be completed no later than January 31, 2022 as Resolution 2021-018.
Item 15: Update on Net Energy Metering (NEM) 3.0. (Informational)	Interim General Manager introduced this item. VCE Staff Rebecca Boyles provided a brief summary of the staff report contained within the packet. <u>Verbal Public Comment:</u> Christine Shewmaker asked the Board to consider that all rooftop solar and behind the meter helps with VCE reaching its goals, and other Community Choice Aggregates (CCAs) in general, resiliency and power goals and combining solar with storage on site helps too. Solar and storage helps when charging electric vehicles and producing electricity thereby decreasing use of fossil fuels. She also favors using land for multi-usage. Mr. Sears emphasized that an objective analysis of NEM is difficult to find; hopefully, as the result of NEM being discussed/addressed by the California Public Utilities Commission (CPUC), it will result in a resource on this subject matter. NEM, going forward, builds towards VCE's mission and goal; and, should be balanced with cost analysis. There are several options to pursue as VCE grows and moves forward, for example, large scale community battery storage. The Board asked questions and several topics were discussed, such as: excess energy produced by residential NEM and/or commercial solar sites, adding to storage; whether or not Resource Adequacy (RA) captures "excess" storage, how it is accounted for, what role does it play; changing the narrative of NEM customers offsetting disadvantaged communities; and, changing statewide policies on budget, climate change, equity, and CPUC rulings. There were no written public comments.
Item 16: Strategic Plan Update. (Informational)	Director Lucas Frerichs arrived at 5:30 p.m. Mr. Sears introduced this item and proceeded to review highlights of the mid-year Strategic Plan update. <u>Verbal Public Comment:</u> Christine Shewmaker thanked staff for their presentation of the Strategic Plan update and for all of their work with the five (5) task groups: Leg./Reg., Outreach, Programs, Rates, and Carbon Neutral. The legislative update, power charge indifference adjustment (PCIA), and fuel and purchased power costs (Energy Resource Recovery Account) were briefly discussed.

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Mr. Sears thanked the CAC and the individual task groups for their input and participation in moving strategic plan goals and objectives forward.

There were no written public comments.

Item 17: Board Member and Staff Announcements	Chair Carson reminded those present that CAISO called a Flex Alert for tomorrow 4 – 9 p.m. There were no other announcements from the Board. Mr. Sears informed those present that the Aquamarine Project was mentioned in a Los Angeles article with a positive reference of VCE and the stability of CCA model. Senate Bill 612 was held up in Committee. mentioned in LA article regarding Aquamarine in Kings County, positive reference of VCE and to CCAs – viability of CCA model. Will be pushing out on social media. SB 612 held up in Committee. VCE submitted proposals to Yolo County's American Rescue Plan (ARP) solicitation. He and Gordon Samuel presented general information of the CCA model, VCE's goals, renewable energy production in Yolo County. Mr. Sears announced to the Board that the CAC appointment was not on this agenda – it will be postponed and Staff will present a recommendation at the Board's September meeting. Staff have been working on the Affordable Housing billing issue regarding net energy metering and have been working with PG&E and customers through the issues. The Board's August meeting has been tentatively cancelled and the next Board meeting is scheduled for September 9, 2021 at 5 p.m. via Webinar/teleconference.
Adjournment	Chair Carson adjourned the regular Board meeting at 5:57 p.m.

Alisa M. Lembke
VCEA Board Secretary

VALLEY CLEAN ENERGY ALLIANCE

Staff Report - Item 5

TO: Board of Directors

FROM: Alisa Lembke, Board Clerk/Administrative Analyst

SUBJECT: Board and Community Advisory Committee 2021 Long-Range Calendar

DATE: September 9, 2021

Recommendation

Receive and file the 2021 Board and Community Advisory Committee long-range calendar listing proposed meeting topics.

Please note that the regular Board meeting scheduled for ***Thursday, November 11th is a holiday*** and needs to be rescheduled.

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2021 Meeting Dates and ***Proposed*** Topics – Board and Community Advisory Committee

MEETING DATE		TOPICS	ACTION
~~January 14, 2021~~ Special Meeting January 21, 2021	**Board** ~~WOODLAND~~	• Oaths of Office for Board Members (Annual if new Members) • Approve Updated CAC Charge (Annual) • Approve 2021 Procurement Plan • Treasurer Function / Investment • GHG Free Attributes • Power Purchase Agreement • Arrearage Management Plan	• Action • Action • Action • Action • Action • Action • Action
January 28, 2021	**Advisory Committee** ~~WOODLAND~~	• Formation of 2021 Task Groups (Annual) • Quarterly Power Procurement / Renewable Portfolio Standard Update • Quarterly Strategic Plan update • New Building Electrification • 2021 Marketing Outreach Plan • CA Community Power Agency Joint Powers Authority	• Discussion/Action • Informational • Informational • Informational/Discussion • Action: Recommendation to Board • Action: Recommendation to Board
February 11, 2021	**Board** ~~DAVIS~~	• Update on SACOG Grant – Electrify Yolo • 2021 Marketing Outreach Plan • CA Community Power Agency Joint Powers Authority • Update on January 2021 Rates • Update on Time of Use (TOU) roll out	• Informational • Action • Discussion/Action • Informational • Informational
February 25, 2021	**Advisory Committee** ~~DAVIS~~	• Update on SACOG Grant – Electrify Yolo • 2021 Task Groups – Tasks/Charge (Annual) • New Building Electrification • Legislative Bills • Update on Time of Use (TOU) roll out	• Informational • Discussion/Action • Discussion/Action • Discussion/Action • Informational

March 11, 2021	**Board** ~~**WOODLAND**~~	• New Building Electrification • Legislative Bills	• Discussion/Action • Action
March 25, 2021	**Advisory Committee** ~~WOODLAND~~	• Draft Programs Plan	• Discussion
April 8, 2021	**Board** ~~**DAVIS**~~	• Preliminary FY21/22 Operating Budget (Annual)	• Informational/Discussion
April 22, 2021	**Advisory Committee** ~~DAVIS~~	• 2021 and 2022 Power Content Update • Quarterly Strategic Plan update • SMUD 2030 Zero Carbon Plan - presentation • AB 992 (Social Media)/Brown Act - Best Best Krieger presentation • Update on SACOG Grant – Electrify Yolo	• Informational • Informational • Informational • Informational/Discussion • Informational
May 13, 2021	**Board** ~~**WINTERS**~~	• Update on FY21/22 draft Operating Budget • Update on SACOG Grant – Electrify Yolo • Amendments 22 and 23 to SMUD Agreement Task Order 2 • Execution of Letter Re: SMUD, Resource Adequacy to the Central Procurement District	• Informational • Informational • Action • Action
May 27, 2021	**Advisory Committee** ~~WOODLAND~~	• Power Planning 2022 / Renewable Content • Draft 3-Year Programs Plan	• Discussion/Action • Action: Recommendation to the Board
June 10, 2021	**Board** ~~**DAVIS**~~	• Approval of FY21/22 Operating Budget (Annual) • Extension of Waiver of Opt-Out Fees for one year (Annual) • Amendment 22 SMUD Agreement Task Order 2 • Draft 3-Year Programs Plan	• Action • Action • Action • Action
June 24, 2021	**Advisory Committee** ~~DAVIS~~	• Prioritizing types of energy (placeholder) • Net Energy Metering (NEM) 3.0 Update	• Discussion/Action • Informational
July 8, 2021	**Board** ~~**WOODLAND**~~	• Re/Appointment of Members to Community Advisory Committee (Annual) (postponed to September meeting) • Net Energy Metering (NEM) 3.0 Update	• Action • Informational

July 22, 2021	**Advisory Committee** ~~WOODLAND~~	• Quarterly Power Procurement / Renewable Portfolio Standard update • Quarterly Strategic Plan update • Legislative Bills update • Rates Task Group report/update	• Informational • Informational • Informational • Informational
August 12, 2021	**Board** ~~DAVIS~~	**Currently, this meeting is cancelled. A special meeting will be scheduled if an urgent item needs to be addressed.**	
August 26, 2021	**Advisory Committee** ~~DAVIS~~	• Update on SACOG Grant – Electrify Yolo (consent) • Carbon Neutral Task Group report/update • Remote meeting update • CAC Structure discussion	• Informational • Informational • Informational • Discussion/Action
September 9, 2021	**Board** ~~WOODLAND~~	• Re/Appointment of Members to Community Advisory Committee (Annual) • Receive Enterprise Risk Management Report (Bi-annual) • Update on SACOG Grant – Electrify Yolo • FY21/22 Operating Budget / RPS update • Strategic Plan update (Carbon Neutrality) (placeholder)	• Action • Informational • Informational • Informational /Discussion • Informational
September 23, 2021	**Advisory Committee** ~~WOODLAND~~	• Outreach Task Group report/update (placeholder) • Presentment of program concept(s) (placeholder) • Legislative End of Session Update • Allocation of Net Margin • FY21/22 Operating Budget / RPS update • Financial Load Forecast	• Informational • Informational • Informational • Informational • Informational/Discussion • Informational
October 14, 2021	**Board** ~~WINTERS~~	• Approval of FY20/21 Audited Financial Statements (James Marta & Co.) (Annual) • Financial Load Forecast (Annual) • FY2020/2021 Allocation of Net Margin (Annual) • Receive Update on 3 year Strategic Plan (adopted Oct. 2020) • Certification of Standard and UltraGreen Products (Annual)	• Action • Informational • Action • Informational • Action
October 28, 2021	**Advisory Committee** ~~DAVIS~~	• Update on Power Content Label Customer Mailer • Committee Evaluation of Calendar Year End (Annual) • Quarterly Power Procurement / Renewable Portfolio Standard update	• Informational • Informational • Discussion

		• Quarterly Strategic Plan update • Resiliency overview/introduction (placeholder)	• Informational • Informational
November 11, 2021 Veterans' Day – Holiday – need to reschedule	**Board** ~~**WOODLAND**~~	• Certification of Power Content Label (Annual) • Update on SACOG Grant – Electrify Yolo	• Action • Informational
November 18, 2021 (3rd Thursday of the month due to Thanksgiving holiday)	**Advisory Committee** ~~WOODLAND~~	• Committee Evaluation of Calendar Year End (Annual) • Review Revised Procurement Guide (Annual) • FY21/22 Operating Budget / RPS update • Update on SACOG Grant – Electrify Yolo (regular item) • Revise CAC Charge (tentative) (Annual) • Carbon Neutral Task Group report/update (placeholder)	• Discussion/Action • Action: Recommendation to Board • Informational • Informational • Discussion • Informational
December 9, 2021	**Board** ~~**DAVIS**~~	• Receive Enterprise Risk Management Report (Bi-annual) • Approve Revised Procurement Guide (Annual) • FY21/22 Operating Budget / RPS update • Receive CAC 2021 Calendar Year End Report (Annual) • Election of Officers for 2022 (Annual)	• Informational • Action • Informational • Receive • Nominations
December 16, 2021 (3rd Thursday of the month due to Christmas holiday)	**Advisory Committee** ~~DAVIS~~	• 2022 CAC Task Group(s) formation (Annual) • Election of Officers for 2022 (Annual) • Revise CAC Charge (tentative) (Annual)	• Discussion • Nominations • Discussion
January 13, 2022	**Board** ~~**WOODLAND**~~	• Oaths of Office for Board Members (Annual if new Members) • Approve Updated CAC Charge (tentative) (Annual)	• Action • Action
January 27, 2022	**Advisory Committee** ~~WOODLAND~~	• Quarterly Power Procurement / Renewable Portfolio Standard Update • Quarterly Strategic Plan update	• Informational • Informational

Note: CalCCA Annual Meeting 11/29, 11/30 and 12/1 in San Jose (in person and virtual)

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 6A

TO: Board of Directors

FROM: Mitch Sears, Interim General Manager
Edward Burnham, Finance and Operations Director

SUBJECT: Financial Update – June 30, 2021 (unaudited) financial statements (with comparative year to date information) and Actual vs. Budget year to date ending June 30, 2021.

DATE: September 9, 2021

RECOMMENDATION:
Accept the following Financial Statements (unaudited) for the period of June 01, 2021 to June 30, 2021 (with comparative year to date information) and Actual vs. Budget year to date ending June 30, 2021.

BACKGROUND & DISCUSSION:
The attached financial statements are prepared in a form to satisfy the debt covenants with River City Bank pursuant to the Line of Credit and are required to be prepared monthly.

The Financial Statements include the following reports:

- Statement of Net Position
- Statement of Revenues, Expenditures and Changes in Net Position
- Statement of Cash Flows

In addition, staff is reporting the Actual vs. Budget variances year to date ending June 30, 2021.

<u>Financial Statements for the period June 1, 2021 – June 30, 2021</u>
In the Statement of Net Position, VCEA as of June 30, 2021 has a total of $10,236,056 in its checking, money market and lockbox accounts, $1,100,000 restricted assets for the Debt Service Reserve account and $1,999,608 restricted assets for the Power Purchases Reserve account. VCEA has incurred obligations from Member agencies and owes as of June 30, 2021, $123,406. VCEA member obligations are incurred monthly due to staffing, accounting and legal services.

The term loan with River City Bank includes a current portion of $1,350,687 and no long-term balance as of June 30, 2021. On June 30, 2021, VCE's net position is $13,082,984.

In the Statement of Revenues, Expenditures and Changes in Net Position, VCEA recorded $5,743,967 of revenue (net of allowance for doubtful accounts) of which $5,259,526 was billed in June and ($2,935,291) represent estimated unbilled revenue. The cost of the electricity for the June revenue totaled $6,611,972. For June, VCEA's gross margin is approximately (15.11%), and operating loss totaled ($1,173,075). The year-to-date change in net position was ($3,504,700).

In the Statement of Cash Flows, VCEA cash flows from operations was (1,006,417) due to June cash receipts of revenues being lower than the monthly cash operating expenses.

Actual vs. Budget Variances for the year to date ending June 30, 2021

Below are the financial statement line items with variances >$50,000 and 5%

- Electric Revenue - $5,441,839 and 11% – variance is due to load being more favorable year-to-date than planned; the COVID and recessionary impacts have not been as severe as anticipated and the weather has been warmer than forecast.
- Interest Revenue – ($85,095) and (63%) – variance is due to unfavorable year-to-date than planned due to the Federal Reserve reductions in interest rates resulting from COVID-19 to prevent long-term recessionary conditions.
- Purchased Power - $6,648,215 and 14% – variance is due to load being more favorable year-to-date than planned; the COVID and recessionary impacts have not been as severe as anticipated and the weather has been warmer than forecast.
- SMUD - Operating Services– ($119,569) and (46%) – favorable variance to budget due to services lower than planned related to TOU bill protection.
- Legal General Counsel – ($117,007) and (79%) – favorable variance to budget due to services lower than planned from member agencies and no major cases requiring general counsel.
- Marketing Outreach – (59,346) and (25%) favorable variance to budget related COVID-19 pandemic reducing community events and outreach.
- New Member Expenses – (61,500) and (100%) favorable variance to budget related to no new member territories being added this year. Winters onboarding expenses are included in marketing and outreach.
- Contingency – ($232,651) and (100%) – favorable variance to budget is due to not having a need yet to utilize the contingency funds set aside in the budget.

Attachments:

1) Financial Statements (Unaudited) June 1, 2021 to June 30, 2021 (with comparative year to date information.)
2) Actual vs. Budget for year to date ending June 30, 2021

VALLEY CLEAN ENERGY ALLIANCE

FINANCIAL STATEMENTS

(UNAUDITED)

FOR THE PERIOD OF JUNE 1 TO JUNE 30, 2021

PREPARED ON AUGUST 4, 2021

VALLEY CLEAN ENERGY ALLIANCE
STATEMENT OF NET POSITION
JUNE 30, 2021
(UNAUDITED)

ASSETS		
Current assets:		
Cash and cash equivalents	$	10,236,056
Accounts receivable, net of allowance		7,639,899
Accrued revenue		2,935,291
Prepaid expenses		15,143
Other current assets and deposits		6,883
Total current assets		20,833,272
Restricted assets:		
Debt service reserve fund		1,100,000
Power purchase reserve fund		1,999,608
Total restricted assets		3,099,608
Noncurrent assets:		
Other noncurrent assets and deposits		100,000
Total noncurrent assets		100,000
TOTAL ASSETS	$	24,032,880
LIABILITIES		
Current liabilities:		
Accounts payable	$	483,961
Accrued payroll		43,705
Interest payable		3,259
Due to member agencies		123,406
Accrued cost of electricity		6,578,811
Other accrued liabilities		108
Security deposits - energy supplies		2,295,640
User taxes and energy surcharges		70,319
Current Portion of LT Debt		1,350,687
Total current liabilities		10,949,896
Noncurrent liabilities		
Term Loan- RCB		-
Total noncurrent liabilities		-
TOTAL LIABILITIES	$	10,949,896
NET POSITION		
Restricted		
Local Programs Reserve		224,500
Restricted		3,099,608
Unrestricted		9,758,876
TOTAL NET POSITION	$	13,082,984

STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN NET POSITION
FOR THE PERIOD OF JUNE 1, 2021 TO JUNE 30, 2021
(WITH COMPARATIVE YEAR TO DATE INFORMATION)
(UNAUDITED)

	FOR THE PERIOD ENDING JUNE 30, 2021	YEAR TO DATE
OPERATING REVENUE		
Electricity sales, net	$ 5,743,967	$ 55,080,145
TOTAL OPERATING REVENUES	5,743,967	55,080,145
OPERATING EXPENSES		
Cost of electricity	6,611,972	54,317,921
Contract services	193,432	2,609,080
Staff compensation	93,323	1,158,120
General, administration, and other	17,051	493,777
TOTAL OPERATING EXPENSES	6,915,778	58,578,898
TOTAL OPERATING INCOME (LOSS)	(1,171,811)	(3,498,753)
NONOPERATING REVENUES (EXPENSES)		
Interest income	2,754	50,285
Interest and related expenses	(4,018)	(56,232)
TOTAL NONOPERATING REVENUES (EXPENSES)	(1,264)	(5,947)
CHANGE IN NET POSITION	(1,173,075)	(3,504,700)
Net position at beginning of period	14,256,059	16,587,684
Net position at end of period	$ 13,082,984	$ 13,082,984

VALLEY CLEAN ENERGY ALLIANCE
STATEMENTS OF CASH FLOWS
FOR THE PERIOD OF JUNE 1 TO JUNE 30, 2021
(WITH YEAR TO DATE INFORMATION)
(UNAUDITED)

	FOR THE PERIOD ENDING JUNE 30, 2021	YEAR TO DATE
CASH FLOWS FROM OPERATING ACTIVITIES		
Receipts from electricity sales	$ 1,814,324	$ 53,448,409
Receipts for security deposits with energy suppliers	-	1,780,000
Payments to purchase electricity	(4,136,896)	(52,330,537)
Payments for contract services, general, and adminstration	1,404,265	(3,845,210)
Payments for staff compensation	(88,110)	(1,126,219)
Other cash payments	-	(4,343)
Net cash provided (used) by operating activities	(1,006,417)	(2,077,900)
CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES		
Principal payments of Debt	(32,943)	(395,319)
Interest and related expenses	(4,253)	(57,408)
Net cash provided (used) by non-capital financing activities	(37,196)	(452,727)
CASH FLOWS FROM INVESTING ACTIVITIES		
Interest income	2,754	50,285
Net cash provided (used) by investing activities	2,754	50,285
NET CHANGE IN CASH AND CASH EQUIVALENTS	(1,040,859)	(2,480,342)
Cash and cash equivalents at beginning of period	14,376,523	15,816,006
Cash and cash equivalents at end of period	$ 13,335,664	$ 13,335,664
Cash and cash equivalents included in:		
Cash and cash equivalents	10,236,056	10,236,056
Restricted assets	3,099,608	3,099,608
Cash and cash equivalents at end of period	$ 13,335,664	$ 13,335,664

VALLEY CLEAN ENERGY ALLIANCE
STATEMENTS OF CASH FLOWS
FOR THE PERIOD OF JUNE 1 TO JUNE 30, 2021
(WITH YEAR TO DATE INFORMATION)
(UNAUDITED)

	FOR THE PERIOD ENDING JUNE 30, 2021	YEAR TO DATE
RECONCILIATION OF OPERATING INCOME TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES		
Operating Income (Loss)	$ (1,171,811)	$ (3,498,753)
(Increase) decrease in net accounts receivable	(3,529,202.35)	(1,679,688)
(Increase) decrease in accrued revenue	(427,554)	37,904
(Increase) decrease in prepaid expenses	(4,507)	(14,518)
(Increase) decrease in inventory - renewable energy credits	-	-
(Increase) decrease in other assets and deposits	-	(4,343)
Increase (decrease) in accounts payable	31,274	(158,439)
Increase (decrease) in accrued payroll	5,213	31,901
Increase (decrease) in due to member agencies	21,873	6,940
Increase (decrease) in accrued cost of electricity	2,475,076	1,987,384
Increase (decrease) in other accrued liabilities	1,566,108	(576,336)
Increase (decrease)security deposits with energy suppliers	-	1,780,000
Increase (decrease) in user taxes and energy surcharges	27,113	10,048
Net cash provided (used) by operating activities	$ (1,006,417)	$ (2,077,900)

VALLEY CLEAN ENERGY
ACTUAL VS. BUDGET FYE 6-30-2021
FOR THE YEAR TO DATE ENDING 06-30-2021

GL#	Description	6/30/2021 YTD FY2021 Actuals	6/30/2021 YTD FY2021 Budget	YTD Variance	% over/-under
301.00	Electric Revenue	$ 55,080,145	$ 49,638,305	$ 5,441,839	11%
311.00	Interest Revenues	50,285	135,379	(85,095)	-63%
415.00	Purchased Power	54,317,916	47,669,701	6,648,215	14%
	Labor & Benefits	1,133,560	1,132,219	1,341	0%
451.10	Salaries & Wages/Benefits	840,698	871,163	(30,464)	-3%
451.20	Contract Labor	161,095	123,464	37,631	30%
453.41	Human Resources & Payroll	131,766	137,593	(5,826)	-4%
	Office Supplies & Other Expenses	158,335	152,171	6,163	4%
452.10	Technology Costs	38,873	26,838	12,035	45%
452.15	Office Supplies	1,956	2,304	(348)	-15%
452.25	Travel	-	6,096	(6,096)	-100%
452.30	CalCCA Dues	115,130	115,133	(3)	0%
452.35	Memberships	2,375	1,800	575	32%
	Contractual Services	2,638,381	2,981,852	(343,471)	-12%
453.10	LEAN Energy	14,495	24,000	(9,505)	-40%
453.15	Don Dame	4,873	10,000	(5,127)	-51%
453.20	SMUD - Credit Support	611,743	577,334	34,410	6%
453.21	SMUD - Wholesale Energy Services	575,664	576,555	(891)	0%
453.22	SMUD - Call Center	761,228	757,596	3,632	0%
453.23	SMUD - Operating Services	143,067	262,636	(119,569)	-46%
	Legal PG&E Bankruptcy	-	24,600	(24,600)	-100%
	Legal General Counsel	30,593	147,600	(117,007)	-79%
453.36	Regulatory Counsel	180,833	189,912	(9,079)	-5%
453.37	Joint CCA Regulatory counsel	18,247	30,750	(12,503)	-41%
453.38	Legislative Support	55,000	61,500	(6,500)	-11%
453.40	Accounting Services	23,229	24,600	(1,371)	-6%
453.42	Audit Fees	43,100	59,963	(16,863)	-28%
453.60	PG&E Acquisition Consulting	849	-	849	100%
459.05	Marketing Outreach	175,460	234,806	(59,346)	-25%
	Rents & Leases	16,932	17,593	(661)	-4%
457.10	Hunt Boyer Mansion	20,074	17,593	2,481	14%
	Other A&G	307,922	362,890	(54,968)	-15%
459.10	PG&E Data Fees	284,635	274,067	10,568	4%
459.15	Community Engagement Activities & Sponsorships	2,359	6,150	(3,791)	-62%
459.20	Insurance	5,939	7,542	(1,604)	-21%
459.08	New Member Expenses	-	61,500	(61,500)	-100%
459.70	Banking Fees	14,990	1,230	13,760	1119%
	Program Costs	-	12,400	(12,400)	-100%
463.00	Miscellaneous Operating Expenses	6,176	6,296	(120)	-2%
463.99	Contingency	-	232,651	(232,651)	-100%
	TOTAL OPERATING EXPENSES	$ 58,579,222	$ 52,555,373	$ 6,023,849	11%
481.10	Interest on RCB loan	55,477	56,650	(1,173)	-2%
482.10	Interest Expense - SMUD	431	646	(215)	-33%
	NET INCOME	$ (3,504,700)	$ (2,838,984)	$ (665,716)	23%

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 6B

TO: Board of Directors

FROM: Mitch Sears, Interim General Manager
Edward Burnham, Finance and Operations Director

SUBJECT: Financial Update – July 31, 2021 (unaudited) financial statements (with comparative year to date information) and Actual vs. Budget year to date ending July 31, 2021

DATE: September 9, 2021

RECOMMENDATION:
Accept the following Financial Statements (unaudited) for the period of July 1, 2021 to July 31, 2021 (with comparative year to date information) and Actual vs. Budget year to date ending July 31, 2021.

BACKGROUND & DISCUSSION:
The attached financial statements are prepared in a form to satisfy the debt covenants with River City Bank pursuant to the Line of Credit and are required to be prepared monthly.

The Financial Statements include the following reports:

- Statement of Net Position
- Statement of Revenues, Expenditures and Changes in Net Position
- Statement of Cash Flows

In addition, staff is reporting the Actual vs. Budget variances year to date ending July 31, 2021.

Financial Statements for the period July 1, 2021 – July 31, 2021
In the Statement of Net Position, VCEA as of July 31, 2021 has a total of $7,991,191 in its checking, money market and lockbox accounts, $1,100,000 restricted assets for the Debt Service Reserve account and $2,000,089 restricted assets for the Power Purchases Reserve account. VCEA has incurred obligations from Member agencies and owes as of July 31, 2021 $24,783. VCEA member obligations are incurred monthly due to staffing, accounting and legal services.

The term loan with River City Bank includes a current portion of $1,317,743. On Jul 31, 2021, VCE's net position is $12,930,780.

In the Statement of Revenues, Expenditures and Changes in Net Position, VCEA recorded $6,992,372 of revenue (net of allowance for doubtful accounts) of which $6,751,521 was billed in July and ($2,951,563) represent estimated unbilled revenue. The cost of the electricity for the July revenue totaled $6,826,358. For July, VCEA's gross margin is approximately 2.37%, and operating loss totaled ($150,445). The year-to-date change in net position was ($150,445).

In the Statement of Cash Flows, VCEA cash flows from operations was (2,209,323) due to July cash receipts of revenues being lower than the monthly cash operating expenses.

Actual vs. Budget Variances for the year to date ending July 31, 2021
Below are the financial statement line items with variances >$50,000 and 5%

- Electric Revenue - $699,337 and 11% – variance is due to load being more favorable year-to-date than planned; the continued COVID and recessionary impacts and the weather has been warmer than forecast.

- Purchased Power - $352,488 and 5% – variance is due to load being more favorable year-to-date than planned; the COVID and recessionary impacts and the weather has been warmer than forecast.

Attachments:

1) Financial Statements (Unaudited) July 1, 2021 to July 31, 2021 (with comparative year to date information.)
2) Actual vs. Budget for year to date ending July 31, 2021

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VALLEY CLEAN ENERGY ALLIANCE

FINANCIAL STATEMENTS

(UNAUDITED)

FOR THE PERIOD OF JULY 1 TO JULY 31, 2021

PREPARED ON AUGUST 27, 2021

VALLEY CLEAN ENERGY ALLIANCE
STATEMENT OF NET POSITION
JULY 31, 2021
(UNAUDITED)

ASSETS		
Current assets:		
Cash and cash equivalents	$	7,991,191
Accounts receivable, net of allowance		9,984,043
Accrued revenue		2,951,563
Prepaid expenses		13,933
Other current assets and deposits		6,883
Total current assets		20,947,613
Restricted assets:		
Debt service reserve fund		1,100,000
Power purchase reserve fund		2,000,089
Total restricted assets		3,100,089
Noncurrent assets:		
Other noncurrent assets and deposits		100,000
Total noncurrent assets		100,000
TOTAL ASSETS	$	24,147,702
LIABILITIES		
Current liabilities:		
Accounts payable	$	607,969
Accrued payroll		46,753
Interest payable		3,292
Due to member agencies		24,783
Accrued cost of electricity		6,825,413
Other accrued liabilities		108
Security deposits - energy supplies		2,295,640
User taxes and energy surcharges		95,221
Current Portion of LT Debt		1,317,743
Total current liabilities		11,216,922
Noncurrent liabilities		
Term Loan- RCB		-
Total noncurrent liabilities		-
TOTAL LIABILITIES	$	11,216,922
NET POSITION		
Restricted		
Local Programs Reserve		224,500
Restricted		3,100,089
Unrestricted		9,606,191
TOTAL NET POSITION	$	12,930,780

VALLEY CLEAN ENERGY ALLIANCE

STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN NET POSITION

FOR THE PERIOD OF JULY 1, 2021 TO JULY 31, 2021

(WITH COMPARATIVE YEAR TO DATE INFORMATION)

(UNAUDITED)

	FOR THE PERIOD ENDING JULY 31, 2021	YEAR TO DATE
OPERATING REVENUE		
Electricity sales, net	$ 6,992,372	6,992,372
TOTAL OPERATING REVENUES	6,992,372	6,992,372
OPERATING EXPENSES		
Cost of electricity	6,826,358	6,826,358
Contract services	198,913	198,913
Staff compensation	89,820	89,820
General, administration, and other	25,578	25,578
TOTAL OPERATING EXPENSES	7,140,669	7,140,669
TOTAL OPERATING INCOME (LOSS)	(148,297)	(148,297)
NONOPERATING REVENUES (EXPENSES)		
Interest income	1,902	1,902
Interest and related expenses	(4,051)	(4,051)
TOTAL NONOPERATING REVENUES (EXPENSES)	(2,149)	(2,149)
CHANGE IN NET POSITION	(150,446)	(150,446)
Net position at beginning of period	13,081,226	13,081,226
Net position at end of period	$ 12,930,780	$ 12,930,780

VALLEY CLEAN ENERGY ALLIANCE
STATEMENTS OF CASH FLOWS
FOR THE PERIOD OF JULY 1 TO JUlY 31, 2021
(WITH YEAR TO DATE INFORMATION)
(UNAUDITED)

	FOR THE PERIOD ENDING JULY 31, 2021	YEAR TO DATE
CASH FLOWS FROM OPERATING ACTIVITIES		
Receipts from electricity sales	$ 2,953,500	$ 2,953,500
Receipts for security deposits with energy suppliers	-	-
Payments to purchase electricity	(6,579,756)	(6,579,756)
Payments for contract services, general, and adminstration	1,503,704	1,503,704
Payments for staff compensation	(86,772)	(86,772)
Other cash payments	-	-
Net cash provided (used) by operating activities	(2,209,324)	(2,209,324)
CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES		
Principal payments of Debt	(32,944)	(32,944)
Interest and related expenses	(4,018)	(4,018)
Net cash provided (used) by non-capital financing activities	(36,962)	(36,962)
CASH FLOWS FROM INVESTING ACTIVITIES		
Interest income	1,902	1,902
Net cash provided (used) by investing activities	1,902	1,902
NET CHANGE IN CASH AND CASH EQUIVALENTS	(2,244,384)	(2,244,384)
Cash and cash equivalents at beginning of period	13,335,664	13,335,664
Cash and cash equivalents at end of period	$ 11,091,280	$ 11,091,280
Cash and cash equivalents included in:		
Cash and cash equivalents	7,991,191	7,991,191
Restricted assets	3,100,089	3,100,089
Cash and cash equivalents at end of period	$ 11,091,280	$ 11,091,280

VALLEY CLEAN ENERGY ALLIANCE
STATEMENTS OF CASH FLOWS
FOR THE PERIOD OF JULY 1 TO JUlY 31, 2021
(WITH YEAR TO DATE INFORMATION)
(UNAUDITED)

	FOR THE PERIOD ENDING JULY 31, 2021	YEAR TO DATE
RECONCILIATION OF OPERATING INCOME TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES		
Operating Income (Loss)	$ (148,297)	$ (148,297)
(Increase) decrease in net accounts receivable	(4,047,502.00)	(4,047,502)
(Increase) decrease in accrued revenue	(16,272)	(16,272)
(Increase) decrease in prepaid expenses	1,210	1,210
(Increase) decrease in inventory - renewable energy credits	-	-
(Increase) decrease in other assets and deposits	-	-
Increase (decrease) in accounts payable	124,008	124,008
Increase (decrease) in accrued payroll	3,048	3,048
Increase (decrease) in due to member agencies	(98,623)	(98,623)
Increase (decrease) in accrued cost of electricity	246,602	246,602
Increase (decrease) in other accrued liabilities	1,701,600	1,701,600
Increase (decrease)security deposits with energy suppliers	-	-
Increase (decrease) in user taxes and energy surcharges	24,902	24,902
Net cash provided (used) by operating activities	$ (2,209,324)	$ (2,209,324)

VALLEY CLEAN ENERGY
ACTUAL VS. BUDGET FYE 6-30-2022
FOR THE YEAR TO DATE ENDING 07/31/2021

GL#	Description	7/31/2021 YTD FY2022 Actuals	7/31/2021 YTD FY2022 Budget	YTD Variance	% over/-under
301.00	Electric Revenue	6,992,372	6,293,035	699,337	11%
311.00	Interest Revenues	1,902	4,700	(2,798)	-60%
415.00	Purchased Power	6,826,358	6,473,870	352,488	5%
	Labor & Benefits	89,820	97,567	(7,747)	-8%
451.10	Salaries & Wages/Benefits	76,392	81,457	(5,064)	-6%
451.20	Contract Labor	-	4,855	(4,855)	-100%
453.41	Human Resources & Payroll	13,427	11,256	2,171	19%
	Office Supplies & Other Expenses	21,187	15,704	5,483	35%
452.10	Technology Costs	2,633	2,836	(203)	-7%
452.15	Office Supplies	94	192	(98)	-51%
452.25	Travel	-	508	(508)	-100%
452.30	CalCCA Dues	10,500	10,351	149	1%
	CC Power	7,960	1,667	6,293	378%
452.35	Memberships	-	150	(150)	-100%
	Contractual Services	190,902	213,761	(22,860)	-11%
453.10	Other Contract Services	-	2,000	(2,000)	-100%
453.15	Don Dame	306	833	(527)	-63%
453.20	SMUD - Credit Support	67,125	36,833	30,292	82%
453.21	SMUD - Wholesale Energy Services	47,972	48,831	(859)	-2%
453.22	SMUD - Call Center	66,849	65,440	1,409	2%
453.23	SMUD - Operating Services	1,800	5,000	(3,200)	-64%
453.24	Commercial Legal Support	-	-	-	100%
453.25	Legal General Counsel	6,226	12,608	(6,381)	-51%
453.36	Regulatory Counsel	-	16,222	(16,222)	-100%
453.37	Joint CCA Regulatory counsel	-	2,627	(2,627)	-100%
453.38	Legislative - (Lobbiest)	5,000	5,000	-	0%
453.40	Accounting Services	(4,376)	2,101	(6,477)	-308%
453.41	Financial Consultant	-	2,083	(2,083)	-100%
453.42	Audit Fees	-	14,183	(14,183)	-100%
453.60	PG&E Acquisition Consulting	-	-	-	100%
	Marketing	8,011	19,473	(11,462)	-59%
459.05	Marketing Collateral	8,011	18,961	(10,950)	-58%
459.15	Community Engagement Activities & Sponsorship	-	513	(513)	-100%
	Programs	-	11,250	(11,250)	-100%
	Program Costs	-	11,250	(11,250)	-100%
	Rents & Leases	1,590	2,010	(420)	-21%
457.10	Hunt Boyer Mansion	1,590	2,010	(420)	-21%
	Other A&G	1,415	33,993	(32,578)	-96%
459.08	Development - New Members	-	2,000	(2,000)	-100%
459.09	Strategic Plan Implementation	-	6,250	(6,250)	
459.10	PG&E Data Fees	-	24,993	(24,993)	-100%
459.20	Insurance	1,415	644	771	
459.70	Banking Fees	-	105	(105)	
463.10	Miscellaneous Operating Expenses	1,385	537	848	0%
463.99	Contingency	-	10,907	(10,907)	-100%
	TOTAL OPERATING EXPENSES	7,140,668	6,879,073	261,595	4%
481.10	Interest on RCB loan	4,051	4,018	33	1%
	NET INCOME	(150,445)	(585,356)	434,911	-74%

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 7

To: Board of Directors

From: Mitch Sears, Interim General Manager

Subject: Legislative Update – Pacific Policy Group

Date: September 9, 2021

Pacific Policy Group, VCE's lobby services consultant, continues to work with Staff and the Community Advisory Committee's Legislative - Regulatory Task Group on several legislative measures. Below is a summary:

The Legislature returned from its summer recess in mid-August and the immediate task for legislation was the Appropriations Committee process. Virtually every bill still progressing through the legislative process was considered in the Appropriations Committee of each house. AB 843 (Aguiar-Curry) passed this important step and then was approved by the Senate on consent. The bill will head to the Governor for his signature or veto.

At the same time, the Legislature and Governor slowly resumed their negotiations on a number of items remaining in the budget process. At the end of the month, a budget trailer bill (a bill that provides policy direction for allocations made in a budget bill) on a number of newly proposed clean energy programs was proposed by the Governor. One of the proposed new programs would create a long duration energy storage program, (LDES) which would require the Department of Water Resources to procure a significant number of megawatts of LDES with costs and benefits applied to each retail end-use customer. This is very similar to past attempts to legislate the Eagle Crest pumped hydro project into viability. Final decisions on the proposed trailer bill had not been made as of the writing of this report,

VCE's current legislative efforts are concentrated on the following two bills.

1. SB 612 (Portantino). Electrical Corporations. Allocation of Legacy Resources.
Summary: This bill adds new sections to the Public Utilities Code that are designed to ensure fair and equal access to the benefits of legacy resources held in IOU portfolios and management of these resources to maximize value for all customers.

Specifically, the bill will:

1) Provide IOU, CCA, and direct access customers equal right to receive legacy resource products that were procured on their behalf in proportion to their load share if they pay the full cost of those products.

2) Require the CPUC to recognize the value of GHG-free energy and any new products in assigning cost responsibility for above-market legacy resources, in the same way value is recognized for renewable energy and other products.

Additional Information

- VCE Position: Support
- CalCCA Position: Sponsor
- Next hearing: This bill was held in Assembly Utilities & Energy Committee, and is a two-year bill.
- Bill language: SB 612

2. AB 843 (Aguiar-Curry). California Renewable Portfolio Standard Program: Renewable Feed-in-Tariff.

Summary: This bill authorizes CCAs to voluntarily bring contracts to the CPUC for bioenergy projects procured via the BioMAT feed-in-tariff. The bill would clarify that CCAs are eligible to retain the renewable portfolio standard and resource adequacy benefits of the energy procured under this section.

The BioMAT program was established by SB 1122 (2012, Rubio) and requires the three large IOUs to collectively procure by 2025 250MW of bioenergy across the following three categories (PG&E amounts shown):

1. Category 1: Biogas from wastewater treatment, municipal organic waste diversion, food processing, and co-digestion.
    - 30.5MW for PG&E | 28MW remaining
2. Category 2: Dairy and other agricultural bioenergy.
    - 33.5MW for PG&E | 13.4MW remaining
3. Category 3: Sustainable forest management byproducts bioenergy.
    - 47MW for PG&E | 36MW remaining

AB 843 passed the Legislature with tremendous bi-partisan support and is before the Governor for his signature or veto. The Governor has until October 10, 2021 to sign or veto all bills presented to him.

Additional Information

- VCE Position: Support
- CalCCA Position: Support
- The bill is being co-sponsored by MCE and Pioneer Community Choice Energy.
- Next hearing: The bill has passed the Legislature.
- Bill language: AB 843

There are numerous bills that have been introduced and starting to be vetted through various policy committees. Aside from the two bills mentioned above, staff wanted to highlight the following bills to the Board.

Measure	Summary	Calendar	VCE Position	CalCCA Position

AB 64 (Quirk)	AB 64 would require the PUC and CEC to develop a strategy, by January 1, 2024, that achieves (1) a target of 5 gigawatthours of operational long-term backup electricity, as specified, by December 31, 2030, and (2) a target of at least an additional 5 gigawatthours of operational long-term backup electricity in each subsequent year through 2045. The bill would require the PUC, by January 1, 2024, to submit the strategy developed in a report to the Legislature, and by January 1 of each 4th year thereafter, through January 1, 2044, would require the PUC to submit a report to the Legislature detailing the progress made toward achieving the targets of the long-term backup electricity supply strategy.	Held in Asm. U&E This bill is now a 2-year bill	None	None
AB 361 (R. Rivas)	Would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting for the purpose of declaring or ratifying a local emergency, during a declared state or local emergency, as those terms are defined, when state or local health officials have imposed or recommended measures to promote social distancing, and during a declared local emergency provided the legislative body makes certain determinations by majority vote.	Sen. Floor	None	None
AB 427 (Bauer-Kahan)	Establishes rules that allow demand response program and resources procured by an LSE to meet the LSE's resource adequacy requirements regardless of whether the program is integrated into the CAISO market. Additionally, the bill adopts a baseline methodology that treats energy storage charging as load in baseline calculations for DR	Held in Asm. Appropriations This bill is now a 2-year bill	Watch	Watch

	programs and allows BTM solar + storage participating in a DR program to deliver electricity to the grid to provide RA. Lastly, the bill directs the CPUC to establish a capacity valuation methodology for storage and solar + storage BTM resources and that it applies to DR resources coupled with solar + storage.			
AB 1088 (Mayes)	This bill would establish the California Procurement Authority (CPA) as a state-level central procurement entity for the electric sector, including as a provider of last resort (POLR) for load-serving entities (LSEs) that opt out of the procurement function. The CPA would also fill any resource adequacy (RA) and integrated resource planning (IRP) procurement gaps and serve as an LSE for customers not served by another LSE. There is a lot in this bill and if the bill sounds familiar, that's because it is very similar to a bill sponsored by CalCCA in 2020 however this bill adds POLR provisions. The bill is sponsored by San Diego Gas & Electric and is meant to create a pathway for them to exit the retail side of their business.	Held in Asm. U&E This bill is now a 2-year bill	None	Support if Amended
AB 1161 (E. Garcia)	Officially, AB 1161 aims to fast-track the deployment and procurement of new zero carbon energy resources to fulfill 100% of state agency needs by 2030, in addition to LSE procurement. Officially, AB 1161 also seeks to assist in balancing the grid, increasing reliability, and facilitating integration of other renewables with these new investments. There is concern that AB 1161 is actually seeking to create a pathway for long duration pumped storage to be built in and near Joshua Tree National Park. AB 1161 seeks to	Held in Asm. U&E This bill is now a 2-year bill	None	Oppose Unless Amended

	accomplish the official and unofficial goas by: Accelerating the SB 100 zero carbon electricity target for state agencies from 2045 to 2030, requiring the California Department of Water Resources (DWR) to enter into PPAs for the development of new zero GHG resources to satisfy the accelerated target for all state agencies, coordinating available state incentives and financing assistance to lower the cost of electricity from state-procured resources, permitting state agencies to remain with existing LSEs (including CCA and no new obligations or costs would be assigned to existing LSEs), and funding net above-market costs of long-term contracts from sources other than utility rates including the general fund. Rather than directly serving the state agency load, the bill would require the DWR to invest in new projects in an amount equivalent to the load, and then re-sell the RA attributes and energy (but not RECs) back into the wholesale markets. LSEs would not include the state agency load in their Power Source Disclosure label or in their RPS requirements.			
SB 67 (Becker)	The bill would establish the California 24/7 Clean Energy Standard Program, which would require that 85% of retail sales annually and at least 60% of retail sales within certain subperiods by December 31, 2030, and 90% of retail sales annually and at least 75% of retail sales within certain subperiods by December 31, 2035, be supplied by eligible clean energy resources, as defined.	Held in Sen. EUC This bill is now a 2-year bill	Developing Position	None
SB 99 (Dodd)	Would set forth guiding principles for plan development, including equitable access to reliable energy, as provided, and integration with	Held on Asm. Appropriations Suspense File	Support	None

	other existing local planning documents. The bill would require a plan to, among other things, ensure that a reliable electricity supply is maintained at critical facilities and identify areas most likely to experience a loss of electrical service. This bill contains other related provisions.			
SB 204 (Dodd)	Places the Base Interruptible Program (BIP) into statute. The BIP is an emergency electricity demand response program established by a proceeding years ago. The program is regulated by the PUC and used as a last line of defense against rolling blackouts. While the bill places the program in statute, it only makes reference to the IOUs offering and administering the program even though an existing decision allows CCAs to offer and administer the program to their customers.	Held on Sen. Appropriations Suspense File This bill is now a 2-year bill		Watch

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 8

To: Board of Directors

From: Mitch Sears, Interim General Manager

Subject: Regulatory Monitoring Report – Keyes & Fox

Date: September 9, 2021

Please find attached Keyes & Fox's August 2021 Regulatory Memorandum dated September 3, 2021, an informational summary of the key California regulatory and compliance-related updates from the California Public Utilities Commission (CPUC).

Attachment: Keyes & Fox Regulatory Memorandum dated September 3, 2021.

KEYES&FOX LLP

Valley Clean Energy Alliance

Regulatory Monitoring Report

To:	Valley Clean Energy Alliance ("VCE") Board of Directors
From:	Sheridan Pauker, Partner, Keyes & Fox, LLP Tim Lindl, Partner, Keyes & Fox LLP Ben Inskeep, Principal Analyst, EQ Research, LLC
Subject:	Regulatory Update
Date:	September 3, 2021

Summary

Keyes & Fox LLP and EQ Research, LLC, are pleased to provide VCE's Board of Directors with this monthly informational memo describing key California regulatory and compliance-related updates from the California Public Utilities Commission (CPUC). A Glossary of Acronyms used is provided at the end of this memo.

In summary, this month's report includes regulatory updates on the following priority issues:

- **Ensuring Summer 2021 Reliability:** The Assigned Commissioner issued an Amended Scoping Memo and Ruling addressing Gov. Newsom's emergency proclamation on accelerating plans for the construction, procurement, and rapid deployment of new clean energy and storage projects to mitigate the risk of capacity shortages and increase the availability of carbon-free energy at all times of day. The ALJ issued a Ruling providing notice of the CEC's draft Preliminary 2022 Summer Supply Stack Analysis. The ALJ issued a separate Ruling providing a Staff Concepts Proposal, which included a modified version of VCE's Agricultural Demand Flexibility Pilot it proposed in Phase 1 of this proceeding. Parties, including VCE, filed opening testimony on the Staff Concepts Proposal.
- **PG&E's Phase 1 GRC:** Numerous parties, including a coalition of eight CCAs in PG&E's service territory, filed protests or responses to PG&E's 2023 Phase 1 general rate case (GRC) application. TURN also filed a Motion requesting a Ruling requiring PG&E to supplement its proposal with an alternative spending plan that limits the growth in proposed spending by the rate of inflation. The CPUC Executive Director also granted PG&E's request to delay filing its next Phase 2 GRC application until September 30, 2024. The prehearing conference was held. Finally, in a separate application filed on August 23, 2021, PG&E requested an increase in its authorized return on equity from 10.25% to 11.0%, which would increase its annual revenue requirement by an additional $201 million over current rates.
- **IRP Rulemaking:** The ALJ issued a Ruling seeking comments on its proposed Preferred System Plan, which proposes adopting a portfolio based on the more aggressive 38 MMT by 2030 greenhouse gas reduction target. LSEs including VCE submitted compliance filings on September 1, 2021, providing updates on the status of their procurement in response to CPUC mandates.
- **Direct Access Rulemaking**: CalCCA filed a response to a July application for rehearing filed by a coalition of parties supporting expansion of Direct Access, who challenged a June CPUC

decision that recommended against any re-opening of Direct Access. This proceeding is otherwise closed.

- **RA Rulemaking (2021-2022):** The co-facilitators of the upcoming workshops provided logistical information on these workshops to develop the PG&E Slice-of-Day proposal, proposing nine 5-hour workshops in 2021 and early 2022.
- **PG&E 2022 ERRA Forecast:** The assigned commissioner issued a Scoping Memo and Ruling setting the scope and procedural schedule for the proceeding. PG&E also filed revised testimony.
- **RPS Rulemaking:** Parties including a coalition of CCAs filed reply comments responding to July comments submitted by parties regarding the draft 2021 RPS Procurement Plans filed by retail sellers on July 1, 2021.
- **PG&E's 2019 ERRA Compliance:** PG&E filed an application for rehearing of the Phase 1 decision, D.21-07-013. A prehearing conference on Phase 2 of this proceeding was held to determine the parties, positions of the parties, the scope of issues and other procedural matters.
- **PCIA Rulemaking:** The ALJ issued a Ruling requesting comments relating to the Energy Division staff proposal to change the issue date of the Market Price Benchmark calculations. PG&E also filed several advice letters regarding prepayment of PCIA obligations and its methodology for determining how much of its PCIA-eligible RA capacity is reserved..
- **PG&E's Phase 2 GRC:** The Assigned Commissioner issued an Amended Scoping Memo and Ruling, extending the deadlines and schedule in this proceeding.
- **PG&E's 2020 ERRA Compliance:** Parties filed rebuttal testimony. On August 30, 2021, parties submitted the List of Stipulated and Disputed Facts and Report of Meet and Confer.
- **PG&E Regionalization Plan**: The ALJ issued a Ruling granting party status to VCE. Settling parties filed a motion to request Commission approval of two settlement agreements on August 31, 2021.
- **Investigation into PG&E's Organization, Culture and Governance:** On August 18, CPUC President Batjer sent a letter to PG&E stating that she has directed CPUC staff to investigate whether to advance PG&E further within the Enhanced Oversight and Enforcement process. Previously, the CPUC issued Resolution M-4852 in April 2021, placing PG&E into Step 1 of the Enhanced Oversight and Enforcement process it established when approving PG&E's bankruptcy plan of reorganization.
- **Provider of Last Resort Rulemaking:** No updates this month. A prehearing conference was held June 11, 2021.
- **2022-2023 Wildfire Fund Nonbypassable Charge Rulemaking:** No updates this month. The Assigned Commissioner issued a Scoping Memo and Ruling on June 8, 2021.
- **RA Rulemaking (2019-2020):** No updates this month. Two applications for rehearing remain the only outstanding items to be addressed in this proceeding, which is now closed.

Ensuring Summer 2021 Reliability

On August 10, 2021, the Assigned Commissioner issued an Amended Scoping Memo and Ruling addressing Gov. Newsom's emergency proclamation on accelerating plans for the construction, procurement, and rapid deployment of new clean energy and storage projects to mitigate the risk of capacity shortages and increase the availability of carbon-free energy at all times of day. On August 12, 2021, the ALJ issued a Ruling providing notice of the CEC's draft Preliminary 2022 Summer Supply Stack Analysis. On August 16, 2021, the ALJ issued a Ruling providing a Staff Concepts Proposal, which included a modified version of VCE's Agricultural Demand Flexibility Pilot it proposed in Phase 1 of this proceeding. On September 1, 2021, Parties including VCE filed opening testimony on the Staff Concepts Proposal.

- **Background**: CAISO experienced rolling blackouts (Stage 3 Emergency) on August 14, 2020 and August 15, 2020 when a heatwave struck the Western U.S. and there was insufficient available supply to meet high demand. The OIR was issued to ensure reliable electric service in the event that an extreme heat storm occurs in the summer of 2021.

  The Scoping Memo and Ruling identified two primary issues as in scope: how to (1) increase energy supply and (2) decrease demand during the peak demand and net demand peak hours in the event that a heat storm similar to the August 2020 storm occurs in the summer of 2021.

  VCE's opening testimony provided its proposal for an Agricultural AutoDR Demand Flexibility Pilot, which could made available to customers on irrigation pumping tariffs.

  D.21-03-056 instituted modifications to the planning reserve margin (PRM), effectively increasing the PRM beginning summer 2021 from 15% to 17.5%. For 2021, this results in a minimum target of incremental procurement of 450 MW for PG&E, 450 MW for SCE, and 100 MW for SDG&E. The net costs associated with this incremental procurement would be shared by all customers (including CCA customers) in each IOU's service territory. It also authorized the IOUs to implement a Flex Alert paid media campaign program to encourage ratepayers to voluntarily reduce demand during moments of a stressed grid and adopts modifications and expansions to the Critical Peak Pricing (CPP) program, to be in place for the summer of 2021. D.21-03-056 also establishes an ELRP to provide emergency load reduction and serve as an insurance policy against the need for future rotating outages. The initial duration of the ELRP pilot program would be five years, 2021-2025. After-the-fact pay-for-performance would be made at a prefixed energy-only ELRP Compensation Rate ($1,000/MWh for up to an annual 60-hour limit) applied to incremental load reduction. For PG&E, the budget caps are $3.9 million for administration and $28.6 million for customer compensation.

- **Details**: The Amended Scoping Memo and Ruling indicates that in addition to the items currently scoped into the proceeding, refinements and modifications to the following issues may be considered:

  - **Increase peak and net peak resources in 2022 and 2023**, including: (1) expedited resource procurement, (2) updates to RA requirements (3) support for CAISO's Capacity Procurement Mechanism authority, (4) analysis of need – particularly at net peak – and resources available to meet this need, in light of recent trends in weather and resource availability, (5) expedited IRP procurement, (6) Planning Reserve Margin adjustment for 2023, (7) interconnection, and (8) other opportunities to increase supply.

  - **Reduce peak and net-peak demand in 2022 and 2023**, including: (1) Flex Alert, (2) Critical Peak Pricing, (3) Emergency Load Reduction Program Pilot, (4) modifications to existing demand response programs (including base interruptible program, agricultural and pumping interruptible, air condition cycling), (5) new demand response programs or pilots, (6) EV participation in DR or load management, (7) measures to minimize loss of demand response enrollment, (8) rate structures, including pilot rates introduced for a limited period or limited to certain customer classes or subsets of such classes (9) other opportunities to reduce demand or net demand including virtual power plants, DER export, distributed generation.

  The Staff Concepts Paper offered a number of ideas to increase peak resources and reduce peak demand, including a modified version of VCE's proposal to tap into the load reduction/ shift potential available in the pumping sector. Staff's concept proposal included a provision to hold PG&E harmless for any difference in cost recovery that would occur under such a pilot. It also proposed to design the experimental rate to incorporate the ideas in the 6-step Distributed Energy Resource & Demand Flexibility roadmap described by Energy Division Staff at the May 25, 2021, workshop on Advance DER and Demand Flexibility Management. VCE and other parties were encouraged to submit a more fleshed out proposal on this topic. Among the other concepts identified by Staff are allowing residential customers to participate in the ELRP program and get paid $1/kWh for demand reduction, implementing penalties on LSEs for failure to comply with D.19-11-016 procurement mandates, providing incentives to LSEs to accelerate procurement ordered under D.21-06-035, increasing RA non-compliance penalties, and establishing a new non-bypassable charge for cost recovery of costs associated with emergency procurement that adds additional reserve margin and does not already fit into an existing cost recovery mechanism.

The CEC's draft Preliminary Summer 2022 Stack Analysis identifies the risk of potential energy shortfalls under both average and extreme weather planning reserve margins next summer. This analysis projects an additional 600 MW to 5,200 MW of resources may be required to ensure electric system reliability for peak and net-peak hours during summer 2022 without the use of contingency resources.

- **Analysis**: A June 10, 2021, Ruling initially limited additional testimony and consideration in this proceeding going forward to a discussion of proposals made by PG&E and CEJA. In response to the Governor's emergency proclamation, however, the Amended Scoping Memo and Ruling significantly expanded the scope to include other topics and issues that could result in additional resources to maintain grid reliability in 2022 and 2023. **This could include additional or accelerated procurement mandates for LSEs**, or other changes that could be implemented through LSEs to increase supply and decrease demand during peak summer times in 2022 and 2023.

  VCE's September 1 testimony proposed to implement an Agricultural AutoDR Demand Flexibility pilot for customers on irrigation pumping tariffs. Under the pilot, irrigation pumping loads would be automated and receive dynamic price signals under the implementation of an experimental rate that incorporates dynamic energy and capacity charges in hourly prices. VCE proposed to target initial enrollment in the pilot of approximately 5 MW of connected irrigation load.

- **Next Steps**: Reply testimony is due September 10, 2021, opening briefs are due September 20, 2021, and reply briefs are due September 27, 2021. A proposed decision will be issued October 29, 2021, with a final decision on November 18, 2021.

- **Additional Information**: Ruling providing Staff Concepts Proposal (August 16, 2021); Ruling noticing CEC draft Preliminary 2022 Summer Supply Stack Analysis (August 12, 2021); Amended Scoping Memo and Ruling (August 10, 2021); D.21-06-027 (approved June 24, 2021); Order denying applications for rehearing (May 20, 2021); D.21-03-056 (March 25, 2021); D.21-02-028 directing IOUs to seek additional capacity for summer 2021 (February 17, 2021); Scoping Memo and Ruling (December 21, 2020); ALJ Ruling and Staff Proposal (December 18, 2020); Order Instituting Rulemaking (November 20, 2020); Docket No. R.20-11-003.

PG&E Phase 1 GRC

Numerous parties, including a coalition of eight CCAs in PG&E's service territory, filed protests or responses to PG&E's 2023 Phase 1 general rate case (GRC) application by August 5, 2021, to which PG&E filed a response on August 10, 2021. TURN also filed a Motion (currently pending) on August 5, 2021, requesting a Ruling requiring PG&E to supplement its proposal with an alternative spending plan that limits the growth in proposed spending by the rate of inflation. Parties responded to TURN's motion on August 20, 2021. On August 25, 2021, the CPUC Executive Director granted PG&E's request to delay filing its next Phase 2 GRC application until September 30, 2024. On August 30, 2021, the prehearing conference was held. Finally, in a separate application filed on August 23, 2021, PG&E requested an increase in its authorized return on equity from 10.25% to 11.0%, which would increase its annual revenue requirement by an additional $201 million over current rates (Docket No. A.21-08-015).

- **Background**: Phase 1 GRC applications cover the revenue requirement, including the functionalization of costs into categories such as electric distribution or generation, which impact which customers (bundled, unbundled, or both) pay for the costs through rates. Phase 2 GRC applications cover cost allocation (i.e., assigning costs to customer classes, such as Residential) and rate design issues. PG&E proposes to have a second and third track of this Phase 1 GRC to request reasonableness review of certain memorandum and balancing account costs to be recorded in 2021 and 2022. PG&E will file its next Phase 2 GRC application by September 30, 2021.

- **Details**: In their protest of PG&E's application, the Joint CCA parties identified the following list of preliminary issues they plan to examine or address in this proceeding:
    - **Compliance with the Commission's Cost Allocation Directives in D.20-12-005** (PG&E's most recently decided Phase 1 GRC decision), including PG&E's cost functionalization methodology, wildfire costs, and allocation of Customer Care costs.
    - **Reinvestments in and Recovery of Legacy Owned Generation Costs**, including solar contract renewals or the decommissioning of legacy owned assets, which impact Joint CCAs' customers through the PCIA and related vintaging of costs.
    - **Other Issues that May Require Further Investigation and Analysis**, including how costs related to PSPS Events should be tracked and allocated; whether and how any funds that PG&E receives as credits (such as Department of Energy settlement funds) should be allocated to departing load customers; and how PG&E's regionalization proposal impacts its relationship and dealings with CCAs and their customers.
- **Analysis**: This proceeding will set the revenue requirement, and thereby ultimately impact PG&E's rates, for 2023-2026. It will establish how the revenue requirement components will be functionalized, which impact whether the ultimately approved costs will be borne by PG&E bundled customers, unbundled customers like VCE customers, or both. It will also address numerous other issues raised in PG&E's application that could impact rates, policies, and programs implemented by PG&E.
- **Next Steps**: The next step will be the issuance of a scoping memo and ruling that will provide the list of issues within the scope of the proceeding and the procedural schedule.
- **Additional Information**: Ruling scheduling prehearing conference (August 19, 2021); PG&E Application (June 30, 2021); Docket No. A.21-06-021.

IRP Rulemaking

On August 17, 2021, the ALJ issued a Ruling seeking comments on a proposed Preferred System Plan. LSEs including VCE submitted compliance filings on September 1, 2021, providing updates on the status of their procurement in response to CPUC mandates.

- **Background**: On September 1, 2020, LSEs including VCE filed their 2020 IRPs, which included updates on each LSE's progress towards completing additional system RA procurement ordered for the 2021-2023 years under D.19-11-016.

  The September 24 Scoping Memo and Ruling clarified that the issues planned to be resolved in this proceeding are organized into the following tracks:
    - General IRP oversight issues: This track will consider moving from a two-year to a three-year IRP cycle, IRP filing requirements, and interagency work implementing SB 100.
    - Procurement track: D.21-06-035 establishing the 11,500 MW by 2026 procurement mandate resolved many of the procurement track issues. However, the CPUC will conduct additional quantitative and qualitative analysis in the next few months to help inform the preferred system portfolio (PSP) decision, expected by the end of 2021, where it may consider additional capacity procurement requirements, including the possibility of additional fossil fuel procurement.
    - Preferred System Portfolio Development: The CPUC has aggregated LSE portfolios, analyzed the aggregate portfolio, and proposed a PSP. The next step after party comments and reply comments will be the issuance of a proposed decision and final decision adopting a PSP.

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- TPP: *Completed*. D.21-02-028 transmitted portfolios to the CAISO for use in its TPP analysis.
- Reference System Portfolio Development: To the extent that a new round of RSP analysis is conducted for the next IRP cycle, this proceeding will be the venue for developing and vetting the resource assumptions associated with that analysis in preparation for the next IRP cycle.

D.20-12-044 established a backstop procurement process that would apply to LSEs that did not opt-out of self-procuring their capacity obligations under D.19-11-016. It requires LSEs to file bi-annual (due February 1 and August 1) updates on their procurement progress relative to the contractual and procurement milestones defined in the decision. After review of the compliance filings, CPUC Staff will bring a Resolution before the Commission specifying the amount of backstop procurement required for a particular IOU on behalf of each LSE for each procurement tranche (2021, 2022, and 2023).

D.21-06-035 established a new procurement mandate of 11,500 MW of additional zero-emitting or RPS-eligible net qualifying capacity to be procured by 2026 by LSEs through long-term (10 or more years) contracts. It ordered that the resources from Diablo Canyon be replaced with at least 2,500 MW of zero-emitting resources. In addition, it specifies that 2,000 MW of the procurement mandate required for 2026 must be “long-lead-time” (LLT) resources, with half coming from long-duration storage and the other half from zero-emitting resources with an 80% or greater capacity factor, with the Decision pointing to geothermal and biomass as the resources best-suited to meet this category. **VCE is permitted to use resources that were not online or in-development and contracted and approved by its Board as of June 30, 2020 to count towards its procurement requirements** (i.e., contracts approved by the VCE Board and executed after June 30, 2020, can count towards VCE’s procurement mandates). LSEs will ***not*** be given the option to opt out up front from providing their proportional share of the capacity required by D.21-06-035. The February 1, 2023 compliance filing will be the first check on the status of LLT resource procurement. VCE’s new obligations and a description of the specific resource requirements for each subcategory of procurement are detailed in the following table.

Table: VCE New & Additional Procurement Obligations Under D.21-06-035

				2026 (Long-Lead Time Resources)		Diablo Replacement	
	2023	2024	2025	Long-Duration Storage	Zero-Emitting Generation Resources	Minimum zero-emitting capacity by 2025 *(subset of 2023, 2024, and 2025 columns)*	Total
VCE Obligation (September NQC MW)	8	23	6	4	4	10	44
Resource Requirements	Zero-emitting or RPS eligible	Zero-emitting or RPS eligible	Zero-emitting or RPS eligible	Must be able to discharge at maximum capacity over at least an eight-hour period from a single resource.	Zero-emitting resources or those that otherwise qualify as eligible under the RPS program and have at least an 80% capacity factor. Must be a generating resource, not storage, able to generate when needed, for as long as needed. Must not be use limited or weather dependent. May not have any on-site emissions, except if the resource otherwise qualifies under the RPS.	(1) Be from a generation resource, a generation resource paired with storage (physically or contractually), or a demand response resource; (2) Be available every day from 5 p.m. to 10 p.m. (the beginning of hour ending 1800 through the end of hour ending 2200), Pacific Time, at a minimum; and (3) Be able to deliver at least 5 megawatt-hours of energy during each of these daily periods for every megawatt of incremental capacity claimed.	

- **Details**: The Ruling provides a summary of analysis conducted by CPUC Staff to recommend key elements of the preferred system plan (PSP), including a preferred resource portfolio. The Ruling describes how and why LSEs' IRPs submitted in September 2020 are expected to fall short of meeting GHG and reliability targets, due to a collective insufficiency of planned new capacity. However, when incorporating the expected impacts of the procurement mandates in D.21-06-035 on mid-term reliability, the Ruling states that reliability and GHG goals are likely to be achieved. A workshop to explain the analysis and recommendations, and to answer questions, will be held in late August 2021.

  The Ruling recommends that the 38 MMT Core Portfolio be adopted by the CPUC as the PSP. This would be a more aggressive GHG target than the 46 MMT by 2030 target previously adopted, which was the main scenario used by LSEs in their 2020 IRPs. The three dominant new resource types that have significant build-outs under the 38 MMT Core Portfolio are:

  - Utility-scale solar: 7,750 MW by 2024 and 18,883 MW by 2032.
  - Battery storage: 10,617 MW by 2024 and 14,751 MW by 2032.
  - Wind: 2,071 MW by 2024 and 3,553 MW by 2032.

  Biomass, geothermal, pumped storage, out-of-state wind, offshore wind, and shed demand response are also included, but each have a resource build-out of less than 2,000 MW by 2032.

  The implications of this include:

  - 38 MMT would become the new GHG limit adopted by the CPUC for GHG emissions from the electricity sector in 2030. Thus, individual LSEs would, for at least the next cycle of IRP, be required to meet their individual proportional benchmarks associated with this overall electric sector limit on GHG emissions.
  - LSE procurement will need to match their emissions and reliability responsibilities associated with the PSP by 2030 and in the interim years.
  - The 38 MMT Core Portfolio will be mapped to transmission busbars for use by the CAISO as the reliability base case in its TPP beginning with the 2022-2023 cycle.
  - Any transmission identified by the CAISO as needed to deliver the resources contained in the PSP, within the CAISO footprint, will be assumed to be built and paid for by all ratepayers out of the transmission access charge (TAC).

  The Ruling poses 25 questions for parties to respond to, including on the possibility of the CPUC: (1) establishing a new non-bypassable charge for system benefit procurement of new resources needed for policy or reliability reasons; (2) making procurement of the individual IRP planned resources a requirement for each LSE; (3) revisiting whether procurement of capacity counting toward the 11,500 MW mandated by D.21-06-035 should be accelerated to 2023, instead of 2024 or 2025, and/or whether additional capacity is needed; (4) directing additional fossil fuel procurement.

- **Analysis**: The Ruling would accelerate the build-out of clean energy resources by adopting a more aggressive GHG reduction target for the electricity sector over the coming decade. It also poses numerous questions that suggest the CPUC is considering other major changes to procurement mandates that could either result in additional or accelerated procurement requirements for VCE or the imposition of a non-bypassable charge, including on VCE customers, to recover the costs of additional procurement needed for reliability or policy reasons. Compliance filings submitted in August and early September demonstrate VCE's progress towards meeting milestones and requirements with various CPUC procurement mandates.

- **Next Steps**: The schedule is as follows:

  - Procurement track: Comments on the Ruling and questions contained therein are due September 27, 2021, and reply comments are due October 11, 2021.

- General IRP oversight issues: A Proposed Decision on the IRP cycle (e.g., possibly moving from every 2 years to a 3-year cycle) is anticipated to be issued soon.
- Preferred System Portfolio Development: A ruling proposing PSP is anticipated in the coming months, followed by a proposed decision in Q3 2021 and a final decision by the end of 2021.

- **Additional Information**: Ruling proposing a PSP (August 17, 2021); Ruling extending procurement compliance filing deadline (July 10, 2021); D.21-06-035 establishing a 11,500 MW by 2026 procurement mandate (June 24, 2021); Ruling Setting August 1, 2021 Procurement Compliance Deadline (April 9, 2021); D.21-02-028 recommending portfolios for CAISO's 2021-2022 TPP (February 17, 2021); D.20-12-044 establishing a backstop procurement process (December 22, 2020); Scoping Memo and Ruling (September 24, 2020); Resolution E-5080 (August 7, 2020); Ruling on IRP cycle and schedule (June 15, 2020); Order Instituting Rulemaking (May 14, 2020); Docket No. R.20-05-003.

Direct Access Rulemaking

On August 13, 2021, CalCCA filed a response to a July application for rehearing filed by a coalition of parties supporting expansion of Direct Access, who challenged a June CPUC decision that recommended against any re-opening of Direct Access. This proceeding is otherwise closed.

- **Background**: In Phase 1 of this proceeding, the CPUC allocated the additional 4,000 GWh of Direct Access load to non-residential customers required by SB 237 (2018, Hertzberg) among the three IOU territories with implementation to begin January 1, 2021.

  In Phase 2, the CPUC issued D.21-06-033 recommending against any further Direct Access expansion at this time based primarily on a concern that doing so "would present an unacceptable risk to the state's long-term reliability goals." It observed that after considering recent reliability events (i.e., the summer 2020 heat storm and resulting rolling blackouts in California and February 2021 outage event and skyrocketing electricity prices in Texas) and IRP forecasts for additional generation, expanded direct access would result in further system fragmentation that raises serious electric system reliability concerns. Further portions of the Decision:

  - Observed that Direct Access providers do not have a track record of relying on long-term contracts to meet their energy needs, which could impede the development of new, needed resources.
  - Noted that allowing expansion could undermine the long-term contracts that LSEs such as CCAs have already entered (i.e., due to load migration) and make it difficult for them to enter new contracts.
  - Stated that currently, the CPUC is not able to ensure that Direct Access expansion would not increase GHG emissions and other pollutants when compared to retaining the current cap, as Direct Access providers have historically relied primarily on unspecified power and lead to a net decline in clean energy procurement.

- **Details**: In their July Application for Rehearing, parties including the Alliance for Retail Energy Markets and the Direct Access Customer Coalition argued that:
  - The CPUC broke the law and abused its discretion when it disregarded the express duties imposed on it by SB 237.
  - D.21-06-033 ignored the substantial evidence in the record as it pertains to: (1) concerns about electric service provider (ESP) procurement performance and (2) the alleged threat to reliability posed by load migration due to an expansion of Direct Access is inaccurate and discriminatory.

    - D.21-06-033 discriminates against non-residential customers and the ESPs that wish to serve them, thereby violating the dormant Commerce Clause of the US Constitution.
    - D.21-06-033 relied on "misrepresentations of facts and speculations."

  CalCCA's August response argued that:

    - The CPUC's interpretation of the statute was consistent with its plain language and legislative history.
    - The Decision is supported by the findings required by statute and is also adequately supported by findings based on the entire administrative record.
    - The dormant Commerce Clause argument fails because the Decision applies equally to both in-state and out-of-state ESPs, and therefore does not unfairly discriminate against out-of-state interests.
    - The argument that the Decision discriminates against both ESPs and their customers and therefore violates their Equal Protection rights fails the "rational basis" test in that the Decision is based on the findings regarding electric grid reliability and environmental concerns.

- **Analysis**: This proceeding determined the CPUC's recommendations to the Legislature regarding the potential future expansion of DA in California. D.21-06-033 recommending against expansion of Direct Access at this time could reduce the risk of load migration from CCAs (or IOUs) to ESPs.
- **Next Steps**: The only remaining item to be addressed in this proceeding is the Application for Rehearing.
- **Additional Information**: CalCCA Response to Application for Rehearing (August 13, 2021); Application for Rehearing of D.21-06-033 (July 29, 2021); D.21-06-033 recommending against direct access expansion (approved June 24, 2021); Ruling and Staff Report (September 28, 2020); Amended Scoping Memo and Ruling adding issues and a schedule for Phase 2 (December 19, 2019); Docket No. R.19-03-009; *see also* SB 237.

RA Rulemaking (2021-2022)

On August 16, 2021, the co-facilitators of the upcoming workshops provided logistical information on these workshops to develop the PG&E Slice-of-Day proposal, proposing nine 5-hour workshops in 2021 and early 2022.

- **Background**: This proceeding is divided into 4 tracks, with the focus in 2021 being on Tracks 3 and 4, described in more detail below. Going forward, a workshop process will be used to generate an RA restructuring proposal in Q1 2022, with the goal of implementing more substantial program changes in 2023 for the 2024 RA compliance year.

  Track 3A (completed): D.20-12-006, issued December 2020, addressed the issues of the financial credit mechanism and competitive neutrality rules for the CPEs. It approved CalCCA's proposed "Option 2," with modifications, which allows the CPE to evaluate the shown resource alongside bid resources to assess the effectiveness of the portfolio. The financial credit mechanism will apply only to new preferred or energy storage resources (i.e., non-fossil-based resources) with a contract executed on or after June 17, 2020. It also adopted PG&E's competitive neutrality proposal for PG&E's service territory. Finally, D.20-12-006 found that the Local Capacity Requirements Working Group should continue to discuss recommendations and develop solutions for consideration in CAISO's 2022 LCR process.

  Track 3B.1 and Track 4 (completed): D.21-06-029, issued June 2021, adopted local capacity requirements for 2022-2024, flexible capacity requirements for 2022, and refinements to the RA program. It adopted a series of changes to the Maximum Cumulative Capacity (MCC) buckets, which function as limits on the amount of RA that may be procured from resources with different characteristics. It required resources in all MCC buckets to have availability on Saturday for the 2022 RA compliance year. This had the effect of modifying the DR and Categories 1 and 2 buckets to add Saturday. DR contracts with an execution date prior to the effective date of D.21-06-029 will be grandfathered and not subject to the new Saturday availability requirement. It also revised the Category 1 availability criteria (4 consecutive hours of availability from 4-9 p.m. from May-September) to increase the monthly minimum availability from 40 hours to 100 hours (and 96 hours for February) and to require year-round availability. D.21-06-029 requested that the CEC launch a stakeholder working group process as part of the 2021 IEPR and make recommendations on several topics intended to support a comprehensive and consistent DR measurement and verification strategy, to be considered for implementation during the 2023 RA compliance year. Finally, D.21-06-029 added a new RA deficiencies penalty structure to the current penalty structure, layering on a penalty multiplier for repeat RA deficiencies based on a point system beginning in the 2022 RA compliance year.

Track 3B.2 (Ongoing): D.21-07-014 rejected CalCCA/SCE's proposal for restructuring the RA program, and instead found that PG&E's "slice-of-day" proposal best addresses the identified principles and the concerns with the current RA framework and if is further developed, is best positioned to be implemented in 2023 for the 2024 compliance year. Therefore, it directed parties to collaborate to develop a final restructuring proposal based on PG&E's slice-of-day proposal through a series of workshops. The PG&E Slice of Day Framework will establish RA requirements based on a "slice-of-day" framework, which seeks to ensure load will be met in all hours of the day, not just during gross peak demand hours. The proposal also attempted to ensure there is sufficient energy on the system to charge energy storage resources. The proposed framework would establish RA requirements for multiple slices-of-day across seasons and would establish a counting methodology to reflect an individual resource's ability to produce energy during each respective slice (e.g., six four-hour periods of the day)..

- **Details**: Parties will develop a final RA restructuring proposal through workshops over the next approximately five months to develop implementation details based on PG&E's slice-of-day proposal. The workshops will cover the following implementation details: (1) Structural Elements; (2) Resource Counting; (3) Need Determination and Allocation; (4) Hedging Component; and (5) Unforced Capacity Evaluation (UCAP) and Multi-Year Requirement Proposals. An opportunity to comment will follow the workshops. The CPUC would consider the final proposed framework and intend to issue a decision in the third quarter of 2022 with details for implementation in 2023 for the 2024 RA compliance year.
- **Analysis**: The workshop process on PG&E's Slice of Day proposal could result in major changes to the RA program structure beginning in the 2024 RA compliance year. The new structure would seek to ensure load (including energy storage charging) will be met in all hours of the day, not just during gross peak demand hours and would move RA from a monthly compliance obligation to a seasonal obligation. The details of the framework would be further fleshed out through the specified workshop process and need to be approved by the CPUC in 2022.
- **Next Steps**: The proposed dates of the PG&E Slice of Day workshops, all to run from 10 a.m. to 3 p.m., are September 22, 2021, October 6, 2021, October 20, 2021 November 3, 2021, November 17, 2021, December 1, 2021, December 15, 2021, January 5, 2022, and January 19, 2022.
- **Additional Information**: D.21-07-014 on restructuring the RA program with PG&E Slice of Day proposal (July 16, 2021); D.21-06-029 adopting local capacity obligations for 2022-2024, flexible capacity obligations for 2022, and refinements to the RA program (approved June 24, 2021); 2019 Resource Adequacy Report (March 19, 2021); Scoping Memo and Ruling for Track 3B and Track 4 (December 11, 2020); D.20-12-006 on Track 3.A issues (December 4, 2020); D.20-06-031 on local and flexible RA requirements and RA program refinements (June 30, 2020); Order Instituting Rulemaking (November 13, 2019); Docket No. R.19-11-009.

KEYES&FOX LLP

PG&E 2022 ERRA Forecast

On August 11, 2021, the assigned commissioner issued a Scoping Memo and Ruling setting the scope and procedural schedule for the proceeding. On August 25, 2021, PG&E filed revised testimony.

- **Background**: Energy Resource and Recovery Account (ERRA) forecast proceedings establish the amount of the PCIA and other non-bypassable charges for the following year, as well as fuel and purchased power costs associated with serving bundled customers that utilities may recover in rates.

  On June 1, 2021, PG&E filed its 2022 ERRA Forecast application, requesting a 2022 ERRA forecast revenue requirement for ratesetting purposes of $4.736 billion. After accounting for $2.479 billion of Utility Owned Generation (UOG)-Related Costs and amounts related to capped 2020 departing load PCIA rates addressed in D.20-12-038, PG&E is requesting a revenue requirement request in this application of $2.263 billion.

  PG&E preliminarily forecasts that in 2022 the system average bundled service customer rate will increase by 2.4%, the system average DA and CCA rate will decrease by 9.6%, and the departing load rate will increase by 1.7%. VCE's customers' PCIA rates will decrease, on average, by $0.01872/kWh (2017 PCIA Vintage). Consistent with D.21-05-030, PG&E has removed the capping and triggering mechanisms for PCIA rates in this 2022 ERRA Forecast Application. PCIA rates for the 2009 though 2022 customer vintages include PCIA base rates, formerly referred to as uncapped PCIA rates in the 2021 ERRA Forecast Application, plus PUBA rate adders for each vintage. Proposed 2022 PCIA rates, inclusive of the PUBA adder, are shown in the table below.

TABLE 20-4
PROPOSED POWER CHARGE INDIFFERENCE ADJUSTMENT RATES BY CLASS AND VINTAGE APPLICABLE TO POWER CHARGE INDIFFERENCE ADJUSTMENT -ELIGIBLE DEPARTING LOAD CUSTOMERS (WITH DWR FRANCHISE FEE)
($/KWH)

Line No.	Customer Class	2009 Vintage	2010 Vintage	2011 Vintage	2012 Vintage	2013 Vintage	2014 Vintage	2015 Vintage	2016 Vintage	2017 Vintage	2018 Vintage	2019 Vintage	2020 Vintage	2021 Vintage	2022 Vintage
1	Residential	$0.01962	$0.02508	$0.02641	$0.02901	$0.02812	$0.02825	$0.02810	$0.02845	$0.02817	$0.02858	$0.02810	$0.02484	$0.03364	$0.03364
2	Small L&P	$0.01875	$0.02397	$0.02523	$0.02772	$0.02687	$0.02700	$0.02685	$0.02719	$0.02692	$0.02731	$0.02685	$0.02374	$0.03214	$0.03214
3	Medium L&P	$0.02022	$0.02585	$0.02721	$0.02990	$0.02897	$0.02912	$0.02896	$0.02932	$0.02903	$0.02945	$0.02896	$0.02560	$0.03467	$0.03467
4	B19/E19	$0.01880	$0.02403	$0.02530	$0.02780	$0.02694	$0.02707	$0.02692	$0.02727	$0.02699	$0.02739	$0.02693	$0.02380	$0.03224	$0.03224
5	Streetlights	$0.01563	$0.01998	$0.02103	$0.02311	$0.02240	$0.02250	$0.02238	$0.02266	$0.02244	$0.02276	$0.02238	$0.01979	$0.02679	$0.02679
6	Standby	$0.01409	$0.01801	$0.01896	$0.02083	$0.02019	$0.02028	$0.02017	$0.02043	$0.02022	$0.02052	$0.02018	$0.01784	$0.02415	$0.02415
7	Agriculture	$0.01777	$0.02271	$0.02391	$0.02627	$0.02546	$0.02558	$0.02544	$0.02576	$0.02550	$0.02587	$0.02544	$0.02249	$0.03046	$0.03046
8	B20/E20 T (Excluding Fl	$0.01607	$0.02053	$0.02162	$0.02375	$0.02302	$0.02313	$0.02300	$0.02329	$0.02306	$0.02340	$0.02301	$0.02034	$0.02754	$0.02754
9	B20/E20 P (Excluding F	$0.01721	$0.02200	$0.02316	$0.02545	$0.02466	$0.02478	$0.02464	$0.02496	$0.02471	$0.02507	$0.02465	$0.02179	$0.02950	$0.02950
10	B20/E20 S (Excluding Fl	$0.01794	$0.02294	$0.02415	$0.02653	$0.02571	$0.02584	$0.02569	$0.02602	$0.02576	$0.02613	$0.02570	$0.02272	$0.03076	$0.03076
11	BEV1	$0.01597	$0.02042	$0.02150	$0.02362	$0.02289	$0.02300	$0.02287	$0.02316	$0.02293	$0.02326	$0.02288	$0.02022	$0.02738	$0.02738
12	BEV2	$0.01865	$0.02384	$0.02510	$0.02758	$0.02673	$0.02686	$0.02671	$0.02705	$0.02677	$0.02717	$0.02671	$0.02361	$0.03198	$0.03198
13	System Average PCIA Rate by Vintage	$0.01886	$0.02411	$0.02539	$0.02789	$0.02704	$0.02717	$0.02702	$0.02736	$0.02709	$0.02748	$0.02703	$0.02391	$0.03231	$0.03231

  The Joint CCAs protested the Application on the grounds PG&E has not demonstrated the relief it requests is just and reasonable, is in compliance with all applicable decisions, and prevents illegal cost shifts between bundled and unbundled ratepayers. Among the issues flagged in the Joint CCAs' protest are:

  - The appropriateness of certain wildfire and catastrophic event costs included in PG&E's application that have yet to be approved.
  - Changes to the utility's Green Tariff Shared Renewables (GTSR) program requested in a separate proceeding may have an impact on this proceeding.
  - While the Joint CCAs support the intent of PG&E's proposal, this is not the appropriate proceeding to modify PG&E's non-vintage PCIA sub-account.
  - PG&E's proposal to update its Application late in the proceeding to reflect a GRC Phase II decision must not circumvent the procedural rights of parties.
  - The Joint CCAs will review the funds PG&E set aside for CCA Disadvantaged Community Green Tariff (DAC-GT) program and the Community Solar – Green Tariff (CS-GT) programs.

  - PG&E's emergency summer 2021-2022 peak procurement costs must be consistent with the controlling commission decisions.

- **Details**: The Scoping Memo and Ruling established the scope and procedural schedule for the proceeding.

- **Analysis**: This proceeding will establish the amount of the PCIA for VCE's 2022 rates and the level of PG&E's generation rates for bundled customers. The illustrative PCIA rates filed by PG&E suggest a significant decrease in the PCIA for 2022, but these rates will change based on PG&E's November Update filing. For comparison, VCE residential customers' current (2021) PCIA charge is $0.04760/kWh and the proposed residential PCIA rate for 2022 is $0.02817/kWh.

- **Next Steps**: Intervenor testimony is due September 22, 2021, rebuttal testimony is due October 6, 2021, Joint Conference Statement (last day to confirm request for evidentiary hearing) is due October 7, 2021, a status conference is scheduled for October 8, 2021, the evidentiary hearing is scheduled for October 11-12, 2021, opening briefs are due October 22, 2021, reply briefs are due November 1, 2021, PG&E update is due November 8, 2021, comments on the PG&E update are due November 18, 2021, a proposed decision will be issued December 1, 2021, and a final decision is anticipated on December 13, 2021.

- **Additional Information**: Scoping Memo and Ruling (August 11, 2021); Notice of Prehearing Conference (July 15, 2021); Application (June 1, 2021); Docket No. A.21-06-001.

RPS Rulemaking

On August 9, 2021, parties including a coalition of CCAs filed reply comments responding to July comments submitted by parties regarding the draft 2021 RPS Procurement Plans filed by retail sellers on July 1, 2021.

- **Background**: This proceeding addresses ongoing RPS issues. VCE submitted its Final 2021 RPS Procurement Plan on February 19, 2021, and its 2020 RPS Compliance Report on August 2, 2021.

  On September 18, 2020, the ALJ issued a Ruling attaching Staff's Proposed Framework for integrating RPS Procurement Plan requirements into the IRP proceeding uses a two-phased approach that makes a relatively minor change to RPS reporting in the current IRP cycle, while fully integrating all elements of RPS Procurement Plans into the next IRP cycle, proposed to commence in the 2023 calendar year (instead of 2022, under the current two-year cycle, although the issue of a two-year versus three-year cycle is not discussed). It is currently unclear when the CPUC will address this proposal.

- **Details**: CCA parties argued in reply comments that the CPUC should disregard CalWEA's recommendation to impose prescriptive curtailment modeling requirements as part of RPS Procurement Plans. In response to Green Power Institute comments, the CCA parties also argued that reporting on curtailment in the RPS Procurement Plans should be limited to purposes related to the RPS Program. Finally, they argued that the details on the impacts of D.21-05-030 and D.21-06-035 can be provided in Draft 2022 RPS Procurement Plans rather than through updates to the 2021 RPS Procurement Plans.

- **Analysis**: VCE's 2020 RPS Compliance Report demonstrated its compliance towards meeting the State's RPS requirements, showing it is well positioned to meet its obligations both for the 2017-2020 and 2021-2024 RPS compliance periods. VCE's draft 2021 RPS Procurement Plan also shows VCE is well positioned to achieve its future RPS compliance obligations, having already procured the majority of its RPS obligations for the both the current 2021-2024 compliance period and for future compliance periods through 2030.

- **Next Steps**: Motions to update draft 2021 RPS Procurement Plans are due September 13, 2021. A PD aligning RPS and IRP filings is anticipated to be issued soon, followed by an opportunity for comments and reply comments.
- **Additional Information**: Ruling aligning IOU RPS Procurement Plan requirements with PCIA decision (May 26, 2021); Ruling extending deadline for draft 2021 RPS Procurement Plan (May 7, 2021); Ruling establishing issues and schedule for 2021 RPS Procurement Plans (March 30, 2021); D.21-01-005 directing retail sellers to file final 2020 RPS Procurement Plans (January 20, 2021); Ruling on Staff proposal aligning RPS/IRP filings (September 18, 2020); Scoping Ruling (November 9, 2018); Docket No. R.18-07-003.

PG&E's 2019 ERRA Compliance

On August 16, 202, PG&E filed an application for rehearing of the Phase 1 decision, D.21-07-013. On August 24, 2021, a prehearing conference on Phase 2 of this proceeding was held to determine the parties, positions of the parties, the scope of issues and other procedural matters.

- **Background**: ERRA compliance review proceedings review the utility's compliance in the preceding year regarding energy resource contract administration, least-cost dispatch, fuel procurement, and the PABA balancing account (which determines the true up values for the PCIA each year). In its 2019 ERRA compliance application, PG&E requested that the CPUC find that its PABA entries for 2019 were accurate, it complied with its Bundled Procurement Plan in 2019 in the areas of fuel procurement, administration of power purchase contracts, greenhouse gas compliance instrument procurement, RA sales, and least-cost dispatch of electric generation resources. PG&E also requests that the CPUC find that during the record period PG&E managed its utility-owned generation facilities reasonably. Finally, PG&E requests cost recovery of revenue requirements totaling about $4.0 million for Diablo Canyon seismic study costs.

  D.21-07-013 approved a Settlement Agreement entered by all the parties that actively participated in Phase 1 of the proceeding. The Settlement Agreement resolved all but two contested issues between the parties. For the two contested issues, D.21-07-013 found that PG&E must (1) use the same methodology approved in D.20-02-047 (2020 ERRA decision) to calculate the Retained RPS adjustment and update the RPS adjustment with actual 2019 recorded sales data, and (2) retain the same PCIA vintage years for the power purchase agreements PG&E amended in 2019.
- **Details**: PG&E requested rehearing on D.21-07-013's direction to proceed with evaluating potential disallowances for 2019 PSPS events in a Phase II of this proceeding. PG&E argues that to the extent D.21-07-013 suggests that the CPUC might deviate from ERRA's automatic balancing account adjustment mechanism and instead prohibit PG&E from adjusting its revenue requirement for any "undercollected" amounts resulting from unrealized sales during the 2019 PSPS events, the Decision is effectively imposing a disallowance or penalty based on PG&E's 2019 PSPS events, which is in direct conflict with the Commission's decision in the PSPS OII Decision. To the extent D.21-07-013 intended to review rate adjustments for undercollected amounts from unrealized sales during the 2019 PSPS event, PG&E argues that it still errs because CPUC review and approval or rate adjustment is unnecessary because such adjustments are a normal course in the balancing account true-up process.
- **Analysis**: This proceeding addresses PG&E's balancing accounts, including the PABA, providing a venue for a detailed review of the billed revenues and net CAISO revenues PG&E recorded during 2019. It also determines whether PG&E managed its portfolio of contracts and UOG in a reasonable manner. Efforts from the Joint CCAs reduced the level of the PCIA for VCE's customers in 2021 and/or 2022. D.21-07-013 sided with the Joint CCAs on the issue of the appropriate amount that should be transferred from the PABA to the ERRA, further reducing the level of the PCIA for VCE customers. It sided with PG&E on the issue of retaining the existing vintaging for several amended PPAs.
- **Next Steps**: A scoping memo and ruling for Phase 2 is anticipated to be issued soon.

- **Additional Information**: PG&E Application for Rehearing of D.21-07-013 (August 16, 2021); Ruling setting prehearing conference (August 6, 2021); D.21-07-013 (July 16, 2021); Joint Motion to Adopt Settlement Agreement (October 22, 2020); Ruling modifying extending deadline for briefs and reply briefs (October 12, 2020); Amended Scoping Memo and Ruling (August 14, 2020); Scoping Memo and Ruling (June 19, 2020); PG&E's Application and Testimony (February 28, 2020); Docket No. A.20-02-009.

PCIA Rulemaking

On August 25, 2021, the ALJ issued a Ruling requesting comments relating to the Energy Division staff proposal to change the issue date of the Market Price Benchmark calculations. PG&E filed several advice letters in August regarding prepayment of PCIA obligations and its methodology for determining how much of its PCIA-eligible RA capacity is reserved.

- **Background**: D.18-10-019 was issued on October 19, 2018, in Phase 1 of this proceeding and left the current PCIA in place, maintained the current brown power index, and adopted revised inputs to the benchmarks used to calculate the PCIA for energy RPS-eligible resources and resource adequacy capacity.

  Phase 2 relied primarily on a working group process to further develop a number of PCIA-related proposals. Three workgroups examined three issues: (1) issues with the highest priority: Benchmark True-Up and Other Benchmarking Issues; (2) issues to be resolved in early 2020: Prepayment; and (3) issues to be resolved by mid-2020: Portfolio Optimization and Cost Reduction, Allocation and Auction.

  D.20-08-004, in response to the recommendations of Working Group 2, (1) adopted the consensus framework of PCIA prepayment agreements; (2) adopted the consensus guiding principles, except for one principle regarding partial payments; (3) adopted evaluation criteria for prepayment agreements; (4) did not adopt any proposed prepayment concepts; and (5) clarified that risk should be incorporated into the prepayment calculations by using mutually acceptable terms and conditions that adequately mitigate the risks identified by Working Group Two.

  The Phase 2 Decision, D.21-05-030, addressed the recommendations of PCIA Working Group 3 and removed the cap and trigger for PCIA rate increases, authorized new Voluntary Allocation, Market Offer, and Request for Information processes for RPS contracts subject to the PCIA, and approved a process for increasing transparency of IOU RA resources. However, it did not provide unbundled customers proportional access to system and flexible RA products through the RA voluntary allocation and market offer process proposed by PCIA Working Group 3. Likewise, it declined to provide unbundled customers any access to GHG-Free energy on a permanent basis.

  The CCA Parties' Application for Rehearing of D.21-05-030 challenges the Decision's rejection of the RA voluntary allocation and market offer and GHG-free energy allocation. It argues that D.21-05-030 violates Public Utilities Code Section 366.2(g), which guarantees CCA customers the full benefit of the resources for which they bear cost responsibility through the PCIA charge. While CCA customers pay for the RA and GHG-Free products in the PCIA portfolio, the Phase 2 Decision, provides only bundled customers preferential access to RA products and no access to GHG-Free energy on a long-term basis. The CCA Parties argue that since D.21-05-030 effectively requires unbundled customers to pay equally for benefits only bundled customers receive, the Phase 2 Decision also violates the Section 365.2 prohibition against cost-shifting among unbundled and bundled customers.

  Details: The Staff Proposal on which the Ruling requests comments would move the Market Price Benchmark calculation date up by one month – from November 1 to October 1 – to allow for a "normal" proceeding schedule and enable flexibility in addressing last- minute issues. Staff's analysis found that the effects of changes in the forecast RPS and RA adders on PCIA rates are relatively small and concluded that the largest driver of changes to PCIA rates would be the energy index.

Pursuant to D.20-08- 004 (the Prepayment Decision), PG&E AL 5973-E-A provides additional details regarding PG&E's proposed (1) negotiating and processing deposit and (2) framework for potential prepaying customers to demonstrate their financial viability to prepay their entire PCIA obligation.

Pursuant to D.21-05-030 (the Phase 2 Decision), PG&E's AL 6306-E provides its methodology for determining how much of its PCIA-eligible RA capacity is reserved in accordance with its Bundled Procurement Plan.

- **Analysis**: D.21-05-030 eliminated the cap-and-trigger framework for PCIA changes. Further, it denied certain proposals from Working Group 3. Importantly, the current PCIA calculation does not fully value certain of the IOUs' portfolio attributes, but D.21-05-030 rejected the allocation of these valuable PCIA attributes to CCAs as proposed by Working Group 3. D.21-05-030 also largely allowed the IOUs to avoid any consequences for failing to optimize their above-market portfolios, including an IOU decision to simply decline all offers to buy out current above-market contracts. While D.21-05-030 failed to take on meaningful reform to the problematic ERRA forecast proceeding timelines and transparency issues, there are potential increases to the timelines for parties to litigate that proceeding.

- **Next Steps**: This proceeding remains open to consider (1) Phase 2 issues relating to ERRA proceedings and (2) whether GHG-Free resources are under-valued in the PCIA methodology, and if so, the appropriate way to address this problem.

  D.21-05-030 identified the following next steps:

  - **September 3, 2021**: PG&E, SDG&E and SCE are hosting a joint workshop to discuss the proposed methodologies.
  - **January 1, 2022**: PCIA cap is removed from rates.
  - **January 2022**: Once the 2021 RFIs are approved, the IOUs may request approval for Contract Assignments and Contract Modifications in response to the RFI by filing Tier 3 advice letters.
  - **February 2022**: After approval of the joint methodology advice letter, IOUs will inform LSEs of their potential Voluntary Allocation shares.
  - **May 2022**: IOUs and LSEs complete the process of determining interest in Allocation elections.
  - **June 2022**: Each IOU confirms Voluntary Allocations and propose Market Offers in their 2022 RPS Procurement Plans. LSEs request approval for Voluntary Allocations in their 2022 RPS Procurement Plans.

- **Additional Information**: PG&E AL 6306-E (August 23, 2021); PG&E AL 5973-E-A (August 13, 2021); CalCCA Application for Rehearing of D.21-05-030 (June 23, 20210: D.21-05-030 on PCIA Cap and Portfolio Optimization (May 24, 2021); D.21-03-051 granting petition to modify D.17-08-026 (March 26, 2021); Amended Scoping Memo and Ruling (December 16, 2020); CalCCA/DACC/AReM Protest of PG&E AL 5973-E (November 2, 2020); PG&E AL 5973-E (October 12, 2020); CalCCA/DACC Response to Joint IOU AL on D.20-03-019 (September 21, 2020); Joint IOUs PFM of D.18-10-019 (August 7, 2020); D.20-08-004 on Working Group 2 PCIA Prepayment (August 6, 2020); D.20-06-032 denying PFM of D.18-07-009 (July 3, 2020); D.20-03-019 on departing load forecast and presentation of the PCIA (April 6, 2020); Ruling modifying procedural schedule for working group 3 (January 22, 2020); D.20-01-030 denying rehearing of D.18-10-019 as modified (January 21, 2020); D.19-10-001 (October 17, 2019); Phase 2 Scoping Memo and Ruling (February 1, 2019); D.18-10-019 Track 2 Decisions adopting the Alternate Proposed Decision (October 19, 2018); D.18-09-013 Track 1 Decision approving PG&E Settlement Agreement (September 20, 2018); Docket No. R.17-06-026.

PG&E's Phase 2 GRC

On August 25, 2021, the Assigned Commissioner issued an Amended Scoping Memo and Ruling, extending the deadlines and schedule in this proceeding.

- **Background**: PG&E's 2020 Phase 2 General Rate Case (GRC) addresses marginal cost, revenue allocation and rate design issues covering the next three years. PG&E's pending Phase 1 GRC (filed in December 2018 via a separate proceeding) will set the revenue requirement that will carry through to the rates ultimately adopted in this proceeding.

  In this proceeding, PG&E seeks modifications to its rates for distribution, generation, and its public purpose program (PPP) non-bypassable charge. PG&E proposes to implement a plan to move all customer classes to their full cost of service over a six-year period (the first three years of which are covered by this GRC Phase 2) via incremental annual steps. PG&E proposes to use marginal costs for purposes of revenue allocation and to adjust distribution one-sixth of the way to full cost of service each year over a six-year transition period.

  Of note, PG&E is proposing changes to the DA/CCA event-based fees that were not updated in the 2017 Phase 2 GRC proceeding. In addition, PG&E proposes to remove the PCIA revenue from bundled generation revenue and allocate that cost separately to bundled customers, collecting the PCIA from bundled customers on a non-time differentiated, per-kWh basis (i.e., the same way it is collected from DA/CCA customers). PG&E will continue to display the PCIA with other generation charges on customer bills, but will unbundle the PCIA as part of unbundled charges in each rate schedule.

  Five settlement agreements are pending. The **Revenue Allocation Supplemental Settlement Agreement** resolves all of the inter-class revenue allocation issues. Regarding bundled PCIA allocation, the parties agreed to remove PCIA at present rates before allocation and reallocate to the classes in proportion to the adopted generation allocation. The settling parties also agreed to keep in Distribution the revenues for DR programs and EV programs. The settling parties agreed to move Energy Efficiency Incentives revenues from Distribution to Public Purpose Programs and allocate them by the Equal Percentage of Total Revenue method.

  The **Agricultural Rate Design Supplemental Settlement Agreement** resolves the agricultural rate design issues in this proceeding, except for the issue of a proposed bill credit for PSPS events. The settling parties agreed to the rate designs proposed by PG&E in its opening testimony, for default Schedules AG-A1, AG-A2, AG-B, and AG-C and opt-in Schedules AG-FA, AG-FB, and AG-FC, as well as the demand charge rate limiter for Schedule AG-C, the elimination of the monthly TOU meter charge, maintaining the status quo for the Optimal Billing Period Program, and Peak Day Pricing provisions. Additionally, settling parties agreed to create new optional rate Schedules AG-A3 and AG-B2 that reduce the summer off-peak energy charges below the electric bundled system average rate. The settling parties agreed that the following four issues should not be decided in this case: A new 10-year legacy TOU period, a springtime rate or balancing account adjustment, daily demand charges, and an account or demand aggregation program.

  In the **Economic Development Rate (EDR) Supplemental Settlement Agreement** settling parties reached a settlement agreement to continue the EDR program with program-related rate reductions. PG&E's EDR rate reduces both the transmission, distribution, and the generation portions of customer bills. The settlement would provide that the EDR discount should be set in a way that enables CCAs to offer comparable rates, and PG&E and Joint CCAs agreed to a collaborative process to identify and vet EDR applicants that will make it easier for CCAs to provide a generation rate reduction to CCA customers who qualify for PG&E's EDR. The rate reductions for EDR will be separated between generation and distribution amounts, with the deduction to the generation portion specified in the settlement agreement being substantially less than under the current allocation.

  The **Commercial and Industrial Rate Design Supplemental Agreement** resolves Commercial and Industrial rate design issues, apart from the issue of CPUC action on the design of PG&E's

transmission rates. The settling parties agreed that PG&E should set bundled PCIA initially equal to the most recent vintage PCIA, but use the adopted allocation for generation to set going forward PCIA rates. PG&E would set SOP rates to recover at least the PCIA. The tariff presentation of the PCIA for bundled generation rates would be modified as set forth in PG&E's rebuttal testimony, which proposed alternative tariff language in response to Joint CCAs' proposals.

The **Residential Rate Design Supplemental Settlement Agreement** resolves all residential rate design issues in the proceeding, including:

- The PCIA will be identified for bundled customers as a flat rate (not differentiated by season or TOU period).
- PG&E's proposal for tiered rate levels for Schedule E-1 should be approved.
- PG&E's proposal to keep the Schedule E-TOU-C (*i.e.,* default residential TOU rate) peak versus off-peak price differentials at their current levels until 12 months after the last cohort of PG&E's customers are migrated to default TOU rates should be approved, and future changes over the following three years are specified in the Settlement Agreement.
- PG&E's Schedule E-ELEC should be approved, with the fixed charge set at $15 per customer per month. Since this new E-ELEC rate requires structural changes to PG&E's billing system, PG&E anticipates that it would take at least twelve months after a final decision is issued in this proceeding before it could be programmed, tested, and implemented.
- PG&E will host two workshops to discuss the collection of key information regarding customers who engage in electrification efforts, and the data collected will be provided to interested stakeholders and the Commission as part of a formal Measurement and Evaluation (M&E) study.

- **Details**: The Amended Scoping Memo and Ruling provides the procedural schedule for the remainder of the proceeding, including indicating that the proposed decision on all issues except for real-time pricing issues will be issued in October 2021, rather than September as previously indicated.
- **Analysis**: This proceeding will not impact the transparency between a bundled and unbundled customer's bills because of the Working Group 1 decision in the PCIA rulemaking, though the JCCAs recommend in testimony that more transparency be reflected in utility tariffs. However, it will affect the allocation of PG&E's revenue requirements among VCE's different rate classes. It will also affect distribution and PPP charges paid by VCE customers to PG&E. Further, PG&E includes a cost-of-service study the purpose of which is to establish the groundwork for separating net metering customers into a separate customer class in the utility's next rate case. If PG&E's proposed CCA fee revisions are adopted, it could increase the cost VCE pays to PG&E for various services, to the extent VCE uses these services.
- **Next Steps**: A proposed decision on non-RTP issues is anticipated for October 2021, with a final decision expected in November 2021. An evidentiary hearing on RTP issues is scheduled for January 24-26, 2021, followed by opening briefs in February 2022, reply briefs in March 2022, a proposed decision in June 2022, and a decision in July 2022.
- **Additional Information**: Amended Scoping Memo and Ruling (August 25, 2021); Ruling directing PG&E to provide marginal cost scenarios (June 16, 2021); Motion to adopt Commercial and Industrial Rate Design Supplemental Agreement (April 13, 2021); Motion to adopt Revenue Allocation Supplemental Settlement Agreement (April 8, 2021); Motion to adopt Agricultural Rate Design Supplemental Settlement Agreement (April 8, 2021); Motion to adopt Economic Development Rate (EDR) Supplemental Settlement Agreement (April 8, 2021); Motion to adopt residential rate design settlement (March 29, 2021); Notice of Virtual Evidentiary Hearing (March 25, 2021); Scoping Memo and Ruling (February 16, 2021); Ruling bifurcating RTP issues into separate track (February 2, 2021); PG&E Status Report (December 18, 2020); D.20-09-021 on

EUS budget (September 28, 2020); Ruling extending procedural schedule (July 13, 2020); Exhibit (PG&E-5) (May 15, 2020); Scoping Memo and Ruling (February 10, 2020); Application, Exhibit (PG&E-1): Overview and Policy, Exhibit (PG&E-2): Cost of Service, Exhibit (PG&E-3): Revenue Allocation, Rate Design and Rate Programs, and Exhibit (PG&E-4): Appendices (November 22, 2019); Docket No. A.19-11-019.

PG&E 2020 ERRA Compliance

Parties filed rebuttal testimony on August 13, 2021. On August 30, 2021, parties submitted the List of Stipulated and Disputed Facts and Report of Meet and Confer.

- **Background**: The annual ERRA Compliance proceeding reviews the utility's compliance with CPUC-approved standards for generation-procurement and cost recovery activity occurring in the preceding year, such as energy resource contract administration, least-cost dispatch, fuel procurement, and balancing account entries.

  PG&E is requesting that the CPUC find it complied with its Bundled Procurement Plan (BPP) in the areas of fuel procurement, administration of power purchase contracts, greenhouse gas compliance instrument procurement, resource adequacy sales, and least-cost dispatch of electric generation resources for the 2020 calendar year. It also seeks a CPUC finding that it managed its utility-owned generation (UOG) facilities reasonably, although it recommends that CPUC review of outages at Diablo Canyon Power Plant related to the Unit 2 main generator be delayed to the 2021 ERRA Compliance review. Of significance to the PCIA, PG&E is requesting the CPUC find that entries in its Portfolio Allocation Balancing Account (PABA), which trues up the above-market forecast of generation resources recovered through the PCIA with actual recorded costs and revenues, are accurate.

  PG&E's procurement costs recorded across the portfolio were $158.8 million higher than forecasted, allegedly due to higher-than-forecast RPS-eligible contracts, as offset by higher than forecast retained RPS and retained RA, as well as lower than forecast fuel costs for UOG facilities. Activity recorded in the PABA includes the following categories: Revenues from Customers, RPS Activity, RA Activity, Adopted UOG Revenue Requirements, CAISO Related Charges and Revenues, Fuel Costs, Contract Costs, GHG Costs, and Miscellaneous Costs. PG&E has redacted as confidential its 2020 actual and forecast costs for these categories, so it is unclear from the public filing what the magnitude is regarding the difference between actual and forecast costs for each category.

  The Scoping Memo and Ruling specifies the proceeding will be divided into two phases. Phase 1 will address whether PG&E (1) prudently administered and managed Utility-Owned Generation facilities and QF and non-QF contracts, (2) achieved least-cost dispatch of energy resources, (3) had reasonable, accurate, and appropriate ERRA and PABA entries, and (4) administered RA procurement and sales consistent with its Bundled Procurement Plan, among other issues. Phase 2 issues may be amended based on the outcome of Phase 2 of PG&E's 2019 ERRA compliance proceeding. The tentative list of issues include whether sales forecasting methods for adjusting revenue requirement under current decoupling policy should be adjusted to account for power not sold or purchased during a Public Safety Power Shutoff (PSPS) event in 2020, whether it is appropriate for PG&E to return the revenue requirement equal to the estimated unrealized volumetric sales and unrealized revenue resulting from the PSPS events in 2020, and the appropriate methodology for calculating PG&E's unrealized volumetric sales and unrealized revenues resulting from 2020 PSPS events.

- **Details**: In testimony, Joint CCAs recommended a number of accounting adjustments that would reduce PUBA balances by more than $14.3 million. They also recommend the CPUC acknowledge that PG&E's internal audit of its PABA concluded that the processes and controls governing PABA accounting are "Not Adequate," and that PG&E remedy the identified deficiencies. Furthermore, they recommend that the CPUC clarify that future procurement expenses incurred by PG&E acting as the Central Procurement Entity will be reviewable in ERRA

Compliance proceedings, and that PG&E should demonstrate the effect of such procurement, if any, on the PABA and ERRA balancing accounts.

The JCCAs dispute four issues with respect to PG&E's application and testimony: (1) the recovery of CAISO Tariff Section 37 sanctions of $43,500 recorded to the PABA and of $204,000 recorded to the ERRA; (2) the recovery of 2017 and 2018 Diablo Canyon Seismic Studies Balancing Account (DCSSBA) costs and the 2014 DCSSBA correction in the PABA; (3) the venue for review of recorded entries related to Central Procurement Entity procurement costs; and (4) the correct adjustment to the PABA for Green Tariff Shared Renewables entries.

- **Analysis**: This proceeding addresses PG&E's balancing accounts, including the PABA, providing a venue for a detailed review of the billed revenues and net CAISO revenues PG&E recorded during 2020. It also determines whether PG&E managed its portfolio of contracts and UOG in a reasonable manner. Both issues could impact the level of the PCIA in 2022 and 2023.
- **Next Steps**: Evidentiary hearings are scheduled for September 13-17, 2021, opening briefs are due October 19, 2021, reply briefs are due November 9, 2021, and a PD is anticipated for Q1 2022.
- **Additional Information**: Scoping Memo and Ruling (June 21, 2021); Application (March 1, 2021); Docket No. A.21-03-008.

PG&E Regionalization Plan

On August 4, 2021, the ALJ issued a Ruling granting party status to VCE. Settling parties filed a motion to request Commission approval of two settlement agreements on August 31, 2021.

- **Background**: In D.20-05-051 approving PG&E's reorganization following bankruptcy, PG&E was directed to file a regionalization proposal (Docket No.19-09-016). On June 30, 2020, PG&E filed its regionalization proposal, which describes how it plans to reorganize operations into new regions. PG&E proposes to divide its service area into five new regions. PG&E will appoint a Regional Vice President by June 2021 to lead each region, along with Regional Safety Directors to lead its safety efforts in each region. The new regions would include five functional groups that report to the Regional Vice President encompassing various functions including: (1) Customer Field Operations, (2) Local Electric Maintenance and Construction, (3) Local Gas M&C, (4) Regional Planning and Coordination, and (5) Community and Customer Engagement. Other functions will remain centralized, such as electric and gas operations, risk management, enterprise health and safety, the majority of existing Customer Care and regulatory and external affairs, supply, power generation, human resources, finance, and general counsel.

  In August 2020, parties filed protests and responses to PG&E's application. Of note, South San Joaquin Irrigation District filed a Protest arguing that PG&E's regionalization effort should not create a moratorium or interfere with municipalization efforts. In addition, five CCAs filed responses or protests to PG&E's application, with MCE and EBCE filing protests and City of San Jose, City and County of San Francisco, and Pioneer Community Energy filing responses.

  In February 2021, PG&E submitted its updated regionalization proposal. In response to feedback, PG&E modified its five regions (renamed North Coast, North Valley & Sierra, Bay Area, South Bay & Central Coast, and Central Valley), including moving Yolo County from Region 1 to Region 2 (North Valley & Sierra), where it would be grouped with the following counties: Colusa, El Dorado, Glenn, Lassen, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Solano, Sutter, Tehama, and Yuba. PG&E also provided more information on the new leadership positions that it is creating and its "Lean Operating System" implementation.

  Currently, PG&E is in Phase 1 of 3 of its regionalization plan, which is focused on refining regional boundaries, establishing roles and governance for regional leadership, and recruiting and hiring for those positions. In Phase 2 (second half of 2021 through 2022), PG&E will establish and implement the regional boundaries and provide the resources and staffing to support it. In

Phase 3 (2023 and after), PG&E will continue to reassess, refine and collaborate with other functional groups to improve efficiencies, safety, reliability and customer service.

In July 2021, parties provided a Case Management Statement describing a status update on the stipulations and settlement of issues among the Parties, the Parties' positions on each scoped issue from the Amended Scoping Memo in this proceeding, and presented the position of certain parties on the relief requested by PG&E's Regionalization Proposal. It notes that TURN alleges that PG&E has not been negotiating in good faith and has exited settlement negotiations. Pioneer expressed opposition to PG&E's regionalization proposal and argued it does not fundamentally restructure PG&E to improve safety and accountability. VCE expressed concern about the level of detail and the lack of clear, understandable metrics, as well as the five regional boundaries and that the proposal does not fundamentally restructure PG&E to improve safety and accountability.

- **Details**: The settling parties are PG&E, the California Farm Bureau Federation, the California Large Energy Consumers Association, the Center for Accessible Technology, the Coalition of California Utility Employees, the Public Advocates Office at the California Public Utilities Commission ("Cal Advocates"), the Small Business Utility Advocates, and William B. Abrams ("Multi-Party Settlement Agreement). A separate settlement agreement is between the South San Joaquin Irrigation District and PG&E. The Multi-Party Settlement Agreement includes a framework within which PG&E will facilitate a stakeholder engagement process for parties to the Multi-Party Settlement Agreement to provide updates and a forum for input for stakeholders. This group will serve as an advisory group to provide additional perspective to PG&E as it advances through the implementation of regionalization. The proposed settlement would restrict participation in the Regionalization Stakeholder Group to parties or others who agree to the scope, procedures and protocols of the Regionalization Stakeholder group as outlined in the settlement. PG&E will host two public workshops in 2022 and for each year until the completion of Phase III or its regionalization implementation to provide updates to the public about its regionalization implementation progress.

  In the separate PG&E/SSJID Settlement Agreement, PG&E clarified and confirmed that its implementation of regionalization as managed by its Regionalization Program Management Office will not include any work to oppose SSJID's municipalization efforts. However, SSJID also acknowledged that PG&E may continue to respond to SSJID's municipalization efforts in other forums and proceedings separate from the regionalization proceeding and/or implementation of the Updated Regionalization Proposal.

- **Analysis**: The implications of PG&E's regionalization plan on CCA operations, customers, and costs are largely unclear based on the information presented in PG&E's application and updated application. PG&E's regionalization plan could impact PG&E's responsiveness and management of local government relations and local and regional issues, such as safety, that directly impact VCE customers. It could also impact municipalization efforts, although the pending SSJID settlement agreement stated that PG&E's regionalization efforts will not be in opposition to SSJID's municipalization. As part of Region 2, VCE would be grouped with several northern counties in central and eastern California.

- **Next Steps**: Comments on the settling parties' motion to adopt the settlement are due September 10, 2021, with reply comments due September 17, 2021.

- **Additional Information**: Joint Motion for approval of Settlement Agreements (August 31, 2021); Ruling granting schedule modification (August 20, 2021); Ruling denying evidentiary hearing (July 28, 2021); PG&E Joint Case Management Statement (July 20, 2021); Amended Scoping Memo and Ruling (June 29, 2021); PG&E Updated Regionalization Proposal (February 26, 2021); Ruling modifying procedural schedule (December 23, 2020); Scoping Memo and Ruling (October 2, 2020); Application (June 30, 2020); A.20-06-011.

Investigation into PG&E's Organization, Culture and Governance (Safety OII)

On August 18, CPUC President Batjer sent a letter to PG&E stating that she has directed CPUC staff to investigate whether to advance PG&E further within the Enhanced Oversight and Enforcement process. Previously, the CPUC issued Resolution M-4852 in April 2021, placing PG&E into Step 1 of the Enhanced Oversight and Enforcement process it established when approving PG&E's bankruptcy plan of reorganization.

- **Background**: On December 21, 2018, the CPUC issued a Scoping Memo opening the next phase of an ongoing investigation into whether PG&E's organizational culture and governance prioritize safety. This current phase of the proceeding is considering alternatives to current management and operational structures for providing electric and natural gas in Northern California.

  A July 2020 ALJ Ruling described the issues that are potentially still in scope for this proceeding, which include a broad array of issues identified in the December 21, 2018 Scoping Memo, as modified by D.20-05-053 approving PG&E's reorganization plan, plus the ongoing work of NorthStar, the consultant monitoring PG&E. However, the Ruling observed that "it is not clear as a practical matter how many of those issues can be or should be addressed at this time," given PG&E is now implementing its reorganization plan and has filed its application for regional restructuring. Party comments did not explicitly raise the issue of CCA proposals to purchase PG&E electric distribution assets.

  A September 4, 2020 Ruling determined that I.15-08-019 will remain open as a vehicle to monitor the progress of PG&E in improving its safety culture, and to address any relevant issues that arise, with the consultant NorthStar continuing in its monitoring role of PG&E. The Ruling declined to close the proceeding but also declined to move forward with CCAs' consideration of whether PG&E's holding company structure should be revoked and whether PG&E should be a "wires-only company," as well as developing a plan for service if PG&E's CPCN is revoked in the future.

  In April 2021, the CPUC issued Resolution M-4852, placing PG&E into the first of six steps of the Enhanced Oversight and Enforcement process. This six-step process could ultimately result in a revocation of PG&E's certificate of public convenience and necessity if it fails to take sufficient corrective actions. Resolution M-4852 found that PG&E made insufficient progress toward approved safety or risk-driven investments and is not sufficiently prioritizing its Enhanced Vegetation Management (EVM) based on risk. It found that PG&E is not doing the majority of EVM work – or even a significant portion of work – on the highest risk lines.

- **Details**: President Batjer's letter to PG&E identified "a pattern of self-reported missed inspections and other self-reported safety incidents," concluding that "this pattern of deficiencies warrants the fact-finding review." PG&E self-reported missed inspections of hydroelectric substations, distribution poles, and transmission lines. PG&E also reported missing internal targets for enhanced vegetation management and failing to identify dry rot in distribution poles treated with Cellon coating. Many of these issues occurred in High Fire Threat District areas.

- **Analysis**: President Batjer's letter indicates that PG&E could move further along the Enhanced Oversight and Enforcement process due to its pattern of deficiencies. The CPUC would have to issue a draft resolution (with an opportunity for parties to file comments), followed by a final resolution, to move PG&E into another step of the Enhanced Oversight and Enforcement process.

- **Next Steps**: The proceeding remains open, but there is no procedural schedule at this time.

- **Additional Information**: Letter from President Batjer to PG&E (August 18, 2021); Resolution M-4852 (April 15, 2021); Letter from President Batjer to PG&E (November 24, 2020); Ruling updating case status (September 4, 2020); Ruling on case status (July 15, 2020); Ruling on proposals to improve PG&E safety culture (June 18, 2019); D.19-06-008 directing PG&E to report on safety experience and qualifications of board members (June 18, 2019); Scoping Memo (December 21, 2018); Docket No. I.15-08-019.

Provider of Last Resort Rulemaking

No updates this month. A prehearing conference was held June 11, 2021.

- **Background**: A POLR is the utility or other entity that has the obligation to serve all customers (e.g., PG&E is currently the POLR in VCE's territory). In 2019 the Legislature passed SB 520, which defined POLR for the first time in statute, confirmed that each IOU is the POLR in its service territory, and directed the Commission to establish a framework to allow other entities to apply and become the POLR for a specific area (a "Designated POLR"). This rulemaking will implement SB 520. It provides for a two-phased rulemaking so that the POLR requirements for the current POLRs can be established prior to addressing a framework for a Designated POLR. Phase 1 will focus on the issues necessary for a comprehensive framework for the existing POLRs (IOUs). It will address POLR service requirements, cost recovery, and options to maintain GHG emission reductions in the event of an unplanned customer migration to the POLR. Phase 2 will set rules that allow a different entity (i.e., a CCA, ESP, or a third-party) to be designated as POLR, including setting the requirements and application process. Emergent issues and cross-over issues will be considered in both phases depending on the circumstances.
- **Details**: CalCCA's April 2021 comments on the OIR provided the following recommendations:
  - The POLR should provide service for a short duration (three – six months) from short term procurement with costs allocated to those that receive POLR service.
  - Existing structures (e.g., Financial Security Requirements, Transitional Bundled Service, System RA Waiver for the POLR in limited circumstances, etc.) can be used directly while others can be expanded or adjusted for the purpose of addressing POLR needs (e.g., Load Transfer and CCA implementation time frames and processes).
  - CPUC should examine ways in which retail providers could voluntarily take on customer service from defaulting LSEs in a "next to last provider" arrangement which could obviate or reduce the need for a POLR.
  - CPUC should ensure that rules regarding procurement are imposed equitably on all LSEs such that the requirements are stable and transparent in a manner that LSEs can procure as necessary to comply with requirements while providing reliable, affordable, and environmentally sound resources in a manner that minimizes the risk of LSE default.
- **Analysis**: This proceeding could impact VCE in several ways. First, in establishing rules for existing POLRs, it will address POLR service requirements, cost allocation, and cost recovery issues should a CCA or other LSE discontinue supplying customers resulting in the need for the POLR to step in to serve those customers. Second, in setting the requirements and application process for another entity to be designated as the POLR, it could create a pathway for a CCA or other retail provider to elect to become a POLR for its service area. The preliminary questions (Appendix B to the OIR) suggest these issues will include examining topics such as CCA financial security requirements, portfolio risk and hedging, CCA deregistration, CCA mergers, and CCA insolvency.
- **Next Steps**: TBD.
- **Additional Information**: Ruling scheduling prehearing conference (April 30, 2021); Order Instituting Rulemaking (March 25, 2021); Docket No. R.21-03-011.

2022-2023 Wildfire Fund Nonbypassable Charge Rulemaking

No updates this month. On June 8, 2021, the Assigned Commissioner issued a Scoping Memo and Ruling.

- **Background**: This rulemaking continues to implement AB 1054, which extended a non-bypassable charge on ratepayers to fund the Wildfire Fund. The CPUC issued D.20-12-024 in December 2020 that continues the Wildfire Non-Bypassable Charge (NBC) amount of $0.00580/kWh for January 1, 2021, through December 31, 2021. The NBC amount of 2022 and 2023 will be established in this proceeding.
- **Details**: The Scoping Memo and Ruling identified the only issue in this proceeding as determining the 2022 and 2023 Wildfire Fund Non-Bypassable Charge amounts.
- **Analysis**: VCE customers will pay the 2022 and 2023 Wildfire Fund Non-Bypassable Charge amounts established in this proceeding.
- **Next Steps**: The procedural schedule shows no activities until September 2021. In September, the Department of Water Resources will transmit a notice to CPUC identifying the proposed NBC amount for 2022, and CPUC will issue a Ruling seeking comments. A proposed decision will be issued in November, followed by a Decision in December. The same timeline will also apply in 2022 to establish the 2023 Wildfire Fund NBC amount.
- **Additional Information**: Scoping Memo and Ruling (June 8, 2021); Order Instituting Rulemaking (March 10, 2021); Docket No. R.21-03-001.

RA Rulemaking (2019-2020)

No updates this month. Two applications for rehearing remain the only outstanding items to be addressed in this proceeding, which is now closed.

- **Background**: This proceeding had three tracks, which have now concluded. Track 1 addressed 2019 local and flexible RA capacity obligations and several near-term refinements to the RA program. D.19-10-020 purported to affirm existing RA rules regarding imports, but adopted a distinction in the import RA compliance requirements for resource-specific and non-resource specific contracts and required, for the first time, that non-resource-specific resources self-schedule (i.e., bid as a price taker) in the CAISO energy market.

  In Track 2, the CPUC previously adopted multi-year Local RA requirements and initially declined to adopt a central buyer mechanism (D.19-02-022 issued March 4, 2019).

  The second Track 2 Decision, D.20-06-002, adopted implementation details for the central procurement of multi-year local RA procurement to begin for the 2023 compliance year in the PG&E and SCE (but not SDG&E) distribution service areas, including identifying PG&E and SCE as the central procurement entities for their respective distribution service areas and adopting a hybrid central procurement framework. The Decision rejected a settlement agreement between CalCCA and seven other parties that would have created a residual central buyer structure (and did not specify the identity of the central buyer) and a multi-year requirements for system and flexible RA. Under D.20-06-002, if an LSE procures its own local resource, it may (1) sell the capacity to the CPE, (2) utilize the resource for its own system and flexible RA needs (but not for local RA), or (3) voluntarily show the resource to meet its own system and flexible RA needs, and reduce the amount of local RA the CPE will need to procure for the amount of time the LSE has agreed to show the resource. Under option (3), by showing the resource to the CPE, the LSE does not receive one-for-one credit for shown local resources. A competitive solicitation (RFO) process will be used by the CPEs to procure RA products. Costs incurred by the CPE will be allocated ex post based on load share, using the CAM mechanism. D.20-06-002 also established a Working Group (co-led by CalCCA) to address: (a) the development of an local capacity requirements reduction crediting mechanism, (b) existing local capacity resource contracts (including gas), and (c) incorporating qualitative and possible quantitative criteria into the RFO evaluation process to ensure that gas resources are not selected based only on modest cost differences.

In Track 3, D.19-06-026 adopted CAISO's recommended 2020-2022 Local Capacity Requirements and CAISO's 2020 Flexible Capacity Requirements and made no changes to the System capacity requirements. It established an IOU load data sharing requirement, whereby each non-IOU LSE (e.g., CCAs) will annually request data by January 15 and the IOU will be required to provide it by March 1. It also adopted a "Binding Load Forecast" process such that an LSE's initial load forecast (with CEC load migration and plausibility adjustments based on certain threshold amounts and revisions taken into account) becoming a binding obligation of that LSE, regardless of additional changes in an LSE's implementation to new customers.

On October 30, 2019, CalCCA filed a PFM of D.19-06-026, seeking the creation of an RA waiver process in 2020 for system and flexible RA obligations.

Details: The only two remaining items to be addressed in this proceeding are two applications for rehearing filed by Western Power Trading Forum (WPTF). First, on July 17, 2020, WPTF filed an Application for Rehearing of D.20-06-002, the Track 2 Decision creating a multi-year central procurement regime for local RA capacity. It requested rehearing and reconsideration of the rejected settlement agreement between WPTF, CalCCA, and other parties, arguing that D.20-06-002 will discourage the procurement of local resources by individual LSEs, discriminates against natural gas resources while increasing the need for CAISO backstop procurement, may undermine reliability by making it more difficult to integrate renewables with the larger western grid, and creates a "sale for resale" procurement construct that could place it under FERC's jurisdiction as a wholesale, rather than a retail, transaction.

Second, on August 5, 2020, WPTF filed an Application for Rehearing of D.20-06-028 with respect to the self-scheduling requirements for non-resource specific RA imports.

- **Analysis**: D.20-06-002 established a central procurement entity and mostly resolved the central buyer issues, although several details are being refined through a Working Group. Moving to a central procurement entity beginning for the 2023 RA compliance year will impact VCE's local RA procurement and compliance, including affecting VCE's three-year local RA requirements as part of the transition to the central procurement framework. Eventually, it will eliminate the need for monthly local RA showings and associated penalties and/or waiver requests from individual LSEs, but it also eliminates VCE's autonomy with regard to local RA procurement and places it in the hands of PG&E.

  The Track 1 Decision on RA imports most directly impacted LSEs relying on RA imports to meet their RA obligations by increasing the difficulty of procuring such RA in the future.

- **Next Steps**: The only issues remaining to be addressed in this proceeding are WPTF's Applications for Rehearing. Remaining RA issues will be addressed in the successor RA rulemaking, R.19-11-009.

- **Additional Information**: D.20-09-003 denying PFMs filed by PG&E, CalCCA, and Joint Parties (September 16, 2020); WPTF's Application for Rehearing of D.20-06-028 (August 5, 2020); WPTF's Application for Rehearing of D.20-06-002 (July 17, 2020); D.20-06-028 on Track 1 RA Imports (approved June 25, 2020); D.20-06-002 establishing a central procurement mechanisms for local RA (June 17, 2020); D.20-03-016 granting limited rehearing of D.19-10-021 (March 12, 2020); D.20-01-004 on qualifying capacity value of hybrid resources (January 17, 2020); D.19-12-064 granting motion for stay of D.19-10-021 (December 23, 2019); D.19-10-021 affirming RA import rules (October 17, 2019); D.19-06-026 adopting local and flexible capacity requirements (July 5, 2019); Docket No. R.17-09-020.

Glossary of Acronyms

AB	Assembly Bill
AET	Annual Electric True-up

ALJ	Administrative Law Judge
BioMAT	Bioenergy Market Adjusting Tariff
BTM	Behind the Meter
CAISO	California Independent System Operator
CAM	Cost Allocation Mechanism
CARB	California Air Resources Board
CEC	California Energy Commission
CPE	Central Procurement Entity
CPUC	California Public Utilities Commission
CPCN	Certificate of Public Convenience and Necessity
CTC	Competition Transition Charge
DA	Direct Access
DWR	California Department of Water Resources
ELCC	Effective Load Carrying Capacity
ERRA	Energy Resource and Recovery Account
EUS	Essential Usage Study
GRC	General Rate Case
IEPR	Integrated Energy Policy Report
IFOM	In Front of the Meter
IRP	Integrated Resource Plan
IOU	Investor-Owned Utility
ITC	Investment Tax Credit
LSE	Load-Serving Entity
MCC	Maximum Cumulative Capacity
OII	Order Instituting Investigation
OIR	Order Instituting Rulemaking
PABA	Portfolio Allocation Balancing Account
PD	Proposed Decision
PG&E	Pacific Gas & Electric
PFM	Petition for Modification
PCIA	Power Charge Indifference Adjustment
POLR	Provider of Last Resort
PSPS	Public Safety Power Shutoff
PUBA	PCIA Undercollection Balancing Account
PURPA	Public Utility Regulatory Policies Act of 1978 (federal)
QC	Qualifying Capacity
QF	Qualifying Facility under PURPA

RA	Resource Adequacy
RDW	Rate Design Window
ReMAT	Renewable Market Adjusting Tariff
RPS	Renewables Portfolio Standard
SCE	Southern California Edison
SED	Safety and Enforcement Division (CPUC)
SDG&E	San Diego Gas & Electric
TCJA	Tax Cuts and Jobs Act of 2017
TOU	Time of Use
TURN	The Utility Reform Network
UOG	Utility-Owned Generation
WMP	Wildfire Mitigation Plan
WSD	Wildfire Safety Division (CPUC)

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 9

TO: Board of Directors

FROM: Rebecca Boyles, Director of Customer Care & Marketing

SUBJECT: Customer Enrollment Update (Information)

DATE: September 9, 2021

RECOMMENDATION

Receive and review the attached Customer Enrollment update as of September 1, 2021.

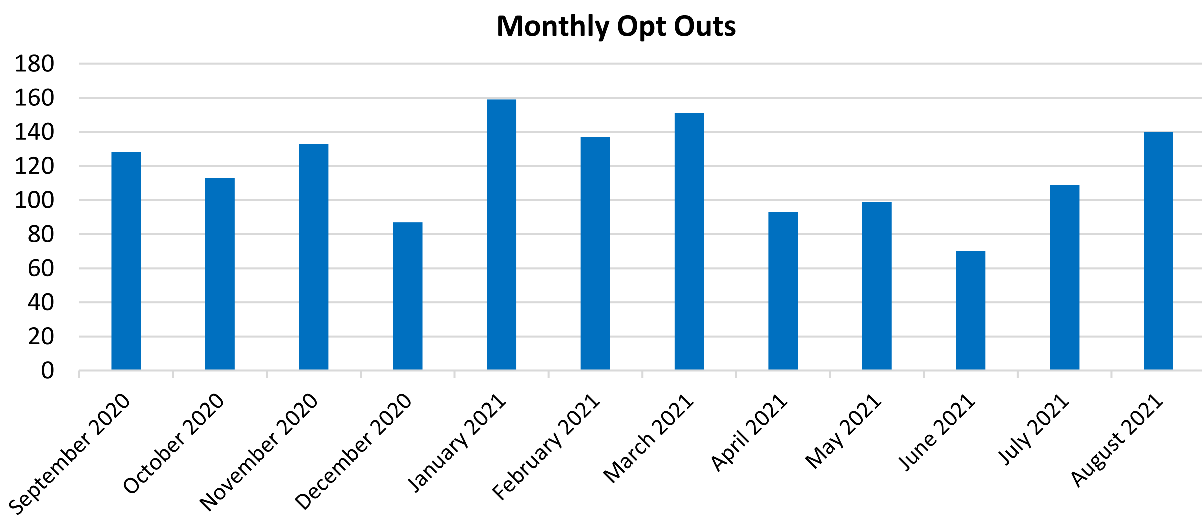
Item 9 - Enrollment Update

	Davis	Woodland	Winters	Yolo Co	Total	Residential	Commercial	Industrial	Ag	NEM	Non-NEM
VCEA customers	25,270	20,677	2,460	10,779	59,186	51,085	6,082	7	1,922	10,340	48,846
Eligible customers	26,579	23,694	2,706	12,291	65,270	56,305	6,683	7	2,171	11,327	53,943
Participation Rate	95%	87%	91%	88%	91%	91%	91%	100%	89%	91%	91%

There are currently 113 Winters customers not included in this table. NEM will enroll throughout 2021.

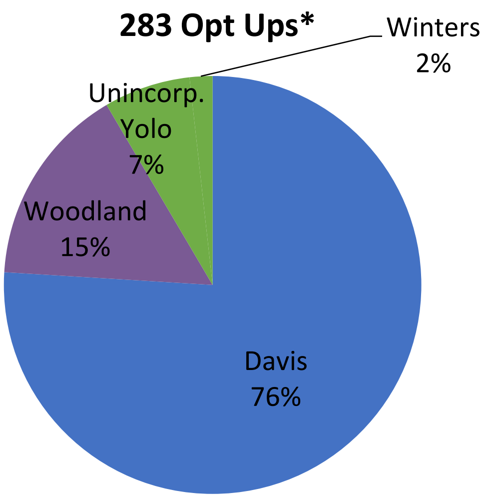
% of Load Opted Out

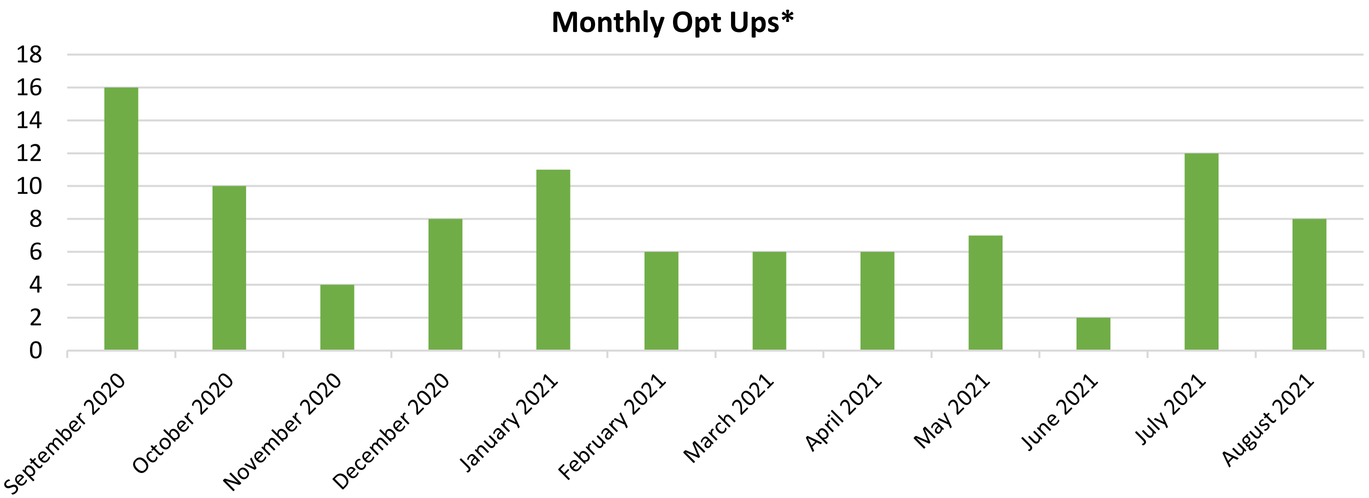
Residential	Commercial	Industrial	Ag	Total
10%	9%	0%	11%	9%



Status Date: 9/1/21

Item 9 - Enrollment Update



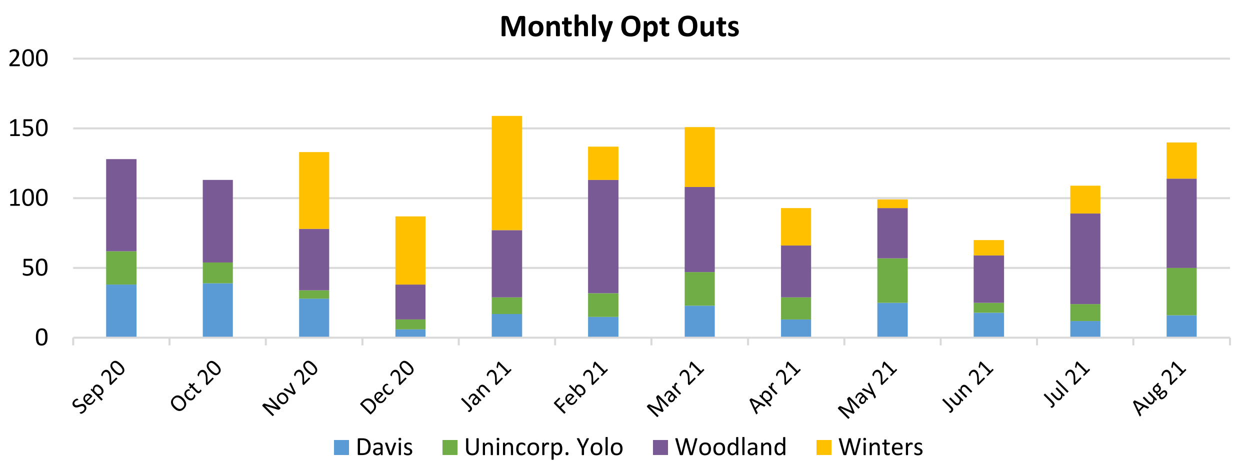


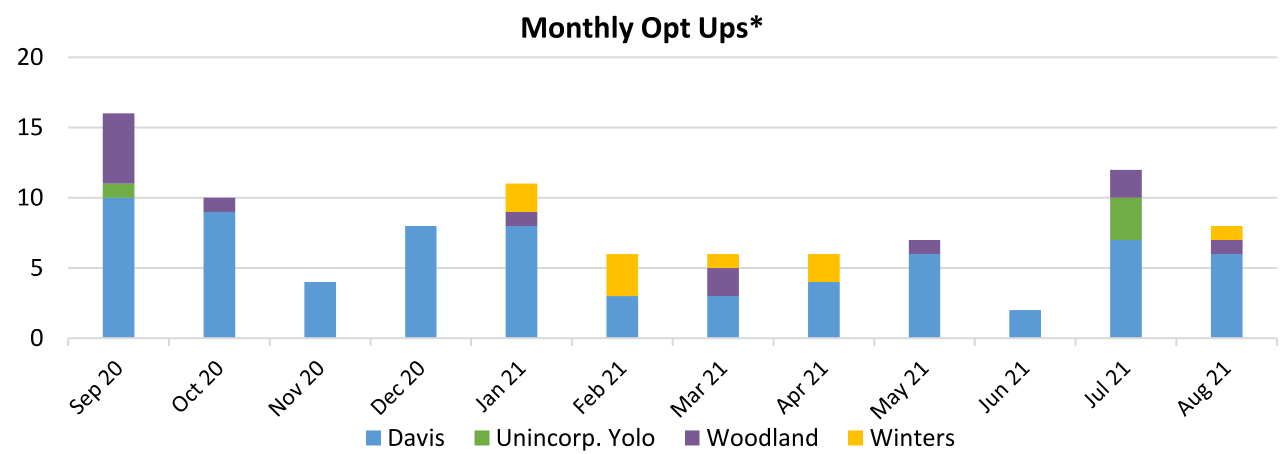
* The numbers in the pie chart represent opt ups for customers who are currently enrolled. The numbers in the bar graph represent opt up actions taken regardless of current enrollment status.

Status Date: 9/1/21

VALLEY CLEAN ENERGY

Item 9 - Enrollment Update

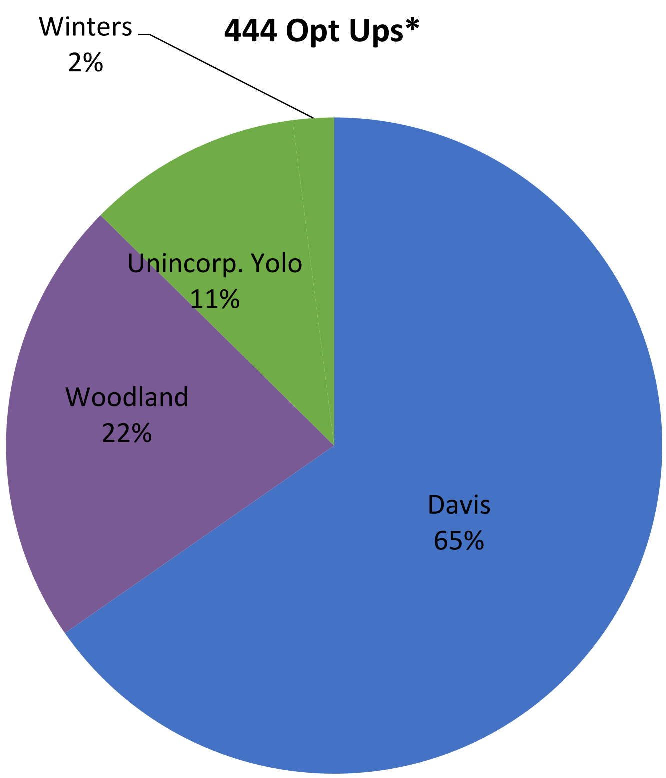


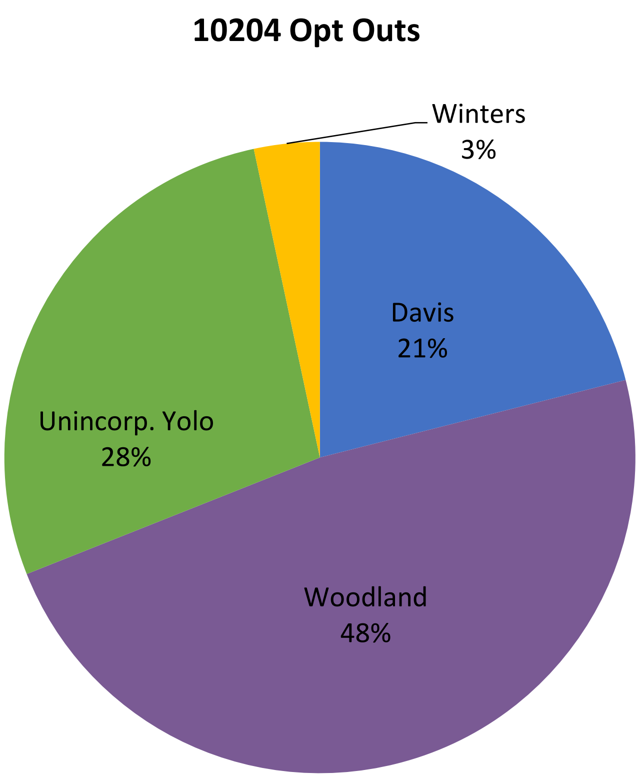


* These numbers represent all opt up actions ever taken regardless of current customer enrollment status.

Status Date: 9/1/21

Item 9 - Enrollment Update





* These numbers represent all opt up actions ever taken regardless of current customer enrollment status.

Status Date: 9/1/21

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 10

TO:	Board of Directors
FROM:	Alisa Lembke, Board Clerk / Administrative Analyst
SUBJECT:	Community Advisory Committee July 22, 2021 and August 26, 2021 Meetings Summaries
DATE:	September 9, 2021

This report summarizes the Community Advisory Committee's meetings held via Zoom webinar on Thursday, July 22, 2021 and August 26, 2021.

<u>Thursday, *July 22*, 2021 Meeting:</u>

A. **Quarterly Power Procurement / Renewable Portfolio Standard update.** The CAC received an update on 2021 power content targets and a year to date comparison to 2021 targets. Notably the hydropower contribution will be less than originally planned. This is due mainly to less large hydro from the PGE allocation – a result of the ongoing drought. Also, less power will come from Indian Valley as well. Slides taken by Rebecca Boyles at the Aquamarine Solar site in Kings County show good progress. VCE's portion of this project is scheduled to come on-line in Q3 2021.

B. **Rates Task Group Report.** VCE's consultant Don Dame was asked to join the Task Group's discussion on rates to assist the group in having more robust conversations about rates. The group have been looking at policy rate options and policies, which they hope to bring to the CAC for discussion in the near future. Concerns were expressed about rate elasticity among the different customers, rate option outreach plans, cost of local resources, and VCE's role in the net energy metering (NEM) installation movement.

C. **Strategic Plan update.** Staff provided an update and cadence overview of the Strategic Plan goals. Topics discussed were: opting up to UltraGreen; how VCE can support building electrification, battery storage and NEM customers; the need to continue to support decarbonization and grid innovation through regulatory and legislative activities; and, the role of interns assisting staff with the Strategic Plan goals.

D. **Update on VCE's applications to the Yolo County American Rescue Plan (ARP)**. Mitch Sears provided a brief overview of the four proposals submitted by VCE. Once staff knows if any of the projects are chosen for further analysis, CAC input may be sought. This could take the form of the programs task group looking at the proposals or selected individuals giving specific help.

<u>Thursday, *August 26*, 2021 Meeting:</u>

E. Carbon Neutral Task Group update. Staff, Task Group CAC members, and Ezra Beeman of Energeia USA provided an overview of the group's activities, specifically plans and progress of the agreement with Energeia USA to study and present options for VCE to achieve a 100% carbon neutral resource portfolio by 2030. The update included a review by CAC task group members of the Carbon Neutral Task Group's charge and tasks; an overview of the timeline of the study; and definition of terms (Renewable Electricity, Carbon Free Electricity, Hour by Hour // 24/7, and carbon neutral. Staff then reviewed our load profile over the year as contrasted to planned PPAs. The consultants then reviewed project scope, schedule and status; and, reviewed key future zero carbon generation, renewable energy, and storage technologies. A good discussion about technologies, needs, information and analysis that will be performed by Energeia occurred in addition to feedback provided by CAC members. Additionally public comment was received from Mr. Charles Ehrlich.

F. Discussion on possible restructuring of the Community Advisory Committee. Due to the difficulty for VCE to fully fill CAC vacancies, this item came to the CAC for staff to receive input on possibly restructuring the Committee. Staff presented three options for review and discussion – 1: staying as is, 2: at large members, 3: use of alternates. General consensus of the CAC was the importance of having some applicants from all jurisdictions and qualified applicants appointed to the CAC. The CAC noted that recruitment efforts have been difficult as several individual Members have reached out to their community to solicit applicants; however, those that have been contacted are already serving on other Committees and do not have the bandwidth to be appointed to another committee. The CAC agreed that the cities of Davis and Winters seats should be filled now and active solicitation should continue to fill the city of Woodland and unincorporated Yolo County seats. The CAC asked staff to discuss recruitment efforts by the respective individual Board members and discuss with the entire Board the possibility of restructuring the CAC to include some at large members. The CAC thought that at-large could be chosen based on a variety of approaches, including limiting to one additional from another jurisdiction, knowledge or interest areas such as rural, etc. Long term, the CAC feels that VCE is best served with a CAC that has a full complement of 12 members.

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 11

To: Board of Directors

From: Mitch Sears, Interim General Manager

Subject: Annual CPI Escalation for SMUD Professional Services - Amendment 25 to Task Orders 2, 3 and 4 of the SMUD Professional Services Agreement

Date: September 9, 2021

RECOMMENDATION

Ratify annual CPI escalation for Professional Services provided by SMUD effective July 1, 2021 according to Professional Service Agreement with VCE.

BACKGROUND/ANALYSIS

On October 12, 2017 the VCE Board approved a Professional Services Agreement with the Sacramento Municipal Utility District (SMUD) and Task Orders 1 and 2 to provide program launch and operational services. Soon thereafter, a series of additional Task Orders were implemented to the Agreement, including Task Order 3 to provide Wholesale Energy Services; Task Order 4 to provide Operational Staff Services to VCE; and Task Orders 5 (Long Term Renewable Procurement Services) and 6 (Expansion of VCE Service to Winters, CA).

The attached Amendment reflects increases in the billable rates by 2.1% effective July 1, 2021 per the contractually defined escalation methodology of benchmarking to the consumer price index. These rates will be in effect through June 30, 2022.

The Board approved Operating budget for Fiscal Year 2021/2022 included the anticipated increases in the billable rates.

Per the SMUD contract, billable rates were to increase July 1, 2021. The recommended Board action ratifies Interim General Manager Mitch Sears recent signature of Amendment 25 to Task Orders 2, 3, and 4. Attached is the executed copy.

Attachment: Amendment 25 to Task Orders 2, 3 and 4

AMENDMENT 25 TO EXHIBIT A: Scope of Services

Task Order 2 – Data Management and Customer Call Center Services
Task Order 3 – Wholesale Energy Services
Task Order 4 – Operational Staff Services

SMUD and VCEA agree to the following services, terms, and conditions described in this Amendment 25 to Exhibit A, Task Orders No. 2, 3, and 4 (Amendment 25), the provisions of which are subject to the terms and conditions of the Master Professional Services Agreement (Agreement) between the Parties. If any specific provisions of this Amendment 25 conflict with any general provisions in the Agreement or Task Orders 2, 3 or 4, the provisions of this Amendment 25, shall take precedence. Capitalized terms used in this Amendment which are not defined in this Amendment will have the respective meanings ascribed to them in the Agreement or a previous Amendment thereof.

1. In accordance with the terms of Task Orders 2, 3 and 4, this Amendment 25 is to memorialize the rate escalation effective July 1, 2021, as described in the Agreement *Section 4, COMPENSATION FOR SERVICES*.
2. The following rates are effective from July 1, 2021 through June 30, 2022:

   a. Task Order 2, Subsection 4.1, *Data Management and Call Center Services* is amended as follows:
      i. "The Data Management and Call Center Services at the selected "Silver" service level will be charged at a fixed monthly fee per customer meter enrolled in Program Service of $1.0649."

   b. Task Order 3, Subsection 4.3, *Wholesale Energy Services* is amended as follows:
      i. "Wholesale Energy Services will be charged at a fixed monthly service fee of $48,987.00."

   c. Task Order 2, Subsection 4.2, Task Order 3, Subsection 4.3, and Task Order 4, Subsection 5.2, *Hourly Rates*, are amended as follows:
      i. "Hourly Billing Rates effective July 1, 2021 – June 30, 2022:

Resource	Hourly Rate
CEO/VP	$266.23
Principal	$202.34
Senior Analyst	$159.74
Analyst	$106.49
Administrative	$85.20

[Signature Page follows]

SIGNATURES

The Parties have executed this Amendment 25, and it is effective as of the date of last signature below.

Valley Clean Energy Alliance

By: ______________________

Name: **Mitch Sears**

Title: **Interim General Manager**

Date: **July 20, 2021**

Approved as to Form: **N/A**

Sacramento Municipal Utility District

By: ______________________

Name: Brandy Bolden

Title: Chief Customer Officer

Date: July 22, 2021

Approved as to Form: ______________________

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 12

TO: Board of Directors

FROM: Rebecca Boyles, Director of Marketing and Customer Care

SUBJECT: Approval of Second Amendment to Green Ideals, Marketing Consultant Agreement, to extend one year and increase not to exceed amount

DATE: September 9, 2021

RECOMMENDATION

Adopt a resolution authorizing the Interim General Manager, in consultation with VCE Legal Counsel, to execute an amendment extending VCE's existing contract one year and increasing the not to exceed amount by $200,000 with Green Ideals, for communications and outreach vendor consultant services.

BACKGROUND & DISCUSSION

After issuing a request for proposals for community outreach and marketing services in November 2018, the VCE Board authorized the Interim General Manager to execute a two-year agreement at a not to exceed amount set at $425,000, with Green Ideals for communications and outreach services via Resolution 2018-031. This Resolution provided a no-cost extension of up to one (1) year at agreed prices with all other terms and conditions remaining the same. On November 12, 2020, the Board approved Amendment One (1), which extended the agreement one (1) year set to expire November 21, 2021 with the not to exceed amount remaining at $425,000.

From inception of the contract in November 2018 through July 2021 financial close, approximately $5,364 remains in the original contract not-to-exceed amount of $425,000. Average spending on this contract over the past six months is $11,718 per month. Although average monthly spending has been less historically, the monthly average increased due to work on significant improvements to VCE's website and outreach collateral. Additional work included an entire website refresh (style, graphics, architecture) and new webpages such as the Financial Resources for Customers page, as well as new program webpages such as the Electrify Yolo and OhmConnect pages. Additionally, per VCE's Outreach and Marketing Plan adopted by the Board of Directors in February 2021, all new marketing materials (whenever feasible) are translated into Spanish for greater accessibility. Additional funding is needed to cover anticipated expenses August 2021 through November 2022.

The Green Ideals agreement provides the following scope of services: 1) program branding, design, identity; 2) community outreach / stakeholder engagement; 3) develop and manage marketing campaigns and maintain a social media presence; and, 4) develop communication outreach plan.

Green Ideals has provided valuable support to staff, including development and implementation of program branding through the development of marketing materials, assisting with community outreach in developing a marketing and communications plan, developing press releases, op eds, advertisements, correspondence, and electric vehicle and energy efficiency materials, launching and updating VCE's website, and, assisting with numerous other projects. These marketing and community outreach services are considered mission critical to the organization. Green Ideals has provided prompt service, competitive market rates for contracted services, and has met or exceeded contract provisions. Based on the competitive rates and performance, staff is recommending an extension of the services agreement for one (1) year and increase the not to exceed amount by $200,000 with Green Ideals.

The recommended amendment will extend the Green Ideals contract one year to November 21, 2022 and update Exhibit D – Budget, Payment, Rates. All other provisions of the contract remain unchanged, including the not to exceed amount.

FISCAL IMPACT

Costs for the Green Ideals contract is a time and materials-based contract not to exceed $425,000. From inception of the contract in November 2018 through July 31, 2021, $419,636 has been spent on the contract, leaving $5,364 available in the contract. VCE has funds in its fiscal year 2021/2022 budget available to cover the current fiscal year expenditures, and any remaining and necessary expenses will be budgeted in fiscal year 2022/2023.

ATTACHMENTS

1. Resolution
2. Second Amendment
3. Amended Exhibit D – Budget, Payment, Rates

VALLEY CLEAN ENERGY ALLIANCE

RESOLUTION NO. 2021 - ___

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLEY CLEAN ENERGY ALLIANCE APPROVING SECOND AMENDMENT TO THE GREEN IDEALS AGREEMENT FOR CONSULTANT SERVICES FOR COMMUNICATIONS AND OUTREACH VENDOR AND AUTHORIZING THE INTERIM GENERAL MANAGER TO SIGN

WHEREAS, on November 15, 2018 via Resolution 2018-031 an agreement was entered into between VCE and Green Ideals (GI) for communications and outreach vendor consultant services, said agreement was set to expire on November 21, 2020; and

WHEREAS, within Resolution 2018-031, it provided the option for a no-cost extension of up to one (1) year by mutual agreement at agreed prices with all other terms and conditions remaining the same; and

WHEREAS, on November 10, 2020 via Resolution 2020-031, Amendment One (1) to the GI agreement was approved, which took the option for a no-cost extension, extending the agreement one (1) year set to expire on November 21, 2021; and,

WHEREAS, the relationship between VCE and GI has been successful and both parties agree to extend the agreement another year; and,

WHEREAS, to cover anticipated expenses through November 2022, the not to exceed amount needs to be increased by $200,000, which is within VCE's fiscal year budget for 2021/2022 and will be budgeted in fiscal year 2022/2023.

NOW, THEREFORE, the Board of Directors of the Valley Clean Energy Alliance resolves as follows:

1. authorizes the VCE Interim General Manager to execute on behalf of VCE the Second Amendment to the GI Agreement for communication and outreach services extending the agreement one (1) year to expire on November 21, 2022 and increase the not to exceed amount by $200,000; and,

2. updating Exhibit D, as set forth in the attached Exhibit D – Second Amendment to GI's Agreement.

PASSED, APPROVED AND ADOPTED, at a regular meeting of the Valley Clean Energy Alliance, held on the ____ day of ________________, 2021, by the following vote:
AYES:
NOES:
ABSENT:
ABSTAIN:

____
Dan Carson, VCE Chair

____
Alisa M. Lembke, VCE Board Secretary
EXHIBIT A - Second Amendment to Green Ideals Agreement for Consultant Services

EXHIBIT A

SECOND AMENDMENT TO
GREEN IDEALS AGREEMENT FOR CONSULTANT SERVICES

SECOND AMENDMENT

TO THE AGREEMENT FOR CONSULTANT SERVICES

BETWEEN

VALLEY CLEAN ENERGY ALLIANCE

AND

GREEN IDEALS

This Second Amendment to the Consultant Services Agreement ("Second Amendment") is made and entered into as of this 9th day of September 2021, by and between Valley Clean Energy Alliance, a Joint Powers Agency, existing under the laws of the State of California with its principal place of business at 604 2nd Street, Davis, California 95616 ("VCE") and Green Ideals, a sole proprietorship, with its principal place of business at 47 Creek Road, Fairfax, California 94930 ("GI"). VCE and GI are sometimes individually referred to as "Party" and collectively as "Parties."

Recitals

1. On November 21, 2018, VCE and GI entered into an "Agreement for Consultant Services," No. 2018-01 ("Agreement"), for the purpose of retaining GI to provide the services described in Exhibit A of the Agreement. The Agreement was for a term of two (2) years and a total amount not to exceed $425,000.

2. On November 12, 2020, the VCE Board of Directors approved Resolution No. 2018-031, authorizing the Interim General Manager to execute the First Amendment to the Agreement, extending the term for one (1) year, for a new expiration date of November 21, 2021.

3. VCE and GI now desire to further amend the Agreement to extend the term by one (1) year, through November 21, 2022 and increase the not to exceed amount by $200,000, for a total amount not to exceed $625,000.

Now therefore, for good and valuable consideration, the amount and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Section 1.4 of the Agreement is hereby amended in its entirety to read as follows:

   1.4 Term. The term of this Agreement, which began on November 21, 2018, shall end on November 21, 2022, unless amended as provided in this Agreement, or when terminated as provided in Article 5.

2. Exhibit D of the Agreement is hereby replaced in its entirety by Exhibit D attached hereto.

3. Except as amended by this Second Amendment, all other provisions of the Agreement will remain in full force and effect.

4. If any portion of this Second Amendment is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

[Signatures on Next Page]

SIGNATURE PAGE FOR SECOND AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES BETWEEN VALLEY CLEAN ENERGY ALLIANCE AND GREEN IDEALS

IN WITNESS WHEREOF, the Parties have entered into this Second Amendment as of the 9th day of September 2021.

VALLEY CLEAN ENERGY ALLIANCE	GREEN IDEALS
By: ____________________	By: ____________________
Mitch Sears Interim General Manager	Its: Managing Director/Principal
	Printed Name: Susan Bierzychudek

APPROVED AS TO FORM:

By: ____________________
Inder Khalsa
VCE Attorney

EXHIBIT D

BUDGET, PAYMENT, RATES

Budget: $625,000 for marketing and outreach services covering through November 21, 2022.

Payment: VCEA will pay uncontested invoices within 30 days of receipt.

Billing Rates

Green Ideals

Susan Bierzychudek	$175/hour	Project Director/Principal
Julie Contreras	$150/hour	Design Director

Media Solutions

Cynthia Metler	$150/hour	VP
Kelly Wheeler	$125/hour	Senior Media Buyer
Alisha Harris	$120/hour	Account Executive
David Alvarado	$100/hour	Media Buyer/Coordinator

Digital Marketing Labs

Kyle Cassano	$160/hour	President/CEO
Todd Wilkinson	$140/hour	Project Manager

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 13

TO: Board of Directors

FROM: Mitch Sears, Interim General Manager
Rebecca Boyles, Director of Customer Care and Marketing

SUBJECT: Electrify Yolo Project Update

DATE: September 9, 2021

REQUESTED ACTION
Informational item. The purpose of this report is to give an update on the status of the Electrify Yolo (SACOG grant) project.

BACKGROUND
In December 2018, the Sacramento Area Council of Governments (SACOG) authorized the award of a Green Region grant in the amount of $2,912,000, representing the regional "Electrify Yolo" project, with the purpose of installing publicly accessible electric vehicle (EV) charging stations. Originally, only VCE and the City of Davis were involved, and Woodland, Winters and unincorporated Yolo County joined the project prior to submitting the grant application in August 2018. The City of Davis distributed funds to each entity once the Memoranda of Understanding (MOUs) were approved by each jurisdiction. All projects are to be finished by December 31, 2023.

UPDATE
EV charger installations have been subject to some delays, including impacts from the COVID-19 pandemic. All MOUs were signed (Davis, VCE/Winters, Woodland, unincorporated Yolo County) as of April 2021, and some EV charger installation projects have begun.

The City of Davis and Frontier Energy held a kickoff meeting on June 29 and anticipate moving very quickly on this project. The analysis and design are estimated to take approximately 3 months once the agreement is signed.

The City of Winters finalized a contract with Ample Electric to install the charging infrastructure: two level 2 Blink chargers at the community center and one level 2 and one DC fast charger at the First/Abbey parking lot. The two level 2 Blink chargers have been installed at the community center, and the City is preparing to make them ready for public use. Both projects should be completed by Q4 2021.

Due to competing priorities and staffing issues, Woodland has not yet moved forward with their project; however, they remain committed to completing the project on time.

Yolo County is in discussion with ChargePoint about the feasibility of completing the project from beginning to end. There are a number of potential County-owned sites under consideration for charger locations, as well as solar-powered mobile chargers being considered.

VCE Staff is working with each jurisdiction to design banners to be hung at each charging station with logos of all project partners. These banners will inform members of the public that there will be EV chargers coming soon in that location and aim to increase the public's brand association with VCE and electric vehicles.

VALLEY CLEAN ENERGY ALLIANCE

Staff Report - Item 14

TO: Board of Directors

FROM: Mitch Sears, Interim General Manager

SUBJECT: Ratification of Waiver of Certain Potential Legal Conflicts under the Legal Professional Ethics Rules for Richards, Watson & Gershon

DATE: September 9, 2021

Recommendation

Ratify the Interim General Manager's execution of the attached waiver of potential legal conflicts for the law firm of Richards, Watson & Gershon.

Background

On June 10, 2021, Valley Clean Energy ("VCE") authorized a legal services agreement with Richards, Watson & Gershon (RWG), and appointed Inder Khalsa as General Counsel. Inder Khalsa represents the City of Davis as City Attorney as well as East Bay Community Energy Authority as General Counsel. Additionally, RWG represents other CCAs as general counsel. Because VCE occasionally enters into contractual transactions with the City of Davis or other CCAs, RWG is requesting informed consent and waiver of any potential conflict of interest in order to comply with the firm's obligations under Rule 1.7 of the State Bar's Rules of Professional Conduct.

Analysis

A client of a law firm may occasionally have an interest that is "adverse" to another client of the same law firm, as defined by the California State Bar's Rules of Professional Conduct for attorneys ("State Bar Rules"). "Adverse" in this context does not necessary mean that there is an actual dispute between the two clients, but also includes clients that are, or may be, on opposite sides of a transaction or matter (such as the negotiation of a contract) as well as opposite sides of litigation or a dispute. When clients are potentially "adverse," the law firm must inform the clients and seek informed consent and a waiver to continue the representation. With informed consent and a waiver, an attorney can represent multiple clients that are technically "adverse" under the State Bar Rules.

RWG represents several public agencies that are potentially "adverse" to VCE under this definition. The requested waiver specifically addresses three other clients of RWG: City of Davis, East Bay Community

Energy (EBCE), and Silicon Valley Clean Energy (SVCE). VCE has occasionally negotiated contracts with the City of Davis, such as for renewable energy infrastructure, and has negotiated cost-sharing and joint representation agreements with EBCE and SVCE. Although the relationships between VCE and these other entities has always been collaborative and in furtherance of their common goals, the State Bar Rules require that RWG inform VCE of the potential conflict and obtain a waiver to continue representing VCE.

If a situation arises in the future where these parties' interests are not well-aligned, RWG may seek additional informed consent and waiver from VCE and its other clients, or VCE may choose to engage different legal counsel, such as from the County Counsel's Office, which continues to provide legal services to VCE. In the unlikely event of a true dispute or litigation to occur between two clients, RWG would not represent either party in that litigation.

Conclusion

Mitch Sears, VCE's Interim General Manager, executed the attached waiver on July 20, 2021, allowing Ms. Khalsa and RWG to represent VCE as well as the City of Davis, EBCE, and SVCE in contractual negotiations where the parties are acting collaboratively. Senior Deputy County Counsel Eric May has provided VCE legal advice on this matter and approved the waiver as to form. For maximum transparency, staff recommends that the Board take action to ratify this waiver.

Attachment: Executed Waiver

Inder Khalsa

T 415.421.8484
F 415.421.8486
E ikhalsa@rwglaw.com

1 Sansome Street, Suite 2850
San Francisco, CA 94104-4811
rwglaw.com

July 16, 2021

VIA ELECTRONIC MAIL

Mitch Sears, Interim General Manager
VCE Administrative Office
604 2nd Street
Davis, CA 95616

Eric May, Co-General Counsel and Senior Deputy County Counsel
County of Yolo, Office of the County Counsel
625 Court Street, Suite 201
Woodland, California 95695

Re: **Attorney Conflict Waiver Regarding City of Davis and CCA Representation**

Dear Mitch and Eric:

As you and the Board of Directors are aware, I represent the City of Davis as City Attorney. I also represent the East Bay Community Energy Authority as General Counsel. In addition, Richards, Watson, and Gershon represents a number of other CCA programs as general counsel, including Silicon Valley Clean Energy Alliance, Pioneer Community Energy, and Clean Energy Alliance. We occasionally provide special counsel services to other CCA programs in California as well.

We do not believe there is any conflict of interest in RWG providing legal services to each of these entities. Nonetheless, due to the potential for a conflict of interest among or between these parties, RWG is providing this conflict waiver letter for consideration by Valley Clean Energy as well as seeking waivers from the City of Davis, SVCE, and EBCE. These parties occasionally negotiate and enter into contracts with each other and RWG may be asked to represent two or more parties in negotiating an agreement. In addition, the two entities have cooperatively shared personnel and it is possible that conflicts could arise with respect to employment or personnel issues. Finally, RWG will continue to represent other CCAs as General or Special Counsel, and we may seek future waivers if those entities engage in contractual transactions with VCE.

San Francisco Los Angeles Orange County Temecula Central Coast RICHARDS WATSON GERSHON

We apologize for the length and formality of this letter, but we seek to provide a full disclosure of relevant identifiable issues.

<u>Rule 1.7 of California Rules of Professional Conduct</u>

Rule 1.7 (Conflict of Interest: Current Clients) is set forth at <u>Exhibit 1</u> for your convenience. Rule 1.7(a) of the California Rules of Professional Conduct states that "[a] lawyer shall not, without informed written consent* from each client and compliance with paragraph (d), represent a client if the representation is directly adverse to another client in the same or a separate matter." Further, under Section 1.7(b), "[a] lawyer shall not, without informed written consent from each affected client and compliance with paragraph (d), represent a client if there is a significant risk the lawyer's representation of the client will be materially limited by the lawyer's responsibilities to or relationships with another client, a former client or a third person, or by the lawyer's own interests." Rule 1.7(d) states that the representation under Rule 1.7 is permitted only if there is compliance with 1.7(a) -1.7(c) and if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
(2) the representation is not prohibited by law; and
(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

The Comments to Rule 1.7 state that 1.7(a) and 1.7(b) "apply to all types of legal representations, including the concurrent representation of multiple parties . . . in a single transaction or in some other common enterprise . . ."

<u>Summary of Conflict Issues</u>

In connection with requesting your informed written consent, we are obligated to inform you of "the relevant circumstances" and of "the material risks, including any actual and reasonably foreseeable adverse consequences" of RWG's representation of (i) the City of Davis as City Attorney, and (ii) other CCA programs in California.

City of Davis

The City of Davis is a member agency of Valley Clean Energy Alliance, which is a joint powers authority. Davis residents are customers of VCE. In itself, representation of a Joint Powers Authority and one of its member agencies does not create a conflict of interest or require a conflict waiver. A conflict waiver is required, however, where a lawyer represents two parties who negotiate and enter into contracts with each other. The City of Davis and VCE have entered into contracts in the past, and will likely do so in the future. Furthermore, the two agencies have cooperatively shared staff. Accordingly, under Rule 1.7(a), it is necessary for RWG to obtain the informed written consent of Davis and VCE to allow RWG to continue this representation.

RWG reasonably believes it can provide competent and diligent representation to VCE. At the same time, RWG reasonably believes that it can continue to provide competent and diligent representation to the City of Davis. That said, it is possible that a dispute could arise between the entities with respect to a contract between the parties or an employment matter.

Other CCA Program Representation

RWG represents a number of CCA programs as general counsel or special counsel, but this waiver request is specific to East Bay Community Energy and Silicon Valley Clean Energy, which have contracted with VCE in the past and are likely to do so in the future.

California CCAs work together frequently to promote regulatory and legislative changes that benefit CCAs. CCAs have also entered into contracts with each other with respect to joint representation, information sharing and confidentiality, cost-sharing, and to create new joint powers authorities.

RWG reasonably believes it can provide competent and diligent representation to VCE, and that it can continue to provide competent and diligent representation to SVCE, EBCE, and other CCA programs. That said, it is possible that a dispute between two CCAs we represent could arise, due to a contract dispute, differing positions on legal issues, or competition for customers.

Analysis

At first impression, VCE, the City of Davis, and other CCAs generally act collaboratively and towards shared goals when engaging in transactions, and VCE's relationship with these entities is not what one ordinarily would think of as "adverse." However, in any transaction, VCE may have different concerns and interests than the other parties.

Our representation of VCE is not prohibited by law and does not involve the assertion of any claim in litigation or other proceeding before a tribunal. (Rule 1.7(d)(2)&(3)). Further, RWG's representation of VCE will not be materially limited by RWG's continued representation of the City of Davis or other CCA programs. We will represent VCE zealously on CCA matters. We have absolutely no reason to believe that our objectivity or representation of VCE will be compromised in any way by RWG's representation of the City of Davis or other CCAs.

In evaluating the "material risks and any actual and reasonably foreseeable adverse consequences" to the requested consent, we believe VCE should consider two issues that concern potential indirect consequences.

First, VCE should consider the issue of whether our representation of these other entities could affect our zealous representation of VCE or cause VCE to question our loyalty or performance, including our review of any contracts or arrangements between VCE and other public agencies we represent. When an attorney represents multiple parties, there is the theoretical possibility that the attorney may not vigorously represent each client, or may have his or her independence or judgment compromised in some way. An effective attorney-client relationship requires the client to have confidence in its counsel's loyalty and objectivity. As noted above, we do not see any significant potential for such adverse consequences at this time.

Second, VCE should consider whether it would be adversely affected by any negative perception as a result of our simultaneous representation of the City of Davis and other CCA programs. It is fairly common for firms of our size with specialized expertise to represent actually or potentially adverse clients with their mutual consent. In reviewing our request for consent, we suggest the VCE consider whether it concurs with our view regarding the unlikely chance of adverse public perception from our representation of multiple public agency clients.

In the very unlikely event that litigation resulted with either the City of Davis or other CCA programs, we would feel obligated to not represent any of the parties in such litigation.

By executing this letter, VCE acknowledges that it has obtained independent advice of counsel with respect to the waiver of the potential conflicts described above.

Waiver

If, after considering the foregoing, VCE agrees to waive any conflict of interest arising from: (i) RWG's representation of VCE, as General Counsel; (ii) RWG's simultaneous representation of the City of Davis, as City Attorney; and (iii) RWG's representation of other CCA programs, specifically EBCE and SVCE, on transactions between the parties, and any legal issues that may arise in the future not adverse to VCE, please sign below and return a copy of this letter. If additional issues or potential conflicts come up between VCE and other parties that RWG represents, I may seek additional waivers in the future.

This waiver can be withdrawn at any time. If circumstances arise where you feel that RWG should not represent VCE, I can assist you in ensuring VCE receives adequate legal advice on that issue or matter, whether from the Yolo County Counsel's Office or another law firm.

Very truly yours,

Inder Khalsa

Inder Khalsa

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AGREEMENT TO TERMS OF LEGAL SERVICES ENGAGEMENT AND CONSENT AND WAIVER

I have read, understand and acknowledge the disclosures and description of potential adverse consequences set forth in the letter of Richards, Watson & Gershon dated July 16, 2021 ("Consent Request Letter"). Valley Clean Energy Alliance ("VCE", based upon the Consent Request Letter, consents to, and waives any conflict or potential conflict arising from, the simultaneous representation by Richards, Watson & Gershon ("RWG") of VCE as well as (i) the City of Davis, as City Attorney, and (ii) East Bay Community Energy Authority and Silicon Valley Clean Energy Alliance as General Counsel on transactions between the parties and any legal issues that may arise in the future not adverse to VCE in RWG's representation of these parties.

Valley Clean Energy Alliance

By:____________________________
Mitch Sears

Title: Interim General Manager

Date: July 20, 2021

By:____________________________
Eric May

Title: Co-General Counsel

Rule 1.7 Conflict of Interest: Current Clients
(Rule Approved by the Supreme Court, Effective November 1, 2018)

(a) A lawyer shall not, without informed written consent* from each client and compliance with paragraph (d), represent a client if the representation is directly adverse to another client in the same or a separate matter.

(b) A lawyer shall not, without informed written consent* from each affected client and compliance with paragraph (d), represent a client if there is a significant risk the lawyer's representation of the client will be materially limited by the lawyer's responsibilities to or relationships with another client, a former client or a third person,* or by the lawyer's own interests.

(c) Even when a significant risk requiring a lawyer to comply with paragraph (b) is not present, a lawyer shall not represent a client without written* disclosure of the relationship to the client and compliance with paragraph (d) where:

> (1) the lawyer has, or knows* that another lawyer in the lawyer's firm* has, a legal, business, financial, professional, or personal relationship with or responsibility to a party or witness in the same matter; or
>
> (2) the lawyer knows* or reasonably should know* that another party's lawyer is a spouse, parent, child, or sibling of the lawyer, lives with the lawyer, is a client of the lawyer or another lawyer in the lawyer's firm,* or has an intimate personal relationship with the lawyer.

(d) Representation is permitted under this rule only if the lawyer complies with paragraphs (a), (b), and (c), and:

> (1) the lawyer reasonably believes* that the lawyer will be able to provide competent and diligent representation to each affected client;
>
> (2) the representation is not prohibited by law; and
>
> (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

(e) For purposes of this rule, "matter" includes any judicial or other proceeding, application, request for a ruling or other determination, contract, transaction, claim, controversy, investigation, charge, accusation, arrest, or other deliberation, decision, or action that is focused on the interests of specific persons,* or a discrete and identifiable class of persons.*

Comment

[1] Loyalty and independent judgment are essential elements in the lawyer's relationship to a client. The duty of undivided loyalty to a current client prohibits

undertaking representation directly adverse to that client without that client's informed written consent.* Thus, absent consent, a lawyer may not act as an advocate in one matter against a person* the lawyer represents in some other matter, even when the matters are wholly unrelated. (See *Flatt v. Superior Court* (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537].) A directly adverse conflict under paragraph (a) can arise in a number of ways, for example, when: (i) a lawyer accepts representation of more than one client in a matter in which the interests of the clients actually conflict; (ii) a lawyer, while representing a client, accepts in another matter the representation of a person* who, in the first matter, is directly adverse to the lawyer's client; or (iii) a lawyer accepts representation of a person* in a matter in which an opposing party is a client of the lawyer or the lawyer's law firm.* Similarly, direct adversity can arise when a lawyer cross-examines a non-party witness who is the lawyer's client in another matter, if the examination is likely to harm or embarrass the witness. On the other hand, simultaneous representation in unrelated matters of clients whose interests are only economically adverse, such as representation of competing economic enterprises in unrelated litigation, does not ordinarily constitute a conflict of interest and thus may not require informed written consent* of the respective clients.

[2] Paragraphs (a) and (b) apply to all types of legal representations, including the concurrent representation of multiple parties in litigation or in a single transaction or in some other common enterprise or legal relationship. Examples of the latter include the formation of a partnership for several partners* or a corporation for several shareholders, the preparation of a pre-nuptial agreement, or joint or reciprocal wills for a husband and wife, or the resolution of an "uncontested" marital dissolution. If a lawyer initially represents multiple clients with the informed written consent* as required under paragraph (b), and circumstances later develop indicating that direct adversity exists between the clients, the lawyer must obtain further informed written consent* of the clients under paragraph (a).

[3] In *State Farm Mutual Automobile Insurance Company v. Federal Insurance Company* (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20], the court held that paragraph (C)(3) of predecessor rule 3-310 was violated when a lawyer, retained by an insurer to defend one suit, and while that suit was still pending, filed a direct action against the same insurer in an unrelated action without securing the insurer's consent. Notwithstanding *State Farm*, paragraph (a) does not apply with respect to the relationship between an insurer and a lawyer when, in each matter, the insurer's interest is only as an indemnity provider and not as a direct party to the action.

[4] Even where there is no direct adversity, a conflict of interest requiring informed written consent* under paragraph (b) exists if there is a significant risk that a lawyer's ability to consider, recommend or carry out an appropriate course of action for the client will be materially limited as a result of the lawyer's other responsibilities, interests, or relationships, whether legal, business, financial, professional, or personal. For example, a lawyer's obligations to two or more clients in the same matter, such as several individuals seeking to form a joint venture, may materially limit the lawyer's ability to recommend or advocate all possible positions that each might take because of the lawyer's duty of loyalty to the other clients. The risk is that the lawyer may not be

able to offer alternatives that would otherwise be available to each of the clients. The mere possibility of subsequent harm does not itself require disclosure and informed written consent.* The critical questions are the likelihood that a difference in interests exists or will eventuate and, if it does, whether it will materially interfere with the lawyer's independent professional judgment in considering alternatives or foreclose courses of action that reasonably* should be pursued on behalf of each client. The risk that the lawyer's representation may be materially limited may also arise from present or past relationships between the lawyer, or another member of the lawyer's firm*, with a party, a witness, or another person* who may be affected substantially by the resolution of the matter.

[5] Paragraph (c) requires written* disclosure of any of the specified relationships even if there is not a significant risk the relationship will materially limit the lawyer's representation of the client. However, if the particular circumstances present a significant risk the relationship will materially limit the lawyer's representation of the client, informed written consent* is required under paragraph (b).

[6] Ordinarily paragraphs (a) and (b) will not require informed written consent* simply because a lawyer takes inconsistent legal positions in different tribunals* at different times on behalf of different clients. Advocating a legal position on behalf of a client that might create precedent adverse to the interests of another client represented by a lawyer in an unrelated matter is not sufficient, standing alone, to create a conflict of interest requiring informed written consent.* Informed written consent* may be required, however, if there is a significant risk that: (i) the lawyer may temper the lawyer's advocacy on behalf of one client out of concern about creating precedent adverse to the interest of another client; or (ii) the lawyer's action on behalf of one client will materially limit the lawyer's effectiveness in representing another client in a different case, for example, when a decision favoring one client will create a precedent likely to seriously weaken the position taken on behalf of the other client. Factors relevant in determining whether the clients' informed written consent* is required include: the courts and jurisdictions where the different cases are pending, whether a ruling in one case would have a precedential effect on the other case, whether the legal question is substantive or procedural, the temporal relationship between the matters, the significance of the legal question to the immediate and long-term interests of the clients involved, and the clients' reasonable* expectations in retaining the lawyer.

[7] Other rules and laws may preclude the disclosures necessary to obtain the informed written consent* or provide the information required to permit representation under this rule. (See, e.g., Bus. & Prof. Code, § 6068, subd. (e)(1) and rule 1.6.) If such disclosure is precluded, representation subject to paragraph (a), (b), or (c) of this rule is likewise precluded.

[8] Paragraph (d) imposes conditions that must be satisfied even if informed written consent* is obtained as required by paragraphs (a) or (b) or the lawyer has informed the client in writing* as required by paragraph (c). There are some matters in which the conflicts are such that even informed written consent* may not suffice to permit representation. (See *Woods v. Superior Court* (1983) 149 Cal.App.3d 931 [197 Cal.Rptr.

185]; *Klemm v. Superior Court* (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]; *Ishmael v. Millington* (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592].)

[9] This rule does not preclude an informed written consent* to a future conflict in compliance with applicable case law. The effectiveness of an advance consent is generally determined by the extent to which the client reasonably* understands the material risks that the consent entails. The more comprehensive the explanation of the types of future representations that might arise and the actual and reasonably* foreseeable adverse consequences to the client of those representations, the greater the likelihood that the client will have the requisite understanding. The experience and sophistication of the client giving consent, as well as whether the client is independently represented in connection with giving consent, are also relevant in determining whether the client reasonably* understands the risks involved in giving consent. An advance consent cannot be effective if the circumstances that materialize in the future make the conflict nonconsentable under paragraph (d). A lawyer who obtains from a client an advance consent that complies with this rule will have all the duties of a lawyer to that client except as expressly limited by the consent. A lawyer cannot obtain an advance consent to incompetent representation. (See rule 1.8.8.)

[10] A material change in circumstances relevant to application of this rule may trigger a requirement to make new disclosures and, where applicable, obtain new informed written consents.* In the absence of such consents, depending on the circumstances, the lawyer may have the option to withdraw from one or more of the representations in order to avoid the conflict. The lawyer must seek court approval where necessary and take steps to minimize harm to the clients. See rule 1.16. The lawyer must continue to protect the confidences of the clients from whose representation the lawyer has withdrawn. (See rule 1.9(c).)

[11] For special rules governing membership in a legal service organization, see rule 6.3; and for work in conjunction with certain limited legal services programs, see rule 6.5.

NEW RULE OF PROFESSIONAL CONDUCT 1.7
(Former Rule 3-310(B), (C))
Conflict of Interest: Current Client

EXECUTIVE SUMMARY

The Commission for the Revision of the Rules of Professional Conduct ("Commission") has evaluated current rule 3-310 (Avoiding the Representation of Adverse Interests) in accordance with the Commission Charter, with a focus on the function of the rule as a disciplinary standard, and with the understanding that the rule comments should be included only when necessary to explain a rule and not for providing aspirational guidance. In addition, the Commission considered the national standard of the American Bar Association ("ABA") counterparts, a series of rules that address conflicts of interest as they might arise in a number of different situations: Model Rules 1.7 (Current Client Conflicts); 1.8(f) (third party payments); 1.8(g) (aggregate settlements); and 1.9 (Duties To Former Clients).

The result of the Commission's evaluation is a two-fold recommendation for implementing:

(1) the <u>Model Rules' framework</u> of having separate rules that regulate different conflicts situations: proposed rules 1.7 (current clients), 1.8.6 (payments from one other than client), 1.8.7 (aggregate settlements) and 1.9 (former clients); and

(2) <u>proposed Rule 1.7</u> (conflicts of interest: current clients), which regulates conflicts situations that are currently regulated under rule 3-310(B) and (C). Proposed rule 1.7 largely tracks the ABA approach to current client conflicts of stating general rules regarding "direct adversity" conflicts between clients of a lawyer (addressed incompletely in current rule 3-310(C)(2) and (C)(3)) and "material limitation" conflicts (e.g., a joint representation conflict), which are currently addressed in current rule 3-310(C)(1) and 3-310(B).

Proposed rule 1.7 has been adopted by the Commission for submission to the Board of Trustees for public comment authorization..

1. ***<u>Recommendation of the ABA Model Rule Conflicts Framework</u>***. The rationale underlying the Commission's recommendation of the ABA's multiple-rule approach is its conclusion that such an approach should facilitate compliance with and enforcement of conflicts of interest principles. Among other things, separate rules should reduce confusion and provide out-of-state lawyers, who often practice in California under one of the multijurisdictional practice rules (9.45 to 9.48) with quick access to the rules governing their specific conflicts problem. At the same time, this approach will promote a national standard in how the different conflicts of interest principles are organized within the Rules.[1]

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[1] Every other jurisdiction in the country has adopted the ABA conflicts rules framework. In addition to the identified provisions, the Model Rules also include Model Rule 1.8, which includes eight provisions in addition to paragraphs (d) and (f) that cover conflicts situations addressed by standalone California Rules (e.g., MR 1.8(a) is covered by California Rule 3-300 [Avoiding Interests Adverse To A Client] and MR 1.8(e) is covered by California Rule 4-210 [Payment of Personal or Business Expenses By Or For A Client)].)

Further, the Model Rules also deal with concepts that are addressed by case law in California: Model Rules 1.10 (Imputation of Conflicts and Ethical Screening); 1.11 (Conflicts Involving Government Officers

2. ***Recommendation of the ABA approach of proposed Rule 1.7***. The recommended approach tracks the ABA Model Rule, which generally describes two kinds of conflict situations relating to current clients: (1) those involving direct adversity, (MR 1.7(a)(1)), and (2) those involving a significant risk that a lawyer's representation of current clients will be materially limited by the lawyer's responsibilities to another client or third person, or by the lawyer's personal interests. (MR 1.7(a)(2)).

There are a number of reasons for the Commission's recommendation. *First*, the proposed rule will facilitate compliance with enforcement of the current client conflicts rule provisions by incorporating more clearly-stated general conflicts principles, (see paragraph (a) and introductory clause to paragraph (b)), while providing specific examples in the comments to the rules. *Second*, the approach will also increase client protection by including the generally-stated conflicts principles that are subject to regulation under the rule, rather than limiting the rule's application to several discrete situations as in current rule 3-310(B) and (C). *Third*, by incorporating the generally-stated principles in Model Rule 1.7(a)(1) and (2) into paragraphs (a) and (b), the proposed rule will help promote a national standard in conflicts of interest. *Fourth*, by incorporating the provisions in Model Rule 1.7(b)(1) – (3) concerning unconsentable conflicts into proposed paragraph (d), the proposed rule will move this important concept into the black letter rather than relegate it to two separate Discussion paragraphs in the current rule (see rule 3-310, Discussion paragraphs 2 and 10).

Informed written consent. In addition to the foregoing considerations, the Commission recommends carrying forward California's more client-protective requirement that a lawyer obtain the client's "informed written consent," which requires written disclosure of the potential adverse consequences of the client consenting to a conflicted representation. The Model Rules, on the other hand, employ a less-strict requirement of requiring only "informed consent, confirmed in writing." That standard permits a lawyer to confirm by email or even text message that the client has consented to a conflict.

Paragraph (a) of proposed Rule 1.7 incorporates the concept of direct adversity of interests of two current clients. This carries forward the concept in current rule 3-310(C)(2) and (3), and Model Rule 1.7(a)(1).

Paragraph (b) incorporates the concept of material limitations on a lawyer's representation of a client because of duties owed another current or former client, or because a relationship with a client or other person. The paragraph borrows the language of Model Rule 1.7(a)(2) in carrying forward the concepts found in current rule 3-310(B) and (C)(1).

Paragraph (c) carries forward the concepts in current rules 3-310(B)(1) and 3-320. Similar to paragraph (b), this paragraph is concerned with limitations on the lawyer's ability to represent a client because of the lawyer's duties to or relationships with other persons. These situation is not included in paragraph (b) because the Commission believes that the standard in current rule 3-310(B) – the lawyer must only provide written disclosure to the client of the relationship – should be carried forward, rather than applying paragraph (b)'s "informed written consent"

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and Employees); and 1.12 (Conflicts Involving Former Judges and Judicial Employees). The Commission is currently studying those rules.

standard.[2] This separate paragraph recognizes that there are certain instances when the duties owed to or relationships with other persons do not create a "significant risk" of a material limitation on the representation so as to require the heightened informed written consent standard, but nevertheless warrants the reduced "written disclosure" standard currently found in rule 3-310(B).

Paragraph (d) incorporates the provisions in Model Rule 1.7(b)(1) – (3) concerning unconsentable conflicts. The concept is currently found in two separate Discussion paragraphs of current rule 3-310 (paragraphs 2 and 10).

Unlike the Model Rule with 35 comments, there are only 12 comments to proposed Rule 1.7, all of which provide interpretative guidance or clarify how the proposed rule, which is intended to govern a broad array of complex conflicts situations, should be applied. Comment [1] explains "direct adversity" of legal interests and importantly distinguishes clients with economically adverse interests. Comment [2] provides a definition of "matter," a concept central to the rule's application. Comment [3] carries forward the concept in current rule 3-310, Discussion ¶.7, and explains the rule's application to joint client representations. Comment [4] carries forward current Discussion ¶.9, which the Supreme Court approved in 2002 after extensive debate among various stakeholders in the insurance industry. Comment [5] explains how paragraph (b) should be applied by providing several discrete examples. Comment [6] explains how paragraph (c) should be applied by comparison to paragraph (b). Comment [7] explains when adverse positions clients have taken on a legal issue may require a lawyer to obtain the clients' informed written consent. Comment [8] crucially explains that a lawyer's duty of confidentiality may preclude the lawyer from providing a disclosure sufficient to ensure the client's consent is informed. Comment [9] carries forward the substance of current Discussion ¶¶.2 and 10 concerning unconsentable conflicts and provides citations to several cases that have addressed the issue. Comment [10] is new and provides interpretative guidance regarding paragraphs (a) and (b) regarding the extent to which they might apply to advance consents to future conflicts of interest. Comment [11] notes that a second consent may be required should the circumstances under which a consent was originally obtained change. Comment [12] provides cross-references to proposed Rules 6.3 and 6.5, both of which permit otherwise conflicted representations or provide exceptions for imputation under certain conditions.

<u>1st Round 90-day Public Comment Period</u>

Following consideration of public comment, the Commission made several changes to both the text and comment of proposed Rule 1.7.

<u>Text</u>. In paragraphs (a) and (b), the Commission added the phrase "in compliance with paragraph (d)" to clarify that a lawyer must not only obtain the client's informed written consent but must also comply with the requirements in paragraph (d).

In paragraph (b), the Commission deleted the examples that had been provided in the public comment draft except for former subparagraph (b)(1), which has been moved to paragraph (c) as subparagraph (c)(1). The version issued for 90-day public comment represented a

[2] The Commission determined that current rule 3-320's requirement of merely "informing" the client of the relationship with the other party's lawyer was not sufficiently rigorous to enhance public protection.

"hybrid" approach that involved merging the "checklist approach"[3] of regulating conflicts involving current clients in current rule 3-310(B) and (C) with the ABA Model Rule's approach, which generally describes two kinds of conflict situations relating to current clients: (1) those involving direct adversity, (MR 1.7(a)(1)), and (2) those involving a significant risk that a lawyer's representation of current clients will be materially limited by the lawyer's responsibilities to another client or third person, or by the lawyer's personal interests. (MR 1.7(a)(2)). After consideration of public comment, including a lengthy letter submitted by the State Bar Committee on Professional Responsibility and Conduct, the Commission no longer favored this hybrid approach and revised the rule to be a variation of the Model Rule 1.7.

The Commission added new paragraph (c), with a new introductory clause. Paragraph (c) carries forward subparagraph (b)(1) of the public comment draft as subparagraph (c)(1) and paragraph (c) of the public comment draft as subparagraph (c)(1). Similar to paragraphs (a) and (b), paragraph (c) provides that not only must the lawyer give written disclosure to the client of the relationships in paragraphs (c)(1) and (2), but must also comply with the requirements in paragraph (d).

Comment. In Comment [2], which addresses the issue of positional conflicts, the first sentence has been deleted and the second sentence has been moved to new Comment [7], which contains a fuller discussion of positional conflicts.

The Commission has added new Comment [2], which explains what is meant by the term "matter." This comment is also cross-referenced in the Comment to both Rule 1.9 (Duties to Former Clients) and Rule 1.11 (Special Conflicts of Interest for Former and Current Government Officials and Employees).

In Comment [4], the Commission added a reference to paragraph (b), which also corresponds to current rule 3-310(C)(3).

In Comment [5], the Commission added the clause "or relationships, whether legal, business, financial, professional, or personal" to clarify the scope of paragraph (b). The last sentence of Comment [5] was also added for the same reason.

New Comment [6] has been added to clarify the scope and application of new paragraph (c). Public comment suggested that the public comment version of paragraphs (b) and (c) as drafted created confusion because their coverage might overlap in some situations.

New Comment [7] contains a fuller discussion of positional conflicts. See Comment [2], above.

In Comment [10] (Comment [8] in public comment draft), the Commission added a new third sentence ("The experience and sophistication ... consent.") to identify factors in determining the feasibility of obtaining an advance consent.

[3] The "checklist" approach in current rule 3-310(B) and (C) involves the identification of discrete categories of current conflict situations. Unless an alleged conflict fits within one of these discrete categories, the lawyers involved will not be subject to discipline.

2nd Round 45-day Public Comment Period

Following consideration of a second round of public comments, the Commission made changes to both the text and comment of proposed Rule 1.7.

Text. Paragraphs (a), (b) and (c) identify when a conflict of interest may arise and state that a lawyer must obtain a client's informed consent or make written disclosure to a client, depending on the type of conflict. Paragraph (d) identifies circumstances where a conflict of interests cannot be cured by client consent or disclosure. To reinforce the interrelationship of these paragraphs, in paragraph (d) the Commission added the phrase if "the lawyer complies with paragraphs (a), (b), and (c)." Public comments received stated that this was not clear and might lead to confusion about whether consent or disclosure, standing alone, can cure a conflict.

Comment. Comment [1] explains how to apply the concept of "direct adversity" by providing non-exclusive examples. The Commission revised this comment to expressly state that the identified situations are non-exclusive examples of direct adversity conflicts, and to add an additional example that describes the directly adverse conflict that arises when a lawyer is retained to sue a person who is a current client of the lawyer or the lawyer's firm.

In Comment [2], the Commission added language to clarify that a "matter" for purposes of this rule includes a "transaction," an "investigation," a "charge," an "accusation" or an "arrest." Public comments recommended broader language to avoid an overly narrow construction of the rule.

Comment [4] carries forward Discussion paragraph 9 in current rule 3-310, which the Supreme Court of California approved in 2002 after extensive study with participants of various stakeholders in the insurance industry. Discussion paragraph 9 clarifies the extent to which rule 3-310(C)(3) might apply to a lawyer's duties in an insurance defense tripartite relationship. The Commission has revised the comment to refer only to paragraph (a) of the proposed rule which carries forward current rule 3-310(C)(3).

Comment [7] in part carries forward Discussion paragraph 1 in current rule 3-310 which explains that representing inconsistent legal positions in different matters ordinarily does not trigger a conflict of interest. The Commission revised the second sentence of Comment [7] to use a simpler sentence structure and to use the phrase "sufficient, standing alone" to avoid the comment from being potentially overbroad. This clarification was recommended by a public comment.

With these changes, the Board's Committee on Regulation and Discipline authorized an additional 30-day public comment period on the revised proposed rule.

Final Commission Action on the Proposed Rule

The additional 30-day public comment period ended on March 6, 2017 and three written comments were received. The Commission considered these comments at its meeting on March 7, 2017. At this meeting, the Commission also considered two comments that were received after the deadline for the prior 45-day comment period. Following consideration of these comments, the Commission made no changes to the rule and voted to recommend the rule for adoption. Members of the Commission submitted dissents to this rule that can be found following the Report and Recommendation.

The Board adopted proposed rule 1.7 at its March 9, 2017 meeting.

Supreme Court Action (May 10, 2018)

The Supreme Court approved the rule as modified by the Court to be effective November 1, 2018. The Court deleted Comment [2], and moved the definition of "matter" to the text of the rule as paragraph (e), and renumbered the subsequent Comments. The Supreme Court also deleted "or organization" in Comment [1].

Supreme Court Action (September 26, 2018)

Subsequently, the Board adopted staff recommended "clean-up" revisions to various rules, including this rule. All of these changes were non-substantive and, for example, implemented copy editing corrections to style and punctuation. The Supreme Court approved the "clean-up" revisions operative November 1, 2018 by order dated September 26, 2018.

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 15

TO: Board of Directors

FROM: Gordon Samuel, Assistant General Manager and Director of Power Services

SUBJECT: Accept and attest to the veracity of VCE's Power Content Label for the Standard Green and Ultra Green products for 2020

DATE: September 9, 2021

RECOMMENDATION:
Attest to the veracity of the information presented in Valley Clean Energy's 2020 Power Source Disclosure Annual Reports and Power Content Label for the Standard Green and Ultra Green products.

BACKGROUND:
California Public Utilities Code requires all retail sellers of electric energy, including Valley Clean Energy (VCE), to disclose "accurate, reliable, and simple-to-understand information on the sources of energy, and the associated emissions of greenhouse gases," that are delivered to their respective customers.[1] Applicable regulations direct retail sellers to provide such communications no later than October 1st of each year. The format for requisite communications is highly prescriptive, offering little flexibility to retail sellers when presenting such information to customers. This format has been termed the "Power Content Label" by the California Energy Commission ("CEC").

Information presented in the Power Content Label includes the appropriate share of total energy supply based on resource type, including both renewable and conventional fuel sources. In the event that a retail seller meets a certain percentage of its supply obligation from unspecified resources, the report must identify such purchases as "unspecified sources of power." Unspecified sources of power refers to electricity that cannot be sourced back to a specific generator, such as energy purchased through open market transactions.

During the 2020 calendar year, VCE delivered a substantial portion of its electric energy supply from various renewable energy sources, including eligible hydroelectric, solar, and wind. For VCE Standard Green customers, 43.9% of the energy delivered was from renewable energy resources with a greenhouse gas emissions intensity of 190 lbs CO_2e/MWh. For Ultra Green customers, 100% of the energy delivered was generated from renewable energy resources with

[1] California Public Utilities Code Section 398.1(b).

a greenhouse gas emissions intensity of 0 lbs CO2e/MWh. A copy of VCE's Power Content Label listing the energy resources used during 2020 is attached.

Consistent with applicable regulations and CEC guidance, VCE will complete required customer communications in accordance with the October 1, 2020 deadline. All customers currently enrolled in the VCE program will receive the Power Content Label via mail or e-mail, as applicable.

To fulfill its Power Content Label reporting obligation, VCE may provide the CEC with the Board's attestation regarding the veracity of the information presented in VCE's 2020 Power Source Disclosure Annual Reports and Power Content Label for the Standard Green and Ultra Green products. Staff recommends VCE self-certify both the Standard Green and Ultra Green products in lieu of submitting them to a third-party Certified Public Accountant for a formal audit. VCE's technical consultants (SMUD) prepared the Power Source Disclosure annual reports and Power Content Label, which were subsequently reviewed by another VCE consultant (EQ Research). EQ Research's review, as detailed in the attached report, verified that the information contained in the annual reports and Power Content Label is accurate.

Based on the foregoing, staff requests that the Board accept this determination and attest to the veracity of the information included in VCE's Power Source Disclosure annual reports and Power Content Label for the Standard Green and Ultra Green products for the 2020 calendar year.

ATTACHMENTS:

1) 2020 Annual Power Source Disclosure Report for the Standard Green Product
2) 2020 Annual Power Source Disclosure Report for the Ultra Green Product
3) 2020 Power Content Label
4) EQ Research Report re 2020 Power Source Disclosure Annual Reports and Power Content Label

2020 POWER SOURCE DISCLOSURE ANNUAL REPORT
For the Year Ending December 31, 2020

Retail suppliers are required to use the posted template and are not allowed to make edits to this format. Please complete all requested information.

GENERAL INSTRUCTIONS

RETAIL SUPPLIER NAME
Valley Clean Energy Alliance

ELECTRICITY PORTFOLIO NAME
Standard Green

CONTACT INFORMATION	
NAME	Gordon Samuel
TITLE	Assistant General Manager & Director of Power Services
MAILING ADDRESS	604 2nd Street
CITY, STATE, ZIP	Davis, CA 95616
PHONE	1-855-699-8232
EMAIL	info@valleycleanenergy.org
WEBSITE URL FOR PCL POSTING	https://valleycleanenergy.org/power-sources/

Submit the Annual Report and signed Attestation in PDF format with the Excel version of the Annual Report to PSDprogram@energy.ca.gov. Remember to complete the Retail Supplier Name, Electricity Portfolio Name, and contact information above, and submit separate reports and attestations for each additional portfolio if multiple were offered in the previous year.

NOTE: Information submitted in this report is not automatically held confidential. If your company wishes the information submitted to be considered confidential an authorized representative must submit an application for confidential designation (CEC-13), which can be found on the California Energy Commissions's website at https://www.energy.ca.gov/about/divisions-and-offices/chief-counsels-office.

If you have questions, contact Power Source Disclosure (PSD) staff at PSDprogram@energy.ca.gov or (916) 639-0573.

INTRODUCTION

Retail suppliers are required to submit separate Annual Reports for each electricity portfolio offered to California retail consumers in the previous calendar year. Enter the Retail Supplier Name and Electricity Portfolio Name at the top of Schedule 1, Schedule 2, Schedule 3, and the Attestation.

A complete Annual Report includes the following tabs:

PSD Intro
Instructions
Schedule 1 - Procurements and Retail Sales
Schedule 2 - Retired Unbundled Renewable Energy Credits (RECs)
Schedule 3 - Annual Power Content Label Data
GHG Emissions Factors
Asset-Controlling Supplier (ACS) Procurement Calculator
PSD Attestation

INSTRUCTIONS

Schedule 1: Procurements and Retail Sales

Retail suppliers of electricity must complete this schedule by entering information about all power procurements and generation that served the identified electricity portfolio covered in this filing in the prior year. The schedule is divided into sections: directly delivered renewables, firmed-and-shaped imports, specified non-renewables, and procurements from ACSs. Insert additional rows as needed to report all procurements or generation serving the subject product. Provide the annual retail sales for the subject product in the appropriate space. At the bottom of Schedule 1, provide the retail suppliers' other electricity end-uses that are not retail sales, such as transmission and distribution losses. Retail suppliers shall submit a purchase agreement or ownership arrangement documentation substantiating that any eligible firmed-and-shaped product for which it is claiming an exclusion was executed prior to January 1, 2019. **Any retail supplier that offered multiple electricity portfolios in the prior year must submit separate Annual Reports for each portfolio offered.**

Specified Purchases: A Specified Purchase refers to a transaction in which electricity is traceable to specific generating facilities by any auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity claimed has been sold once and only once to retail consumers. Do not enter data in the grey fields. For specified purchases, include enter following information for each line item:

Facility Name - Provide the name used to identify the facility.
Fuel Type - Provide the resource type (solar, natural gas, etc.) that this facility uses to generate electricity.
Location - Provide the state or province in which the facility is located.
Identification Numbers - Provide all applicable identification numbers from the Western Renewable Energy Generation Information System (WREGIS), the Energy Information Agency (EIA), and the California Renewables Portfolio Standard (RPS).
Gross Megawatt Hours Procured - Provide the quantity of electricity procured in MWh from the generating facility.
Megawatt Hours Resold - Provide the quantity of electricity resold at wholesale.

Unspecified Power: Unspecified Power refers to electricity that is not traceable to specific generation sources by any auditable contract trail or equivalent, or to power purchases from a transaction that expressly transferred energy only and not the RECs associated from a facility. **Do not enter procurements of unspecified power**. The schedule will calculate unspecified power procurements automatically.

Schedule 2: Retired Unbundled RECs

Complete this schedule by entering information about unbundled REC retirements in the previous calendar year.

Schedule 3: Annual Power Content Label Data

This schedule is provided as an automated worksheet that uses the information from Schedule 1 to calculate the power content and GHG emissions intensity for each electricity portfolio. The percentages calculated on this worksheet should be used for your Power Content Label.

ACS Resource Mix Calculator

Retail suppliers may report specified purchases from ACS system power if the ACS provided its fuel mix of its specified system mix to the Energy Commission. Use the calculator to determine the resource-specific procurement quantities, and transfer them to Schedule 1.

GHG Emissions Factors

This tab will be displayed for informational purposes only; it will not be used by reporting entities, since the emissions factors below auto-populate in the relevant fields on Schedules 1 & 3.

Attestation

This template provides the attestation that must be submitted with the Annual Report to the Energy Commission, stating that the information contained in the applicable schedules is correct and that the power has been sold once and only once to retail consumers. This attestation must be included in the package that is transmitted to the Energy Commission. Please provide the complete Annual Report in Excel format and the complete Annual Report with signed attestation in PDF format as well.

2020 POWER SOURCE DISCLOSURE ANNUAL REPORT
SCHEDULE 1: PROCUREMENTS AND RETAIL SALES
For the Year Ending December 31, 2020
Valley Clean Energy Alliance
Standard Green

Instructions: Enter information about power procurements underlying this electricity portfolio for which your company is filing the Annual Report. Insert additional rows as needed. All fields in white should be filled out. **Fields in grey auto-populate as needed and should not be filled out.** For EIA IDs for unspecified power or specified system mixes from asset-controlling suppliers, enter "unspecified", "BPA," "Powerex,", or "Tacoma" as applicable. For specified procurements of ACS power, use the ACS Procurement Calculator to calculate the resource breakdown comprising the ACS system mix. **Procurements of unspecified power must not be entered as line items below; unspecified power will be calculated automatically in cell N9**. Unbundled RECs must not be entered on Schedule 1; these products must be entered on Schedule 2. At the bottom portion of the schedule, provide the other electricity end-uses that are not retail sales including, but not limited to transmission and distribution losses or municipal street lighting. Amounts should be in megawatt-hours.

Retail Sales (MWh)	**704,453**
Net Specified Procurement (MWh)	566,041
Unspecified Power (MWh)	138,413
Procurement to be adjusted	-
Net Specified Natural Gas	-
Net Specified Coal & Other Fossil Fuels	-
Net Specified Nuclear, Large Hydro, Renewables, and ACS Power	566,041
GHG Emissions (excludes grandfathered emissions)	60,736
GHG Emissions Intensity (in MT CO_2e/MWh)	0.0862

DIRECTLY DELIVERED RENEWABLES

Facility Name	Fuel Type	State or Province	WREGIS ID	RPS ID	N/A	EIA ID	Gross MWh Procured	MWh Resold	Net MWh Procured	Adjusted Net MWh Procured	GHG Emissions Factor (in MT CO2e/MWh)	GHG Emissions (in MT CO_2e)	N/A
Biglow Canyon Wind Farm - Biglow Canyon 3	Wind	OR	W1588	63056A		56485	21,991		21,991	21,991	-	-	
Biglow Canyon Wind Farm - Biglow Phase 2	Wind	OR	W1268	63055A		56485	29,822		29,822	29,822	-	-	
Campo Verde Solar Project - Campo Verde Solar	Solar	CA	W3591	60652A		58467	15,036		15,036	15,036	-	-	
Centinela Solar Energy - CSE - Block 1F	Solar	CA	W3961	60837A		58430	13,277		13,277	13,277	-	-	
Centinela Solar Energy - CSE - Block 1G	Solar	CA	W3964	60837A		58430	4,437		4,437	4,437	-	-	
Centinela Solar Energy - CSE - Blocks 1A, 1B, & 1C	Solar	CA	W3805	60837A		58430	15,373		15,373	15,373	-	-	
Centinela Solar Energy - CSE - Blocks 1D & 1E	Solar	CA	W3880	60837A		58430	13,652		13,652	13,652	-	-	
Indian Valley Hydro - Indian Valley Hydro	Eligible hydro	CA	W607	60161A		50129	8,643		8,643	8,643	-	-	
Ivanpah - Unit 1	Solar	CA	W3189	62273A		57074	10,875		10,875	10,875	0.0903	982	
Mojave Solar Project - Mojave Solar Project - Alpha	Solar	CA	W4255	60848A		57331	26,386		26,386	26,386	-	-	
Mt. Poso Cogeneration Facility - MTNPOS_1_UNIT	Biomass & biowa	CA	W1091	60695A		54626	15,727		15,727	15,727	0.0326	513	
Topaz Solar Farms LLC - Topaz 10-16	Solar	CA	W3226	61698A		57695	35,293		35,293	35,293	-	-	
Topaz Solar Farms LLC - Topaz 1-9	Solar	CA	W3193	61698A		57695	48,719		48,719	48,719	-	-	
Tucannon River Wind Farm - Tucannon River 1	Wind	WA	W4482	63027A		58571	49,768		49,768	49,768	-	-	

FIRMED-AND-SHAPED IMPORTS

Facility Name	Fuel Type	State or Province	WREGIS ID	RPS ID	EIA ID of REC Source	EIA ID of Substitute Power	Gross MWh Procured	MWh Resold	Net MWh Procured	Adjusted Net MWh Procured	GHG Emissions Factor (in MT CO2e/MWh)	GHG Emissions (in MT CO_2e)	Eligible for Grandfathered Emissions?
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		

SPECIFIED NON-RENEWABLE PROCUREMENTS

Facility Name	Fuel Type	State or Province	N/A	N/A	N/A	EIA ID	Gross MWh Procured	MWh Resold	Net MWh Procured	Adjusted Net MWh Procured	GHG Emissions Factor (in MT CO2e/MWh)	GHG Emissions (in MT CO_2e)	N/A
Mid-C Hydro - Wanapum (Grant County PUD)	Large hydro	WA				3888	28,801		28,801	28,801	-	-	
Mid-C Hydro - Rock Island 6200 and Rocky Reach 3883 (Chelan County PUD)	Large hydro	WA				3883	21,199		21,199	21,199	-	-	
Mid-C Hydro - Wanapum (Grant County PUD)	Large hydro	WA				3888	7,772		7,772	7,772	-	-	
Mid-C Hydro - Wells (Douglas County PUD)	Large hydro	WA				3886	175,249		175,249	175,249	-	-	
Balch #1 PH	Large hydro	CA				217	150.25		150	150	-	-	
Balch #2 PH	Large hydro	CA				218	982.88		983	983	-	-	
Belden	Large hydro	CA				219	1,414.91		1,415	1,415	-	-	
Bucks Creek	Large hydro	CA				220	0.68		1	1	-	-	
Butt Valley	Large hydro	CA				221	580.56		581	581	-	-	
Caribou 1	Large hydro	CA				222	551.08		551	551	-	-	
Caribou 2	Large hydro	CA				223	1,817.80		1,818	1,818	-	-	
Cresta	Large hydro	CA				231	556.99		557	557	-	-	

Drum #1	Large hydro	CA				235	96.28		96	96	-	-	
Drum #2	Large hydro	CA				236	763.42		763	763	-	-	
Electra	Large hydro	CA				239	1,157.42		1,157	1,157	-	-	
Haas	Large hydro	CA				240	1,012.49		1,012	1,012	-	-	
James B Black	Large hydro	CA				249	1,718.01		1,718	1,718	-	-	
Kerckhoff #2 PH	Large hydro	CA				682	710.37		710	710	-	-	
Kings	Large hydro	CA				254	278.38		278	278	-	-	
Pit 1	Large hydro	CA				265	665.92		666	666	-	-	
Pit 3	Large hydro	CA				266	764.02		764	764	-	-	
Pit 4	Large hydro	CA				267	1,184.59		1,185	1,185	-	-	
Pit 5	Large hydro	CA				268	1,929.35		1,929	1,929	-	-	
Pit 6	Large hydro	CA				269	672.68		673	673	-	-	
Pit 7	Large hydro	CA				270	1,095.23		1,095	1,095	-	-	
Poe	Large hydro	CA				272	942.60		943	943	-	-	
Rock Creek	Large hydro	CA				275	1,068.80		1,069	1,069	-	-	
Salt Springs	Large hydro	CA				279	631.94		632	632	-	-	
Stanislaus	Large hydro	CA				285	972.59		973	973	-	-	
Tiger Creek	Large hydro	CA				287	1,348.72		1,349	1,349	-	-	
Forbestown	Large hydro	CA				417	209.60		210	210	-	-	
Woodleaf	Large hydro	CA				419	482.46		482	482	-	-	
NID-Chicago Park	Large hydro	CA				412	260.89		261	261	-	-	

PROCUREMENTS FROM ASSET-CONTROLLING SUPPLIERS

Facility Name	Fuel Type	N/A	N/A	N/A	N/A	EIA ID	Gross MWh Procured	MWh Resold	Net MWh Procured	Adjusted Net MWh Procured	GHG Emissions Factor (in MT CO2e/MWh)	GHG Emissions (in MT CO_2e)	N/A
										-	#N/A		
										-	#N/A		
										-	#N/A		
										-	#N/A		

END USES OTHER THAN RETAIL SALES	MWh
Distribution losses	46,243.7

2020 POWER SOURCE DISCLOSURE ANNUAL REPORT
SCHEDULE 2: RETIRED UNBUNDLED RECS
For the Year Ending December 31, 2020
Valley Clean Energy Alliance
Standard Green

INSTRUCTIONS: Enter information about retired unbundled RECs associated with this electricity portfolio. Insert additional rows as needed. All fields in white should be filled out. Fields in grey auto-populate as needed and should not be filled out.

Total Retired Unbundled RECs	-

RETIRED UNBUNDLED RECS				
Facility Name	Fuel Type	State or Province	RPS ID	Total Retired (in MWh)

2020 POWER SOURCE DISCLOSURE ANNUAL REPORT
SCHEDULE 3: POWER CONTENT LABEL DATA
For the Year Ending December 31, 2020
Valley Clean Energy Alliance
Standard Green

Instructions: No data input is needed on this schedule. Retail suppliers should use these auto-populated calculations to fill out their Power Content Labels.

	Adjusted Net Procured (MWh)	Percent of Total Retail Sales
Renewable Procurements	308,999	43.9%
Biomass & Biowaste	15,727	2.2%
Geothermal	-	0.0%
Eligible Hydroelectric	8,643	1.2%
Solar	183,048	26.0%
Wind	101,581	14.4%
Coal	-	0.0%
Large Hydroelectric	257,042	36.5%
Natural gas	-	0.0%
Nuclear	-	0.0%
Other	-	0.0%
Unspecified Power	138,413	19.6%
Total	**704,453**	**100.0%**

Total Retail Sales (MWh)	**704,453**
GHG Emissions Intensity (converted to lbs CO_2e/MWh)	**190**
Percentage of Retail Sales Covered by Retired Unbundled RECs	**0.0%**

ASSET CONTROLLING SUPPLIER RESOURCE MIX CALCULATOR

Instructions: Enter total net specified procurement of ACS system resources into cell A8, A23, or A38. In Column E, the calculator will determine quantities of resource-specific net procurement for entry on Schedule 1.

Powerex				
Net MWh Procured	N/A	Resource Type	Resource Mix Factors	Resource-Specific Procurements from ACS
		Biomass & biowaste		-
		Geothermal		-
		Eligible hydroelectric		-
		Solar		-
		Wind	0.00	-
		Coal		-
		Large hydroelectric	0.88	-
		Natural gas	0.01	-
		Nuclear	0.01	-
		Other	0.04	-
		Unspecified Power	0.06	-

Bonneville Power Administration				
Net MWh Procured	N/A	Resource Type	Resource Mix Factors	Resource-Specific Procurements from ACS
		Biomass & biowaste		-
		Geothermal		-
		Eligible hydroelectric		-
		Solar	0.00	-
		Wind		-
		Coal		-
		Large hydroelectric	0.85	-
		Natural gas	0.00	-
		Nuclear	0.11	-
		Other	0.01	-
		Unspecified Power	0.04	-

Tacoma Power				
Net MWh Procured	N/A	Resource Type	Resource Mix Factors	Resource-Specific Procurements from ACS
		Biomass & biowaste		-
		Geothermal		-
		Eligible hydroelectric		-
		Solar		-
		Wind		-
		Coal		-
		Large hydroelectric	0.90	-
		Natural gas		-
		Nuclear	0.06	-
		Other		-
		Unspecified Power	0.04	-

POWER SOURCE DISCLOSURE ANNUAL REPORT ATTESTATION FORM
for the year ending December 31, 2020
Valley Clean Energy Alliance
Standard Green

I, Gordon Samuel, Assistant General Manager & Director of Power Services, declare under penalty of perjury, that the statements contained in this report including Schedules 1, 2, and 3 are true and correct and that I, as an authorized agent of Valley Clean Energy Alliance, have authority to submit this report on the company's behalf. I further declare that the megawatt-hours claimed as specified purchases as shown in these Schedules were, to the best of my knowledge, sold once and only once to retail customers.

Name: Gordon Samuel
Representing (Retail Supplier): Valley Clean Energy Alliance

Signature: Gordon Samuel
Dated: May 25, 2021
Executed at: Davis, California

2020 POWER SOURCE DISCLOSURE ANNUAL REPORT
For the Year Ending December 31, 2020

Retail suppliers are required to use the posted template and are not allowed to make edits to this format. Please complete all requested information.

GENERAL INSTRUCTIONS

RETAIL SUPPLIER NAME
Valley Clean Energy Alliance

ELECTRICITY PORTFOLIO NAME
UltraGreen

CONTACT INFORMATION	
NAME	Gordon Samuel
TITLE	Assistant General Manager & Director of Power Services
MAILING ADDRESS	604 2nd Street
CITY, STATE, ZIP	Davis, CA 95616
PHONE	1-855-699-8232
EMAIL	info@valleycleanenergy.org
WEBSITE URL FOR PCL POSTING	https://valleycleanenergy.org/power-sources/

Submit the Annual Report and signed Attestation in PDF format with the Excel version of the Annual Report to PSDprogram@energy.ca.gov. Remember to complete the Retail Supplier Name, Electricity Portfolio Name, and contact information above, and submit separate reports and attestations for each additional portfolio if multiple were offered in the previous year.

NOTE: Information submitted in this report is not automatically held confidential. If your company wishes the information submitted to be considered confidential an authorized representative must submit an application for confidential designation (CEC-13), which can be found on the California Energy Commissions's website at https://www.energy.ca.gov/about/divisions-and-offices/chief-counsels-office.

If you have questions, contact Power Source Disclosure (PSD) staff at PSDprogram@energy.ca.gov or (916) 639-0573.

INTRODUCTION

Retail suppliers are required to submit separate Annual Reports for each electricity portfolio offered to California retail consumers in the previous calendar year. Enter the Retail Supplier Name and Electricity Portfolio Name at the top of Schedule 1, Schedule 2, Schedule 3, and the Attestation.

A complete Annual Report includes the following tabs:

PSD Intro
Instructions
Schedule 1 - Procurements and Retail Sales
Schedule 2 - Retired Unbundled Renewable Energy Credits (RECs)
Schedule 3 - Annual Power Content Label Data
GHG Emissions Factors
Asset-Controlling Supplier (ACS) Procurement Calculator
PSD Attestation

INSTRUCTIONS

Schedule 1: Procurements and Retail Sales

Retail suppliers of electricity must complete this schedule by entering information about all power procurements and generation that served the identified electricity portfolio covered in this filing in the prior year. The schedule is divided into sections: directly delivered renewables, firmed-and-shaped imports, specified non-renewables, and procurements from ACSs. Insert additional rows as needed to report all procurements or generation serving the subject product. Provide the annual retail sales for the subject product in the appropriate space. At the bottom of Schedule 1, provide the retail suppliers' other electricity end-uses that are not retail sales, such as transmission and distribution losses. Retail suppliers shall submit a purchase agreement or ownership arrangement documentation substantiating that any eligible firmed-and-shaped product for which it is claiming an exclusion was executed prior to January 1, 2019. **Any retail supplier that offered multiple electricity portfolios in the prior year must submit separate Annual Reports for each portfolio offered.**

Specified Purchases: A Specified Purchase refers to a transaction in which electricity is traceable to specific generating facilities by any auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity claimed has been sold once and only once to retail consumers. Do not enter data in the grey fields. For specified purchases, include enter following information for each line item:

Facility Name - Provide the name used to identify the facility.
Fuel Type - Provide the resource type (solar, natural gas, etc.) that this facility uses to generate electricity.
Location - Provide the state or province in which the facility is located.
Identification Numbers - Provide all applicable identification numbers from the Western Renewable Energy Generation Information System (WREGIS), the Energy Information Agency (EIA), and the California Renewables Portfolio Standard (RPS).
Gross Megawatt Hours Procured - Provide the quantity of electricity procured in MWh from the generating facility.
Megawatt Hours Resold - Provide the quantity of electricity resold at wholesale.

Unspecified Power: Unspecified Power refers to electricity that is not traceable to specific generation sources by any auditable contract trail or equivalent, or to power purchases from a transaction that expressly transferred energy only and not the RECs associated from a facility. **Do not enter procurements of unspecified power**. The schedule will calculate unspecified power procurements automatically.

Schedule 2: Retired Unbundled RECs

Complete this schedule by entering information about unbundled REC retirements in the previous calendar year.

Schedule 3: Annual Power Content Label Data

This schedule is provided as an automated worksheet that uses the information from Schedule 1 to calculate the power content and GHG emissions intensity for each electricity portfolio. The percentages calculated on this worksheet should be used for your Power Content Label.

ACS Resource Mix Calculator

Retail suppliers may report specified purchases from ACS system power if the ACS provided its fuel mix of its specified system mix to the Energy Commission. Use the calculator to determine the resource-specific procurement quantities, and transfer them to Schedule 1.

GHG Emissions Factors

This tab will be displayed for informational purposes only; it will not be used by reporting entities, since the emissions factors below auto-populate in the relevant fields on Schedules 1 & 3.

Attestation

This template provides the attestation that must be submitted with the Annual Report to the Energy Commission, stating that the information contained in the applicable schedules is correct and that the power has been sold once and only once to retail consumers. This attestation must be included in the package that is transmitted to the Energy Commission. Please provide the complete Annual Report in Excel format and the complete Annual Report with signed attestation in PDF format as well.

2020 POWER SOURCE DISCLOSURE ANNUAL REPORT
SCHEDULE 1: PROCUREMENTS AND RETAIL SALES
For the Year Ending December 31, 2020
Valley Clean Energy Alliance
UltraGreen

Instructions: Enter information about power procurements underlying this electricity portfolio for which your company is filing the Annual Report. Insert additional rows as needed. All fields in white should be filled out. **Fields in grey auto-populate as needed and should not be filled out.** For EIA IDs for unspecified power or specified system mixes from asset-controlling suppliers, enter "unspecified", "BPA," "Powerex,", or "Tacoma" as applicable. For specified procurements of ACS power, use the ACS Procurement Calculator to calculate the resource breakdown comprising the ACS system mix. **Procurements of unspecified power must not be entered as line items below; unspecified power will be calculated automatically in cell N9**. Unbundled RECs must not be entered on Schedule 1; these products must be entered on Schedule 2. At the bottom portion of the schedule, provide the other electricity end-uses that are not retail sales including, but not limited to transmission and distribution losses or municipal street lighting. Amounts should be in megawatt-hours.

Retail Sales (MWh)	**1,950**
Net Specified Procurement (MWh)	1,950
Unspecified Power (MWh)	-
Procurement to be adjusted	-
Net Specified Natural Gas	-
Net Specified Coal & Other Fossil Fuels	-
Net Specified Nuclear, Large Hydro, Renewables, and ACS Power	1,950
GHG Emissions (excludes grandfathered emissions)	0
GHG Emissions Intensity (in MT CO_2e/MWh)	0.0000

DIRECTLY DELIVERED RENEWABLES

Facility Name	Fuel Type	State or Province	WREGIS ID	RPS ID	N/A	EIA ID	Gross MWh Procured	MWh Resold	Net MWh Procured	Adjusted Net MWh Procured	GHG Emissions Factor (in MT CO2e/MWh)	GHG Emissions (in MT CO_2e)	N/A
Centinela Solar Energy - CSE - Block 1F	Solar	CA	W3961	60837A		58430	975		975	975	-	-	
Indian Valley Hydro - Indian Valley Hydro	Eligible hydro	CA	W607	60161A		50129	975		975	975	-	-	
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		

FIRMED-AND-SHAPED IMPORTS

Facility Name	Fuel Type	State or Province	WREGIS ID	RPS ID	EIA ID of REC Source	EIA ID of Substitute Power	Gross MWh Procured	MWh Resold	Net MWh Procured	Adjusted Net MWh Procured	GHG Emissions Factor (in MT CO2e/MWh)	GHG Emissions (in MT CO_2e)	Eligible for Grandfathered Emissions?
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		

SPECIFIED NON-RENEWABLE PROCUREMENTS

Facility Name	Fuel Type	State or Province	N/A	N/A	N/A	EIA ID	Gross MWh Procured	MWh Resold	Net MWh Procured	Adjusted Net MWh Procured	GHG Emissions Factor (in MT CO2e/MWh)	GHG Emissions (in MT CO_2e)	N/A
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		

PROCUREMENTS FROM ASSET-CONTROLLING SUPPLIERS

Facility Name	Fuel Type	N/A	N/A	N/A	N/A	EIA ID	Gross MWh Procured	MWh Resold	Net MWh Procured	Adjusted Net MWh Procured	GHG Emissions Factor (in MT CO2e/MWh)	GHG Emissions (in MT CO_2e)	N/A
										-	#N/A		
										-	#N/A		
										-	#N/A		
										-	#N/A		

END USES OTHER THAN RETAIL SALES	MWh
Distribution losses	127.98

2020 POWER SOURCE DISCLOSURE ANNUAL REPORT
SCHEDULE 2: RETIRED UNBUNDLED RECS
For the Year Ending December 31, 2020
Valley Clean Energy Alliance
UltraGreen

INSTRUCTIONS: Enter information about retired unbundled RECs associated with this electricity portfolio. Insert additional rows as needed. All fields in white should be filled out. Fields in grey auto-populate as needed and should not be filled out.

Total Retired Unbundled RECs	-

RETIRED UNBUNDLED RECS				
Facility Name	Fuel Type	State or Province	RPS ID	Total Retired (in MWh)

2020 POWER SOURCE DISCLOSURE ANNUAL REPORT
SCHEDULE 3: POWER CONTENT LABEL DATA
For the Year Ending December 31, 2020
Valley Clean Energy Alliance
UltraGreen

Instructions: No data input is needed on this schedule. Retail suppliers should use these auto-populated calculations to fill out their Power Content Labels.

	Adjusted Net Procured (MWh)	Percent of Total Retail Sales
Renewable Procurements	1,950	100.0%
Biomass & Biowaste	-	0.0%
Geothermal	-	0.0%
Eligible Hydroelectric	975	50.0%
Solar	975	50.0%
Wind	-	0.0%
Coal	-	0.0%
Large Hydroelectric	-	0.0%
Natural gas	-	0.0%
Nuclear	-	0.0%
Other	-	0.0%
Unspecified Power	-	0.0%
Total	**1,950**	**100.0%**

Total Retail Sales (MWh)	**1,950**
GHG Emissions Intensity (converted to lbs CO_2e/MWh)	**-**
Percentage of Retail Sales Covered by Retired Unbundled RECs	**0.0%**

ASSET CONTROLLING SUPPLIER RESOURCE MIX CALCULATOR

Instructions: Enter total net specified procurement of ACS system resources into cell A8, A23, or A38. In Column E, the calculator will determine quantities of resource-specific net procurement for entry on Schedule 1.

Powerex

Net MWh Procured	N/A	Resource Type	Resource Mix Factors	Resource-Specific Procurements from ACS
		Biomass & biowaste		-
		Geothermal		-
		Eligible hydroelectric		-
		Solar		-
		Wind	0.00	-
		Coal		-
		Large hydroelectric	0.88	-
		Natural gas	0.01	-
		Nuclear	0.01	-
		Other	0.04	-
		Unspecified Power	0.06	-

Bonneville Power Administration

Net MWh Procured	N/A	Resource Type	Resource Mix Factors	Resource-Specific Procurements from ACS
		Biomass & biowaste		-
		Geothermal		-
		Eligible hydroelectric		-
		Solar	0.00	-
		Wind		-
		Coal		-
		Large hydroelectric	0.85	-
		Natural gas	0.00	-
		Nuclear	0.11	-
		Other	0.01	-
		Unspecified Power	0.04	-

Tacoma Power

Net MWh Procured	N/A	Resource Type	Resource Mix Factors	Resource-Specific Procurements from ACS
		Biomass & biowaste		-
		Geothermal		-
		Eligible hydroelectric		-
		Solar		-
		Wind		-
		Coal		-
		Large hydroelectric	0.90	-
		Natural gas		-
		Nuclear	0.06	-
		Other		-
		Unspecified Power	0.04	-

POWER SOURCE DISCLOSURE ANNUAL REPORT ATTESTATION FORM
for the year ending December 31, 2020
Valley Clean Energy Alliance
UltraGreen

I, Gordon Samuel, Assistant General Manager & Director of Power Services, declare under penalty of perjury, that the statements contained in this report including Schedules 1, 2, and 3 are true and correct and that I, as an authorized agent of Valley Clean Energy Alliance, have authority to submit this report on the company's behalf. I further declare that the megawatt-hours claimed as specified purchases as shown in these Schedules were, to the best of my knowledge, sold once and only once to retail customers.

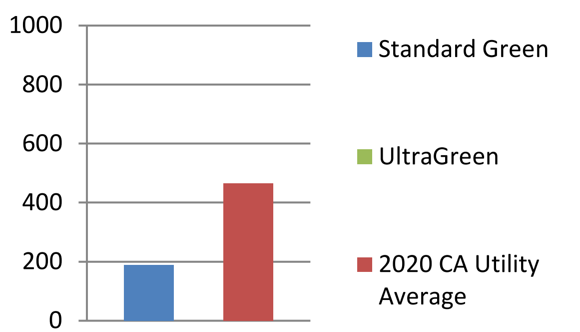
Name: Gordon Samuel
Representing (Retail Supplier): Valley Clean Energy Alliance

Signature: Gordon Samuel
Dated: May 25, 2021
Executed at: Davis, California

2020 POWER CONTENT LABEL
Valley Clean Energy Alliance
https://valleycleanenergy.org/power-sources/

Greenhouse Gas Emissions Intensity (lbs CO_2e/MWh)

Standard Green	UltraGreen	2020 CA Utility Average
190	0	466



Energy Resources	Standard Green	UltraGreen	2020 CA Power Mix
Eligible Renewable[1]	**43.9%**	**100.0%**	**33.1%**
Biomass & Biowaste	2.2%	0.0%	2.5%
Geothermal	0.0%	0.0%	4.9%
Eligible Hydroelectric	1.2%	50.0%	1.4%
Solar	26.0%	50.0%	13.2%
Wind	14.4%	0.0%	11.1%
Coal	**0.0%**	**0.0%**	**2.7%**
Large Hydroelectric	**36.5%**	**0.0%**	**12.2%**
Natural Gas	**0.0%**	**0.0%**	**37.1%**
Nuclear	**0.0%**	**0.0%**	**9.3%**
Other	**0.0%**	**0.0%**	**0.2%**
Unspecified Power[2]	**19.6%**	**0.0%**	**5.4%**
TOTAL	**100.0%**	**100.0%**	**100.0%**
Percentage of Retail Sales Covered by Retired Unbundled RECs[3]:	**0%**	**0%**	

[1]The eligible renewable percentage above does not reflect RPS compliance, which is determined using a different methodology.

[2]Unspecified power is electricity that has been purchased through open market transactions and is not traceable to a specific generation source.

[3]Renewable energy credits (RECs) are tracking instruments issued for renewable generation. Unbundled renewable energy credits (RECs) represent renewable generation that was not delivered to serve retail sales. Unbundled RECs are not reflected in the power mix or GHG emissions intensities above.

For specific information about this electricity portfolio, contact:	**Valley Clean Energy Alliance** **1-855-699-8232**
For general information about the Power Content Label, visit:	http://www.energy.ca.gov/pcl/
For additional questions, please contact the California Energy Commission at:	Toll-free in California: 844-454-2906 Outside California: 916-653-0237

Valley Clean Energy Alliance

POWER SOURCE DISCLOSURE INDEPENDENT REVIEW OF

STANDARD GREEN PRODUCT AND ULTRAGREEN PRODUCT

FOR REPORTING YEAR 2020

To:	Gordon Samuel, Asst. General Manager & Director of Power Resources
From:	Miriam Makhyoun, CEO, EQ Research, LLC Blake Elder, Sr. Energy Policy Research Analyst, EQ Research, LLC
Date:	September 1, 2021

Introduction

Valley Clean Energy Alliance (VCE) has engaged EQ Research, LLC (EQ Research) to assist with an independent review of VCE's Standard Green Power Source Disclosure (PSD) Annual Report and UltraGreen PSD Annual Report (together, the "Annual Reports") for the year ending December 31, 2020. We have performed the procedures enumerated below to assist VCE with complying with the auditing and verification requirements of the PSD Program, as defined in Section 1394.2 of the California Code of Regulations, Title 20.

EQ Research obtained the underlying documentation[1] used by VCE to complete the Annual Reports from VCE and accepts the accuracy of the information provided by VCE. EQ Research did not access VCE's Western Renewable Energy Generation Information System (WREGIS) account information to verify the authenticity of the information provided by VCE but was provided an export of information from WREGIS.[2]

[1] All files referenced in this report can be accessed at: https://eqresearch.sharefile.com/d-s2c331eafa2424b838bb8359014dcad93

[2] See 2020 Standard Green RPS Retirement and 2020 UltraGreen RPS Retirement files in the Sharefile link.

Review Procedures and Findings

EQ Research based its detailed review of the Annual Reports on the audit procedures detailed in Section 1394.2(b) of the PSD program regulations. The procedures and associated findings for the Annual Reports are detailed below.

Standard Green PSD Report Review and UltraGreen PSD Report Review

(b) Audit Procedures (1)(A)

EQ Research used the following publicly available sources in order to validate the information in the Annual Reports:

Source 1 (EIA): Energy Information Administration (EIA), Form EIA-923 detailed data, 2020: EIA-923 Early release Zip File, EIA923_Schedules_2_3_4_5_M_12_2020_Early_Release.xlsx and 2019 Zip File, EIA923_Schedules_2_3_4_5_M_12_2019_Final.xlsx, Page 1 Generation and Fuel Data, accessed on August 27, 2021 from https://www.eia.gov/electricity/data/eia923/

Source 2 (CEC): California Energy Commission (CEC), California's Renewables Portfolio Standard (RPS) Public Search exported to Excel, accessed on August 27, 2021 from https://rps.energy.ca.gov/Pages/Search/SearchApplications.aspx

EQ Research agreed the specified purchases[3] by (a) facility name, (b) facility number provided by EIA, RPS ID, (c) kilowatt-hours, and (d) fuel type from the information used to prepare used to prepare the Annual Reports is consistent with what is presented in the Annual Reports Schedule 1[4] with three exceptions:

a. In the Standard Green PSD Annual Report, Ivanpah - Unit 1's Natural Gas (CEC Renewable) and Solar fuel components are not split out into two different rows, as is shown in Col. D of the "Pivot" tab of the "2020PSDSupplyProductAllocations" spreadsheet from VCE. Ivanpah - Unit 1 comprises a solar generator and a natural gas generator, both of which have the same EIA Plant ID (57074) and the solar generator portion of the unit has an RPS ID (62273A). Both Ivanpah - Unit 1 components have the same PCC Categorization, WREGIS ID, RPS ID, and EIA ID in the VCE primary materials and PSD Annual Report. Ivanpah - Unit 1 is considered a renewable resource by the CEC because the natural gas used to maintain the system overnight does not count towards the resource's 5% limit on fossil fuel use. Therefore, listing the Ivanpah - Unit 1 resource in the PSD Annual Report as "Solar" appears to be the appropriate reporting value.

b. Row 59 of Schedule 1 of Standard Green PSD Annual Report lists "Kings" as the facility name and Row 33 of "Hydro" tab lists "Kings River" as the facility name. The EIA ID and Gross MWh Procured for the resource are both consistent between the VCE primary materials and the PSD Annual Report. This facility name inconsistency has no material impact on the resource percentages or greenhouse gas content of the Standard Green Product.

c. Row 42 of Schedule 1 of Standard Green PSD Annual Report, resource, "Mid-C Hydro - Rock Island 6200 and Rocky Reach 3883 (Chelan County PUD)" includes two resources on one row (Rock Island, which is EIA Plant ID 6200 and Rocky Reach, which is EIA Plant ID 3883) and lists only EIA Plant ID 3883, but Row 12 of the "Hydro" tab lists EIA Plant IDs 6200 & 3883. The PSD report Schedule 1 is missing the 6200 EIA Plant ID. This inconsistency has no material impact on the resource percentages or greenhouse

[3] There were no resales.

[4] This information was checked against information in the following links: Source for RPS IDs: https://rps.energy.ca.gov/Pages/Search/SearchApplications.aspx; Source for EIA IDs: https://www.eia.gov/electricity/data/eia923/

gas content of the Standard Green Product. Both resources are considered large hydro and both have a greenhouse gas emissions content of 0 MT CO2e/MWh (per “GHG Emissions Factors” tab of the PSD Annual Report spreadsheet). The combined output of the two plants is represented equally in EQ Research’s validation in Appendix A since VCE has confirmed that it does not have detail on the specific output for each plant.

EQ Research verified that the MWh listed in the Annual Reports do not exceed the annual MWh from EIA 923 data as expected (see Appendix A. Specified Facility Review Results).

EQ Research also tested the mathematical accuracy of Schedule 1 and noted no exceptions.

(b) Audit Procedures (1)(B)(1)

EQ Research agreed the facility name, facility numbers provided by EIA and RPS, kilowatt hours, and the fuel type from the invoice match the information used to prepare Schedule 1 of the Annual Reports.

EQ Research verified the above information by reviewing a sample of 14 invoices for power purchases represented in the 2020 Annual Reports against the information used to prepare Schedule 1 of the Annual Reports and against the CEC and EIA data mentioned in (b) Audit Procedures (1)(A) above. The invoices were for purchases of 266,651 MWh of the total 567,991 MWh or 47% of the total MWh purchased by VCE for its green tariffs. The 266,651 MWh represented in the invoices were all RPS purchases (RECs and electricity) out of the total 310,949 MWh RPS portfolio, or 86% of the total RPS portfolio in Schedule 1.

See Appendix B. Sample of Purchases VCE used to Prepare Schedule 1 which shows two limitations to EQ Research’s review that have been clarified by VCE as being limited only by the sample provided with no exceptions to note otherwise:

VCE confirmed that outside of the sample of 14 invoices reviewed by EQ Research, there are additional invoices that were not reviewed by EQ Research for the remaining 44,298 MWh of RPS purchases and invoices for another remaining 257,042 MWh of carbon-free electricity, representing a total of 301,340 MWh not contained in the invoices.

Only 12 RPS resources out of 16 RPS resources in Schedule 1 were included in the sample of 14 invoices but the sample did not show all of the energy for the 12 resources. In total, the 12 RPS resources produced 306,512 MWh of renewable electricity in 2020. VCE confirmed that in addition to the invoices for 266,651 MWh of RPS purchases from those 12 RPS resources, there are additional invoices for the remaining 39,861 MWh.

(b) Audit Procedures (1)(B)(2)

This is not applicable since there are no facilities in the Annual Reports owned by VCE.

(b) Audit Procedures (1)(B)(3)

EQ Research verified a match between the date of generation from the 14 invoices in the sample to the reporting period of the information used to prepare Schedule 1.

See the “Energy Delivery Term” column in Appendix B. Sample of Purchases VCE used to Prepare Schedule 1.

(b) Audit Procedures (1)(B)(4)

This requirement is not applicable since VCE did not use unbundled Renewable Energy Credits (RECs) in its Annual Reports.

(b) Audit Procedures (1)(C)

The requirement that the auditor shall agree any excluded emissions meet the requirements pursuant to section 1393(d) is not applicable to 2019 deliveries for the 2020 reports but VCE has taken notice of this requirement for 2020 deliveries for the 2021 reports.

(b) Audit Procedures (2)

EQ Research obtained a copy of the 2020 Power Content Label to be provided to VCE customers for the Standard Green and UltraGreen products. EQ Research verified that the resource portfolio percentages listed for each product on the 2020 Power Content Label match the respective percentages listed in Schedule 3 of the Power Source Disclosure Annual Reports. EQ Research also verified that the greenhouse gas emissions intensity for each product listed on the Power Content Label match those calculated on the Power Source Disclosure Annual Reports.

This report is intended solely for the information and use of the specified parties listed above and is not intended to be and should not be used by anyone other than those specified parties

EQ Research

Appendix A. Specified Facility Review Results

RPS	Ultra Green	Standard Green	EIA Plant ID	RPS ID	Facility Name Vlookup using EIA ID	Facility Name VLOOKUP using RPS ID	Facility Name from VCEA Annual Reports	MWh Generation Vlookup using EIA ID	MWh Generation Annual EIA - MWh Procured by VCEA in 2020	Adjusted Net MWh Procured in 2020 by VCEA	% Resource MWh VCEA Reported of Total EIA MWh	Technology VLOOKUP using RPS ID	EIA Fuel Source	Fuel Type VCEA
1		1	58467	60652A	Campo Verde Solar	Campo Verde Solar Project	Campo Verde Solar Project - Campo Verde Solar	335,317	320,281	15,036	4.48%	Photovoltaic	SUN	Solar
1		1	57074	62273A	Ivanpah 1	Ivanpah Solar - Unit 1	Ivanpah - Unit 1	270,941	260,066	10,875	4.01%	Solar Thermal Electric	SUN	Solar
1		1	57331	60848A	Mojave Solar Project	Mojave Solar Project	Mojave Solar Project - Mojave Solar Project - Alpha	558,414	532,028	26,386	4.73%	Solar Thermal Electric	SUN	Solar
1		1	54626	60695A	Mt Poso Cogeneration	Mt. Poso Cogeneration Company, LLC	Mt. Poso Cogeneration Facility - MTNPOS_1_UNIT	289,509	273,782	15,727	5.43%	Biomass	WDS	Biomass & biowaste
1		1	58571	63027A	Tucannon River Wind Farm	Tucannon River Wind Farm	Tucannon River Wind Farm - Tucannon River 1	941,731	891,963	49,768	5.28%	Wind	WND	Wind
1	1		50129	60161A	Indian Valley Dam Hydro Project	Indian Vly Hydro Elec Ptrn.	Indian Valley Hydro - Indian Valley Hydro			975		Small Hydroelectric	WAT	Eligible hydro
1		1	50129	60161A	Indian Valley Dam Hydro Project	Indian Vly Hydro Elec Ptrn.	Indian Valley Hydro - Indian Valley Hydro			8,643		Small Hydroelectric	WAT	Eligible hydro
1								**9,619**	**1**	**9,618**	99.99%			
1		1	56485	63056A	Biglow Canyon Wind Farm	Biglow Canyon Wind Farm Phase 3	Biglow Canyon Wind Farm - Biglow Canyon 3			21,991		Wind	WND	Wind
1		1	56485	63055A	Biglow Canyon Wind Farm	Biglow Canyon Wind Farm Phase 2	Biglow Canyon Wind Farm - Biglow Phase 2			29,822		Wind	WND	Wind
1								**1,152,089**	**1,100,276**	**51,813**	4.50%			
1		1	57695	61698A	Topaz Solar Farm	Topaz Solar Farms LLC	Topaz Solar Farms LLC - Topaz 10-16			35,293		Photovoltaic	SUN	Solar
1		1	57695	61698A	Topaz Solar Farm	Topaz Solar Farms LLC	Topaz Solar Farms LLC - Topaz 1-9			48,719		Photovoltaic	SUN	Solar
1								**1,282,716**	**1,198,704**	**84,012**	6.55%			
1	1		58430	60837A	Centinela Solar Energy	Centinela Solar Energy	Centinela Solar Energy - CSE - Block 1F			975		Photovoltaic	SUN	Solar
1		1	58430	60837A	Centinela Solar Energy	Centinela Solar Energy	Centinela Solar Energy - CSE - Block 1F			13,277		Photovoltaic	SUN	Solar
1		1	58430	60837A	Centinela Solar Energy	Centinela Solar Energy	Centinela Solar Energy - CSE - Block 1G			4,437		Photovoltaic	SUN	Solar
1		1	58430	60837A	Centinela Solar Energy	Centinela Solar Energy	Centinela Solar Energy - CSE - Blocks 1A, 1B, & 1C			15,373		Photovoltaic	SUN	Solar
1		1	58430	60837A	Centinela Solar Energy	Centinela Solar Energy	Centinela Solar Energy - CSE - Blocks 1D & 1E			13,652		Photovoltaic	SUN	Solar
1								**498,995**	**451,281**	**47,714**	9.56%			
		1	3888		Wanapum		Mid-C Hydro - Wanapum (Grant County PUD)			28,801			WAT	Large hydro
		1	3888		Wanapum		Mid-C Hydro - Wanapum (Grant County PUD)			7,772			WAT	Large hydro
								5,131,315	**5,094,742**	**36,573**	0.71%			
		1	3883		Rocky Reach		Mid-C Hydro - Rocky Reach 3883 (Chelan County PUD)	5,896,167	5,885,568	10,600	0.18%		WAT	Large hydro
		1	6200		Rock Island		Mid-C Hydro - Rock Island (Chelan County PUD)	2,500,454	2,489,855	10,600	0.42%		WAT	Large hydro
		1	3886		Wells		Mid-C Hydro - Wells (Douglas County PUD)	4,377,027	4,201,778	175,249	4.00%		WAT	Large hydro
		1	217		Balch 1		Balch #1 PH	45,723	45,573	150	0.33%		WAT	Large hydro
		1	218		Balch 2		Balch #2 PH	251,778	250,795	983	0.39%		WAT	Large hydro
		1	219		Belden		Belden	247,400	245,985	1,415	0.57%		WAT	Large hydro
		1	220		Bucks Creek		Bucks Creek	36,984	36,983	1	0.00%		WAT	Large hydro
		1	221		Butt Valley		Butt Valley	108,675	108,094	581	0.53%		WAT	Large hydro
		1	222		Caribou 1		Caribou 1	97,375	96,824	551	0.57%		WAT	Large hydro
		1	223		Caribou 2		Caribou 2	344,354	342,536	1,818	0.53%		WAT	Large hydro
		1	231		Cresta		Cresta	162,870	162,313	557	0.34%		WAT	Large hydro
		1	235		Drum 1		Drum #1	16,260	16,164	96	0.59%		WAT	Large hydro
		1	236		Drum 2		Drum #2	216,026	215,263	763	0.35%		WAT	Large hydro
		1	239		Electra		Electra	286,159	285,002	1,157	0.40%		WAT	Large hydro
		1	240		Haas		Haas	204,472	203,460	1,012	0.50%		WAT	Large hydro
		1	249		James B Black		James B Black	449,611	447,893	1,718	0.38%		WAT	Large hydro
		1	682		Kerckhoff 2		Kerckhoff #2 PH	252,501	251,791	710	0.28%		WAT	Large hydro
		1	254		Kings River PH		Kings	70,752	70,474	278	0.39%		WAT	Large hydro
		1	265		Pit 1		Pit 1	198,667	198,001	666	0.34%		WAT	Large hydro
		1	266		Pit 3		Pit 3	260,845	260,081	764	0.29%		WAT	Large hydro
		1	267		Pit 4		Pit 4	330,935	329,750	1,185	0.36%		WAT	Large hydro
		1	268		Pit 5		Pit 5	547,242	545,313	1,929	0.35%		WAT	Large hydro
		1	269		Pit 6		Pit 6	195,137	194,464	673	0.34%		WAT	Large hydro
		1	270		Pit 7		Pit 7	314,550	313,455	1,095	0.35%		WAT	Large hydro
		1	272		Poe		Poe	236,234	235,291	943	0.40%		WAT	Large hydro
		1	275		Rock Creek		Rock Creek	302,018	300,949	1,069	0.35%		WAT	Large hydro
		1	279		Salt Springs		Salt Springs	109,102	108,470	632	0.58%		WAT	Large hydro
		1	285		Stanislaus		Stanislaus	240,725	239,752	973	0.40%		WAT	Large hydro
		1	287		Tiger Creek		Tiger Creek	235,237	233,888	1,349	0.57%		WAT	Large hydro
		1	417		Forbestown		Forbestown	51,550	51,340	210	0.41%		WAT	Large hydro
		1	419		Woodleaf		Woodleaf	96,397	95,915	482	0.50%		WAT	Large hydro
		1	412		Chicago Park		NID-Chicago Park	76,204	75,943	261	0.34%		WAT	Large hydro
							TOTALS	**29,230,077**	**28,662,086**	**567,991**	**1.94%**			

Appendix B. Sample of Purchases VCE used to Prepare Schedule 1

Contract	Total MWh on Invoice	VCEA MWh from Invoice	Energy Delivery Term	Invoice or PO#	PCC1/2	Resource	VCEA PCL Total	Resource MWh Sum	Match T/F	Remaining MWh	Notes
0220 SDGE.pdf	5,229	5,229	Feburary 2020	156307	1	Centinela Solar Energy - CSE - Blocks 1A, 1B, & 1C	15,373	10,144	FALSE	5,229	VCEA confirms remaining amount
1220 SDGE.pdf	5,423	4,915	December 2020	156613	1	Centinela Solar Energy - CSE - Blocks 1A, 1B, & 1C (4,915)					
		508	December 2020	156613	1	Campo Verde Solar Project - Campo Verde Solar (508)	15,036	4,403	FALSE	10,633	VCEA confirms remaining amount
		3,895	December 2020	156613	1	Campo Verde Solar Project - Campo Verde Solar (3,895)					
0620 SDGE.pdf	5,229	1,334	June 2020	REDACTED	1	Centinela Solar Energy - CSE - Block 1F (1,334)	14,252	1,334	FALSE	12,918	VCEA confirms remaining amount
0520 PGE30 VCEA.pdf	98,922	49,154	January 2020	407663	2	Biglow Canyon Wind Farm - Biglow Canyon 3 (21,991) Biglow Canyon Wind Farm - Biglow Phase 2 (509) Biglow Canyon Wind Farm - Biglow Phase 2 (26,654)	51,813	49,154	FALSE	2,659	VCEA confirms remaining amount
		49,768	January 2020	407663	2	Tucannon River Wind Farm - Tucannon River 1 (49,768)	49,768	49,768	TRUE	-	
0720 PGAE K674 Recs.pdf	237,000	26,386	April 2020	165639	1	Mojave Solar Project - Mojave Solar Project - Alpha (26,386)	26,386	26,386	TRUE	-	100,000 MWh of invoice went to another offtaker
		15,727	April 2020	165639	1	Mt. Poso Cogeneration Facility - MTNPOS_1_UNIT (15,727)	15,727	15,727	TRUE	-	
		84,012	April 2020	165639	1	Topaz Solar Farms LLC - Topaz 1-9 (48,719) Topaz Solar Farms LLC - Topaz 10-16 (35,293)	84,012	84,012	TRUE	-	
		10,875	April 2020	165639	1	Ivanpah - Unit 1 Solar (9,873) and Natural Gas (1,002)	10,875	10,875	TRUE	-	
0920 SDGE.pdf	5,229	5,229	September 2020	156526	1	Centinela Solar Energy - CSE - Blocks 1D & 1E (5,229)	13,652	5,229	FALSE	8,423	VCEA confirms remaining amount
2003 Indian Valley Hydro Project.pdf	810	810	March 2020	4500110130	1	Indian Valley Hydro	9,618	9,618.936	TRUE	(1)	VCEA rounded down for PCL
2006 Indian Valley Hydro Project VCEA Contract.pdf	1,306	1,306	June 2020	N/A	1	Indian Valley Hydro					
2009 Indian Valley Hydro Project VCEA Contract.pdf	1,208	1,208	September 2020	N/A	1	Indian Valley Hydro					
2010 Indian Valley Hydro Project VCEA Contract.pdf	57	57	October 2020	N/A	1	Indian Valley Hydro					
2004 Indian Valley Hydro Project.pdf	1,948	1,948	April 2020	4500110130	1	Indian Valley Hydro					
2005 Indian Valley Hydro Project.pdf	1,521	1,521	May 2020	4500110130	1	Indian Valley Hydro					
2007 Indian Valley Hydro Project VCEA Contract.pdf	1,396	1,396	July 2020	REDACTED	1	Indian Valley Hydro					
2008 Indian Valley Hydro Project VCEA Contract.pdf	1,373	1,373	August 2020	REDACTED	1	Indian Valley Hydro					
TOTALS	366,651	266,651					306,512	266,651		39,861	

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 16

TO: Board of Directors

FROM: Mitch Sears, Interim General Manager
Edward Burnham, Director of Finance & Internal Operations

SUBJECT: Operating Budget Update

DATE: September 9, 2021

RECOMMENDATIONS
Informational – no action requested.

OVERVIEW
The purpose of this staff report is to: (1) provide an overview of key factors influencing VCE Operating Budget Results and (2) provide an Operational Budget Update for the FY 2020/21 and FY 2021/22.

As detailed in the body of this report, actual costs and revenues for the final two months of last fiscal year resulted in an additional loss of $2.4M more than anticipated in June-21. Actuals for the first month of the current fiscal year (July) are approximately $350K better than forecast.

BACKGROUND
Since March 2020, the overall economy has been highly unpredictable due to COVID-19 impacting all sectors, including the energy sector. Due to the unprecedented circumstances from the Pandemic, regulatory decisions related to PCIA and RA, and weather conditions resulting in a highly volatile energy sector, Staff has had to present several variations in Operating Budgets and forecasts over the past 18 months. This included a mid-year update in the Fall of 2020 to track/report actual customer load demand and revenue during the COVID Pandemic. As directed by the Board, Staff has provided additional updates, such as this report, as financial conditions and results change. Staff will continue a minimum of quarterly updates as directed by the Board.

<u>Adopted Budgets</u>
In June 2020, the Board approved a $52.5 M Operating Budget for FY 2020-21, which included a net loss of $2.8M after factoring in fiscal mitigation policy adjustments. In June 2021, the Board approved a $58.1 M Operating Budget for FY 2021-22, which included a net loss of $6.9M after factoring in fiscal mitigation policy adjustments.

As detailed in the analysis section below, the net financial results are due primarily to power cost increases above renenues across the past fiscal year (2021) and the current fiscal year (2022).

ANALYSIS

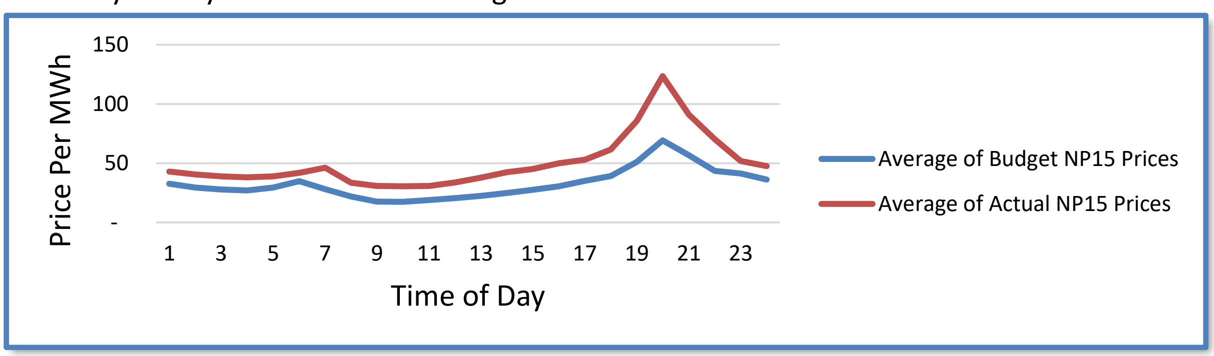
This report updates information previously provided to the Board during the June 2021 Budget Adoption for FY 2021/22. The section below provides updates on: (1) an overview of key factors influencing VCE Operating Budget Results and (2) FY 2020/21 and FY 2021/22 Operating Budget Updates.

1. Key factors – Operating Budget Results

Key factors included in the FY 2020/21 and FY2021/22 Budget Adoptions include:

- Load Forecast. As anticipated, load forecast uncertainty related to Covid-19 is likely through at least the first 3-6 months of the 2021/22 fiscal year. Additionally, changes in long-term load requirements related to residential energy use (e.g. remote work, remote learning, etc.), and commercial energy use related to agriculture (e.g. droughts, TOU transition, weather), may occur.
- PCIA. A net 39% increase in the PCIA from 2020/21 continues to have significant revenue erosion for approximately $21M for the 6-months of the current calendar through July.
- Power Prices. Average forward market power prices have increased significantly in the current months due to repeated heat storm events. This cost driver has increased total long-term energy hedging prices for calendar year 2022 and day-ahead purchase prices in the recent and remaining months of 2021. The chart below gives a general view into the difference between hourly prices we anticipated during budgeting in early 2021 vs. actual prices in the heatwave month of July-2021.

Table 1 – July Hourly Actual Prices vs. Budgeted



- Resource Adequacy (RA). Continued significant power cost increases due to increasing regulatory penalty structures, shifting/increased RA market demand, and real and perceived RA supply driven by climate related events (e.g. increased wildfire activity, drought impacts on hydro electricity production).
- Fiscal Year and Budget adoption timing. The budget adoption process occurs during the load forecast updates and the beginning of the hedging process for the following calendar year. Additionally, the Fiscal Year ends during the peak season, which splits peak energy season of financial forecasts that include most of the cost volatility.
- VCE's current rates policy matches PG&E's generation rates for its default energy product (Standard Green). The PG&E generation rate forecast from the consultant (May 2021) predicts significant increases for PG&E impacting FY 2021/22. These generation rate price increases are based on information from separate filings to the CPUC and are forecasted to occur in September 2021 and January 2022.

The results of various regulatory, legislative, and/or market factors are anticipated to lead to a more significant normalization of PCIA and RA power costs in 2023 if successful. The regulatory changes and VCE's long-term PPA contracts are forecasted to provide long-term price advantages and cost savings to VCE while increasing our renewable content.

2. Operating Budget Update - (Unaudited)

As presented to the Board in June, VCE anticipated continued favorable actuals through June 2021 than budgeted for a reduced net loss estimated at $1.1M for FY 2020/21. This better than expected outcome did not materialize due to under forecasting load associated with the COVID-19 Pandemic and prolonged expectation for recessionary recovery. VCE's energy hedges for June were outstripped by the higher demand resulting in the need to purchase more power in the relatively expensive day-ahead energy market. Due to these factors, the FY 2020/21 actuals for May and June grew by approximately $2.4M for a total net loss of $3.5M for the fiscal year ending in June. The key factors that resulted in the $2.5M difference include:

- Wholesale Load Requirements – May wholesale energy load increased by 15% and June by 10%. Note: largest increases were in the agricultural sector due to earlier than normal irrigation needs and continued high demand in the residential sector.
- Total Power Costs – May Increased by 8% and June increased by 48%

Based on these two primary factors, total power costs for May increased by 9% and June by 37% resulting in the additional loss of $2.4M.

Operating Budget Update Notes:

- Though the $3.5M net loss for FY 2020/21 is greater than anticipated, it is generally in line with the $2.8M net loss budget forecast completed in October 2020.

- Current Fiscal Year actuals for July are approximately $350K better than forecast. Staff will continue to provide quarterly updates as the fiscal year progresses.

3. Additional Factors

- Resource Adequacy (RA). Rising RA costs for calendar year 2022 are anticipated to have additional negative fiscal impacts on VCE. SMUD is currently filling VCE's open RA positions for 2022 and prices have exceeded budget by approximately $1.6M. Approximately 10% of VCE's open RA positions still need to be filled, which will result in additional costs that will be reported in the next quarterly update.
- Long-term power contracts (PPAs). When full delivery of VCE's executed power purchase agreements begins in 2023, approximately 60% of VCE's load will met with lower cost energy and RA. This trend toward more stable power costs is shown in the updated multi-year forecast below (Table 2).

The following table summarizes the preliminary long-term financial forecast as presented during the FY 2022 Budget approval with YTD Actuals through July 2021.

Table 2 – Multi-Year Forecast

Description	Actuals FY2019	Actuals FY2020	ACTUALS UNAUDITED FY2021	ACTUAL YTD July 31 (1 MO) + FORECAST (11 MO) FY2022	Forecasted FY2023	Forecasted FY2024
Revenue	51,035	55,249	55,080	51,887	59,100	59,600
Power Cost	38,540	41,538	54,318	53,563	53,800	49,600
Other Expenses	3,850	4,346	4,267	4,771	5,100	5,200
Net Income	8,646	9,365	(3,505)	(6,447)	200	4,700

Note: The table does not account for forward power market price fluctuation and resource adequacy costs.

CONCLUSION

Staff will continue to provide quartly finanical updates as the fiscal year progresses. Though the table above indicates a return to profitability in FY 2023 and FY 2024, staff notes that this depends on drawing heavily on VCE's reserves to maintain fiscal stability. A companion item on this Board agenda related to VCE customer rate structure addresses this challenge and examines possible fiscal mitigation strategies.

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 17

TO: Board of Directors

FROM: Mitch Sears, Interim General Manager
Edward Burnham, Director of Finance & Internal Operations

SUBJECT: Customer Rate Structure Policy

DATE: September 9, 2021

RECOMMENDTION
Direct staff to continue to analyze and bring back customer rate structure policy changes for implementation in early 2022.

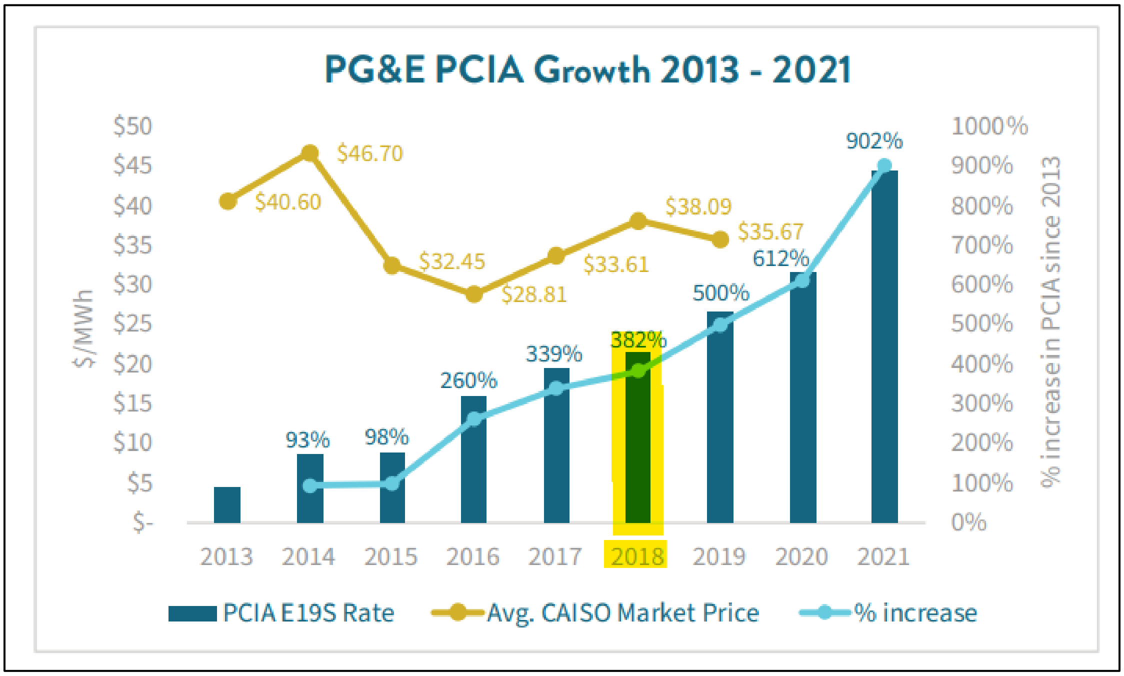
OVERVIEW
Customer rate structure policy options were originally introduced to the Board in June 2020 during the Fiscal Year 2020/21 budget adoption process as a key tool to address on-going fiscal challenges. This report provides additional detail on an expanded and cost-recovery based customer rate structure policy option and seeks guidance on continued analysis and potential implementation timeline.

BACKGROUND
The Board adopted the VCE Strategic Plan in November 2020. The Plan identifies six interrelated goals to guide VCE's activities over the next three-years. The goal set includes Goal 1: Maintain and grow a strong financial foundation and manage costs to achieve long-term organizational health. In addition, Plan objective 1.4 calls for VCE to: Manage customer rates to optimize VCE's financial health while maintaining rate competitiveness with PG&E. These policy statements form the foundation for the work related to examination of VCE's customer rate structure.

<u>Primary Factors</u>
As analyzed and reported to the Board since mid-2018 and as recently as June, changes by the CPUC to the Power Charge Indifference Adjustment (PCIA) and Resource Adequacy (RA) mandates have created volatility and uncertainty for CCA programs across the State. These are the primary factors driving the need to consider a revision to VCE's customer rate structure.

Though VCE and the CCA Trade Association CalCCA are deeply engaged in advancing solutions/fixes to PCIA and RA market issues, inadequate transparency related to such large and largely unforecastable swings in the PCIA and RA market design means that CCA's must be more defensive in their financial posture going forward. This is true for VCE as well as other CCA's particularly in PG&E's service territory. To provide context to these financial impacts, Table 1 below shows that the PCIA has increased almost 5X since VCE launched service to customers in mid-2018. Additionally, RA has increased 2X in that same time-period.

Table 1 – PCIA Growth 2013-2021 (VCE Launch 2018)



Source: San Jose Clean Energy, Feb 2021

These factors, coupled with increased forward power market prices due to real and perceived challenges associated with a transition to a greater renewable portfolio for the State, have resulted in significant financial strains on VCE. Actions VCE has taken over the past three years to mitigate these impacts are summarized in the Discussion section below

<u>Additional Factors</u>
In addition to the primary factors summarized above, other factors also contribute to staff's recommendation to explore customer rate options. While these additional factors are not primary drivers, they are considerations in staff's analysis:

- WCE Bankruptcy. The recent bankruptcy of the Western Community Energy CCA in Southern California has prompted increased scrutiny of the basic CCA finance model by regulators and the financial sector. Based on available information, the overall financial health of the CCA sector is strong but the WCE bankruptcy has reinforced prudent financial planning including examination/implementation of customer rate revisions/options by a majority of CCA's. As a result of the bankruptcy, staff anticipates that the CCA industry will see increased self and/or outside establishment of new standards of practice, including the possibility of basic policies related to long-term balanced budgeting.
- Business Transactions. Reserves provide VCE with a tool to mitigate unforeseen fiscal impacts, allowing the organization to temporarily absorb higher costs/lower revenues without undue impacts to customers or core business activities. Reserves also provide VCE's fiscal partners and power counterparties with a measurable financial buffer to power market price movement and regulatory rulings (e.g. PCIA), that are outside VCE's direct control. Reserve levels are one proxy used by VCE's fiscal partners and counterparties to set interest rates and financial performance metrics which can impact

interest rates and prices paid on long-term power purchase agreements. Strong reserves enable more favorable business terms for VCE.

- Implementation of Programs. Reserves also enhance the ability to execute local programs and provide match funding to attract outside funding from public and private sources.

DISCUSSION

In response to the challenges and related factors summarized above, over the past three years VCE has systematically analyzed policy options and implemented strategies to reduce cost and manage reserves. This is in keeping with its Strategic Plan goal to maintain financial stability while continuing to offer competitive pricing and establishing local programs. Several of these key strategies implemented by VCE over the past three years to address financial pressures include:

- Customer Rates (Fall 2018). At launch VCE offered a 2.5% discount to PG&E's generation rate. The discount was discontinued due to the CPUC's decision in Fall of 2018 to increase the PCIA by ~100%. In response, VCE adopted a policy to match PG&E's generation rates on its default product and offer a customer dividend in years it exceeded its financial and reserve targets.
- Renewable portfolio content (Summer 2020): VCE has scaled back its voluntary procurement of renewable energy credits (RECs) since mid-2020 as it transitions to more cost effective, stable long-term renewable and renewable plus battery storage contracts that will begin energy deliveries in Fall 2021. This strategy has continued into 2021 and will avoid approximately $3.8M in procurement costs over the past and current fiscal years.
- Long-term Power Purchase Agreements (PPAs) (Fall 2019). As noted in the June 2021 budget adoption Board staff report, since 2019 VCE has moved systematically toward long-term PPA's for renewable power and energy storage. This reduces and stabilizes power costs by moving away from the short-term renewable credit (REC) and resource adequacy markets while increasing the overall renewable content of VCE's portfolio. When fully delivering in 2023, these PPA's will result in just over $4M per year in power cost savings.
- Joint Procurement (Spring 2019). VCE partnered with another CCA (Redwood Coast Energy Authority), in a joint procurement of a battery storage project achieving lower energy storage and transaction costs.
- Cost containment (Summer 2018). VCE has never drawn on its Line of Credit and has maintained an overhead of less than 10% since launch.
- Pre-payment of debt (Fall 2019). VCE paid back its member jurisdiction seed loans early, avoiding thousands of dollars in interest.

The remaining major fiscal policy option available to VCE is its most potent: the ability to design and set customer rates to achieve policy objectives.

<u>Customer Rate Options</u>

Recognizing that steps may be needed in addition to those listed above, in early 2020 staff began investigating rate related strategies employed by other CCA's designed to address on-going financial pressures outside of a CCA's control (e.g. PCIA, RA). As previewed in the Fiscal Year 2020/21 budget analysis (May 2020), staff outlined a possible customer rate structure employed by other CCA's to increase choice while helping stabilize finances. The following is an excerpt from the May 14, 2020 Board staff report on policy options:

> ***Rate Changes*** *– Potential Options:*
> *1.b Add a third choice for customer rates that could be set near the minimum State standards for renewable energy content. This would allow customers the option to choose a more cost-effective rate (perhaps set at PG&E's generation rate), while maintaining VCE's other two current rate options that deliver higher renewable and GHG free attributes at a "cost plus" rate. This approach has been employed by Clean Power Alliance (LA/Ventura CCA).*

On June 11, 2020, as part of the adoption of the FY 2020/21 Budget, the Board approved the following recommendation:

> *Direct Staff and the Community Advisory Committee to study additional customer rate choices for future Board consideration.*

The CAC appointed a Task Group in Fall 2020 to work with staff to analyze options. Staff began research of other rate approaches by other CCA's but made less progress than desired during Fall 2020/Winter 2021 due to competing priorities (e.g. Strategic Plan development/adoption). Focused work with the CAC Task Group began this Spring with collection of information from other CCA's who had implemented expanded and cost-recovery based customer rate structures. Five CCA programs in PG&E's service territory have adopted expanded and/or cost-recovery based customer rate structures. This survey of these CCA programs is shown in Table 2 below.

Table 2 – CCA Survey – as of 8/21

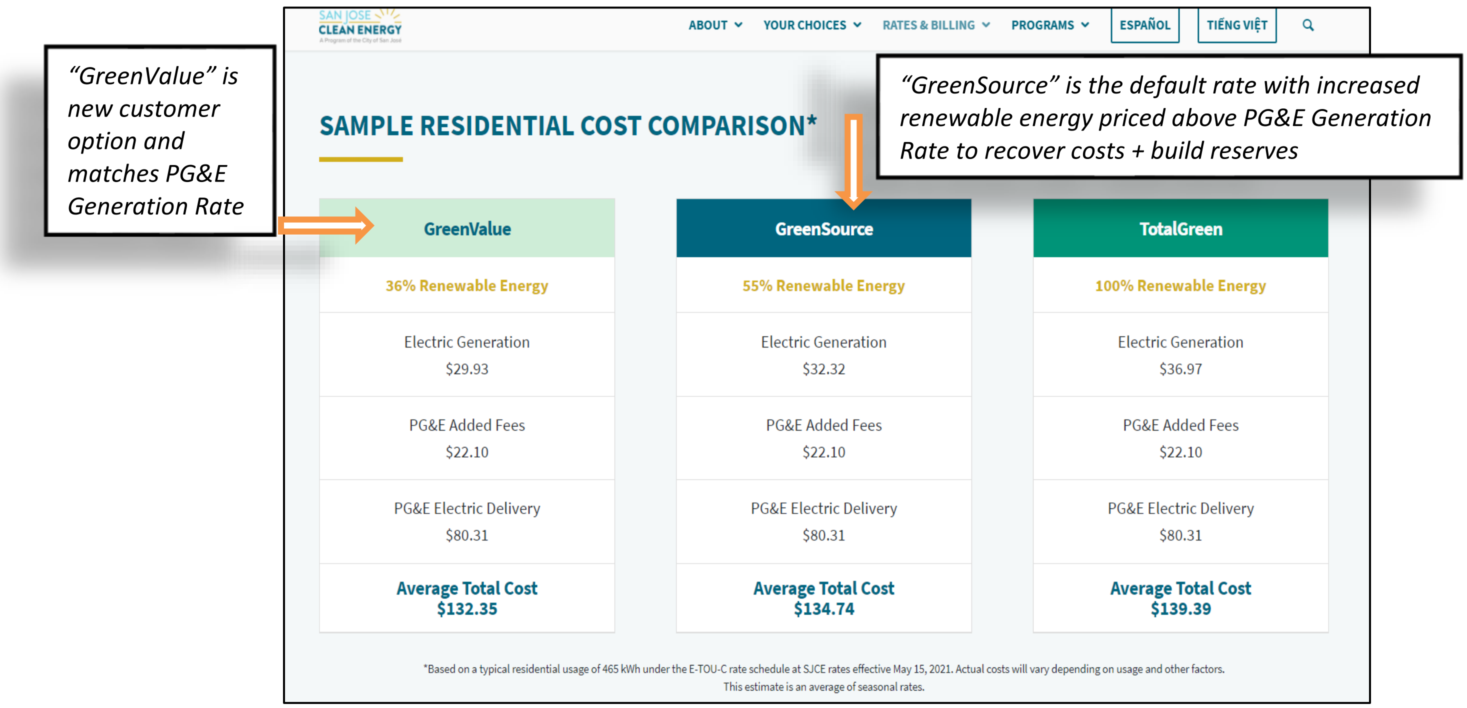
CCA	IOU Territory	Customer Accounts	% Difference to IOU Gen Rate (default product)	Renewable Content Target (default product)
Valley Clean Energy	**PG&E**	**63,509**	**0% (match)**	**42%**
Clean Power SF	PG&E	311,777	+2%	50%
East Bay Community Energy	PG&E	546,707	0%	60%
MCE Clean Energy	PG&E	473,826	+7%	60%
Peninsula Clean Energy	PG&E	287,987	-3%	50%
Pioneer Community Energy	PG&E	87,704	+6%	33%
San Jose Clean Energy	PG&E	350,000	+8%	55%
Silicon Valley Clean Energy	PG&E	225,973	0%	42%
Sonoma Clean Power	PG&E	243,436	+5%	50%
Clean Power Alliance (Los Angeles area)	SCE	1,000,000	+8%	50%
Desert Clean Energy	SCE	37,375	+20%	100%

Notes:

(1) The above information is based on best recently publicly available information and subject to change per IOU and/or CCA rate activities and PCIA adjustments.
(2) VCE current year target renewable content rate is 20% due to cost cutting strategies.
(3) Due to the PCIA structure each CCA has a specific "vintage" date based on what year they launched service and how they phased in their customer base. Therefore, each CCA has

unique financial characteristics that contribute to how they set rates and cost recovery approaches.

<u>Example Rate Structure</u>
In March 2021 San Jose Clean energy adopted an expanded and cost-recovery based customer rate structure. This included an additional "least cost" option that matches PG&E generation rates and higher generation rates as noted in Table 2 above for their default and 100% renewable "opt-up" options. The following is the rate structure adopted by San Jose Clean Energy:



Based on staff research and communications with their staff, CCA programs with additional customer rate options and/or cost-recovery based rates have not seen significant "opt-out" or "opt down" activity in either the residential or commercial/industrial sectors. This includes large and moderate sized CCA's, some having years of experience with rates above their respective investor-owned utilities. Importantly, this also includes information gathered from CCA's in various parts of the State: Southern California, Northern California, inland and coastal.

Staff recognizes that VCE's service territory is not a carbon copy of other CCAs and that if a similar customer rate structure is implemented here results may be different. In order to understand the potential impacts of different outcomes staff has engaged SMUD and VCE's long-time consultant Don Dame to conduct sensitivity analysis of various levels of "opt-out"/"opt-down" scenarios. If direction is given by the Board to advance analysis of an expanded and cost-recovery based customer rate structure for VCE, staff will present the sensitivity analysis to the CAC and Board to inform policy decisions.

Note: VCE's existing Customer Dividend program would remain in place if an expanded and cost-recovery based customer rate structure were ultimately implemented. This would continue to provide VCE a mechanism to credit customers when VCE meets its financial/reserve targets.

Tentative Timeline

As noted above, various factors outside VCE's direct control are shaping the timeline associated with this policy decision. Prudent financial management decisions by the Board have afforded VCE the ability to consider this policy option without pressure to take immediate action. Therefore, staff is proposing the following tentative timeline in the event the Board provides direction to continue the work.

- Sept (current): Board direction; Based on Board direction, staff + CAC Task Group finalize draft rate policy and expanded and cost-recovery based customer rate structure.
- Sept: CAC examination/feedback on draft rate policy and expanded and cost-recovery based customer rate structure; input on customer outreach strategy.
- October: Board update/direction; finalize SMUD analysis and final draft policy/rate structure.
- October: CAC consideration/recommendation on final draft policy/rate structure.
- Nov: Board consideration/action on final draft policy/rate structure.
- Nov-Jan 2022: Execute customer outreach strategy.
- Jan 2022: Update report to Board/CAC.
- Feb 2022: Implement expanded and cost-recovery based customer rate structure.
- Post-implementation: Monitoring/reporting customer opt-out/opt-down activity.

CONCLUSION/NEXT STEPS

Staff is seeking direction from the Board on potential implementation of an expanded and cost-recovery based customer rate structure similar to those implemented by other CCA's. If Board direction is provided, staff would put the tentative timeline outlined above into motion. Staff recognizes that the recommended action is a shift from VCE's current rate structure but also that it is driven by forces outside of VCE's direct control. Staff is making the recommendation to continue to analyze this approach because it maintains local control, customer choice, cost competitiveness and the ability to execute local programs.

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 19

TO: Board of Directors

FROM: Mitch Sears, Interim General Manager
Edward Burnham, Director of Finance & Internal Operations

SUBJECT: Bi-annual Enterprise Risk Management Report

DATE: September 9, 2021

RECOMMENDATION
Accept the Bi-annual Enterprise Risk Management Report – September 2021.

BACKGROUND & DISCUSSION
In 2018, the Board approve VCE's Enterprise Risk Management (ERM) Policy. The policy is centered on energy best practices and is adapted from the SMUD risk management policy. In summary, the VCE ERM policy contains the following sections:

- Introduction: This section introduces the value of ERM as a structured approach to managing risk and uncertainty. It lays out the objectives of VCEA's ERM function, providing the framework for evaluating and managing risk in the organization's decision-making process.

- ERM Roles and Responsibilities: The ERM roles are consistent with the Board-approved Wholesale Power Procurement & Risk Management Policy. The Enterprise Risk Oversight Committee (EROC) has primary responsibility for the implementation of ERM. The policy lays out the scope of the EROC's risk management authority.

- Business Practices: This section identifies the steps of risk management and the basic process associated with each step. The intent is to provide a high-level framework. Specific tools and techniques for implementing enterprise risk management will be recommended by the portfolio manager following approval of the policy.

- Management Reporting and Metrics: The policy defines an enterprise risk report that will be provided bi-annually to the Board.

Staff has used the consistent framework described in the ERM policy to identify various risks and related mitigations, and to ensure effective mitigation and communication across all levels of the organization. The attached ERM bi-annual report describes the activities that took place since the last bi-annual update in December 2020 and the actions VCE is and will be taking to manage the top risks that have been identified.

Prior to this report, staff most recently presented the bi-annual update in December 2020 to the Board, describing progress on the ERM plan since inception. We have adjusted our bi-annual updates to be provided in March and September of each year.

ATTACHMENT

1. Bi-annual Enterprise Risk Management Report – September 2021

Valley Clean Energy

Enterprise Risk Management Report

September 2021

PURPOSE:
The purpose of the biannual ERM Report is to update VCE's Board and the public regarding the activities that took place since the last update on December 10, 2020.

Executive Summary

Introduction and Background

In 2018, the Valley Clean Energy (VCE) Board adopted an Enterprise Risk Management (ERM) framework to provide the Board with insight into risks that could impact the ability to execute VCE's mission, build credibility and sustain confidence in VCE's governance and stakeholders, enhance the understanding of significant risks to VCE, and develop the capacity for continuous monitoring, periodic reporting of risks, and responding to changing risk circumstances. This report is the first of VCE's biannual risk reports for FY 2022; the prior ERM biannual Report was issued on December 10, 2020.

ERM is a strategic approach to risk management that supports the achievement of organizational objectives through the management of integrated impacts of risks as an interrelated risk portfolio. ERM is a coordinated effort by management to treat all risks effectively, thereby reducing the overall cost of risk to the organization. The General Manager has charged functional leaders to oversee the treatment of known major risk categories and provide a risk overview to the Enterprise Risk Oversight Committee (EROC).

ERM Philosophy

VCE's ERM philosophy includes the following principles:

1. Identify, assess, prudently manage, monitor, and report on a variety of business-critical risks;
2. Provide enterprise risk context and linkage to existing core business processes to improve the allocation of limited resources;

ERM Approach

Staff has applied a multi-perspective approach to evaluate and estimate the trade-off between risk and cost of mitigation across VCE business functions. This approach addresses the following issues:

- Roles and responsibilities
- Definitions and language
- Risk heat map and risk exposure inventory
- Risk exposure monitoring, updating, and reporting
- Integration of ERM with key business processes
- Integration of risk awareness within corporate culture

- This framework supports the Board in exercising its overall responsibility to:
- Regulate opportunities and risks for VCE;
- Develop a better understanding of appropriate opportunities and risks for VCE;
- Promote active management of risk exposure down to acceptable levels; and
- Assist VCE in its achievement of business plan objectives and operational performance.

Summary of Activities through August 2021

From an implementation perspective, progress continues on multiple fronts. Significant effort has been invested in creating an enterprise risk register. Risks to VCE have been identified, categorized, and rated. Existing risk controls and risk treatment measures implemented/proposed have also been identified. The risk register provides VCE's management with a consolidated view of risks being faced by VCE, the potential impact of those risks, mitigation actions, and assessment of short-term risk trends (i.e., higher/lower/steady).

Staff is using a consistent framework to identify various risks and related mitigations, and to ensure effective communication across all levels of the organization. In doing so, staff has completed the following developmental tasks:

1. Established Interim General Manager as Chief Risk Officer and Director of Finance & Internal Operations as risk process owner, focusing on day-to-day monitoring and coordination.
2. Developed ERM framework and tools
3. Conducted a risk survey
4. Developed VCE's top risk portfolio
5. Surveyed staff and management for ongoing risk input
6. Held monthly EROC meetings

Key Steps Taken Since the Last Biannual Update

Some actionable steps that VCE has taken since the last Board update in December 2020 include:

1. Have actively engaged from a regulatory and legislative standpoint, supporting regulatory statewide proceedings and settlements, meeting with key CPUC staff, and continuing progress on the annual VCE legislative platform, including SB 612 and AB 843.
2. Reduced the 2020 and 2021 RPS targets to maintain VCE's current rate policy and partially mitigate use of reserve funds during the transition to long-term power purchase agreements savings of ~$3.75M.

3. One of six long-term Power Purchase agreements (5+ years) began delivery in August 2021, partially addressing power cost volatility long-term.
4. Secured the 3rd extension on the River City Bank line of credit, with Letter of Credit capability.
5. Adopted VCE's 3-Year Programs Plan with four active programs addressing customer expectations.

Key Risks

Key risks are those risks that, given VCE's current position, could negatively impact VCE's business model, future performance or prospects, solvency, liquidity, reputation, or prevent it from delivering on its local control commitment. These key risks are updated on an ongoing basis and look forward over a 5-year horizon to identify the:

- Nature and extent of risks facing VCE
- Likelihood and velocity of the risks and potential impacts
- VCE's ability to reduce or control such risks

Key Priorities for Risk Management in 2021:

1. Maintain the operational risk management process
2. Provide regular updates to the Board
3. Continue to take specific actions to mitigate risks as outlined in this document
4. Begin to develop contingency plans for unexpected and emergent events

Risk Portfolio

Top 5 Risks for VCE:

1. Power Charge Indifference Adjustment ("PCIA") increases
2. Commodity procurement
3. Regulatory & Policy risk
4. Capital availability/cash flow
5. Economic Uncertainty

The following tables outline current risks (Table 1) and summarize VCE's top risk response plan (Table 2).

Table 1: Risk Description/Level

Risk	Description	Current Residual Risk	Target Residual Risk
PCIA	The PCIA rate for 2021 was increased as a result of CPUC decisions. 2022 PCIA rates are forecasted to be reduced from current 2021 rates.		
Commodity Procurement	Risk of extreme fluctuations associated with commodity prices, including energy prices, resource adequacy, and other components of the energy portfolio, remain.		
Regulatory & Policy risk	Risk of additional regulatory requirements increasing complexity and cost of operations		
Capital availability/cashflow	Risk that VCE is unable to secure affordable financing as VCE uses reserves for rate stabilization under current rate policy.		
Economic Uncertainty	Risk that the ongoing Covid-19 pandemic increases chances of impacting customers, the economy, and associated revenue forecasts.		
Rate structure	Risk of rate design not following cost of service (non-time of use (TOU), PCIA, demand charges, varying generation rates)		
Cyber security & data privacy	Risk of a data breach as a result of a cyber breach or physical attack		
Financial Markets Volatility	Swings in global financial markets and currencies may create significant challenges that VCE will have to address		
Changing customer expectations	Risk that customer's changing expectations as a result of innovation may result in reduced customer revenue and loyalty		
Opt-out rate	Risk of higher than expected opt-out level		

Risk	Description	Current Residual Risk	Target Residual Risk
Business model	Ability to quickly identify and respond to business risks that have the potential to impact the ability to achieve VCE goals.		
Media & community	Risk of unfavorable public communications or events; spillover customer dissatisfaction related to PG&E's PSPS		
Unknown risks	Business and utilities attempt to identify and adapt to known risks but some potential events outside of VCE's control could have a debilitating impact on utilities in general and VCE in particular.		

- High
- High/Moderate
- Low/Moderate
- Low

Table 2: Summary of VCE top risk response plan

Risk Event	Response	Trend[1]	Plan	Trigger/Control	Owner
PCIA	Monitor risk & actively engage and respond		1) Continue direct involvement with CalCCA task groups to seek favorable rulings and settlements in the PCIA, ERRA, and other filings, such as SB 612.	Risk of PCIA rate does not decrease in the 2022 ERRA Forecast. CPUCs annual approval of PG&E's PCIA rate within the Energy Resource Recovery Account (ERRA) forecast	Director of Finance

[1] Current trend of risk for VCE- increasing , no change or decreasing

Risk Event	Response	Trend[1]	Plan	Trigger/Control	Owner
			2) Work towards the potential long-term goal of attaining an option for a PCIA buy-out. 3) Work towards stabilizations and reduction of the PCIA from a regulatory and legislative standpoint 4) Participate in CalCCA modeling groups to develop tools for PCIA, RA, and Generation Rates.		
Commodity Procurement	Reduce & manage risk		1) Continue to pursue long-term power purchase agreements to reduce the average cost of power in future years 2) Pursue regulatory and legislative avenues in addressing the extreme swings in pricing and requirements of Resource Adequacy (RA) costs. 3) Take an active role in regulatory proceedings at the CPUC, including appeals, on various regulations that impact	Execution of PPA contracts Regulatory rulings that affect commodity procurement cost and RA cost	Director of Power Procurement

Risk Event	Response	Trend[1]	Plan	Trigger/Control	Owner
			the cost of electricity along with support from the CalCCA Regulatory Committee 4) Follow the guidelines and recommendations of VCE's Wholesale Energy Risk Manual		
Regulatory & policy risk	Monitor risk & actively engage and respond	↑	1) Take an active role in legislative sessions (contract with lobbyist and engage Board members for support/opposition on bills) along with support from CalCCA legislative committee 2) Follow and continue to update the annual VCE Legislative Platform 3) Take an active role in regulatory proceedings at the CPUC, including appeals, on various regulations that impact VCE and CC's that increase cost or bureaucracy without any significant safety or cost benefits to VCE and its customers along with support from CalCCA Regulatory Committee	Weekly CalCCA Regulatory and Legislative Committee meetings Regulatory rulings Legislative actions	General Manager

Risk Event	Response	Trend[1]	Plan	Trigger/Control	Owner
Capital Availability/ Cash Flow	Monitor risk & actively engage and respond	↑	1) Continue to work towards conserving cash reserves by lowering costs and increasing cash revenue collection 2) Work towards a financial model update to evaluate rate and reserve policy changes. 3) Extend favorable terms with banks and contract counterparties 4) Work towards the long-term goal of securing an investment-grade credit rating.	Line of credit agreements & renewals Develop VCE Collections Policy CAAP receivables funding for COVID-19 outstanding receivables Develop the long-term Collections Policy.	Director of Finance
Rate Structure	Reduce & manage risk	↑	1) Monitor and update Board based on analyst forecasts for PG&E Rate and PCIA change impacts. 4) Identify and mitigate risks outside of VCE control to limit impacts and frequency of rate changes. 3) Review and update Financial Policies for possible automatic rate triggers for financial sustainability.	Economic outlook and Rate forecasts Monitor Regulatory proceedings that impact PCIA, RA, and ERRA. Monitor cash short-term and long-term impacts to reserve funds, credit lines, commercial negotiations, and PPA covenants.	Director of Finance

Risk Event	Response	Trend[1]	Plan	Trigger/Control	Owner
			4) Review and update rate policy for cost -recovery based model		

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 20

TO: Board of Directors

FROM: Mitch Sears, Interim General Manager
Edward Burnham, Director of Finance and Internal Operations
Alisa Lembke, VCE Board Clerk/Administrative Analyst

SUBJECT: Community Advisory Committee Structure

DATE: September 9, 2021

Recommendation
Provide feedback and direction on the structure of the Community Advisory Committee.

Background
In December 2016 the Board formed a Community Advisory Committee (CAC) to advise the Board and Staff on policy matters related to the launch and operation of VCE. The CAC began meeting in Fall 2017. In September 2018, the Board approved modifications to the terms of CAC service and criteria for new member recruitment and selection.

As structured the CAC consists of 12 members (3 seats for each jurisdiction), with three seats currently vacant (unincorporated Yolo County, cities of Woodland and Winters). Since formation, one or more seats have remained vacant, making it more difficult to achieve quorums and maintain appropriate work loads/time commitments for Committee members. These factors prompted a recent review of the membership structure of the CAC. Based on Board member and CAC input, Staff is bringing the topic to the Board for discussion and direction.

Discussion
The CAC has been structured based on geography and an attempt to gather policy and community input from each of the jurisdictions. Staff believes that this approach has been largely successful based on the quality (and quantity), of work produced by the CAC over the past four years. However, as VCE begins to emerge from "start-up" mode to a more defined organization staff finds that more programmatic and technical topics are being added to VCE's existing group of core business interests. Therefore, Staff believes it is appropriate for the Board (and CAC), to consider the CAC structure in the context of evolving organizational needs.

Based on these set of factors, working with the CAC Chair and Vice-Chair, Staff presented three basic options for CAC structure at the August 26th CAC meeting. The first option maintained the existing structure, the second added "at-large" members to fill long-term vacancies, and the third reduced regular CAC seats to 2 per jurisdiction and added an alternate seat for each. A summary of the three options begins on page 3 of the attached CAC staff report (also linked here.). The CAC input from their August meeting is summarized below.

Board Direction

Board direction would be helpful on the following two general questions:

1. Should the CAC membership structure be modified to specifically target technical needs regarding policy advice? This could point toward defining those needs and allocating seats to one or more "at-large" CAC members. Note: Staff believes that the current number of 12 seats should be a maximum to maintain efficient operation of the Committee and allocation of staff resources.
2. Should there be a minimum number of CAC seats allocated to each member jurisdiction? Note: Staff believes that a diverse membership from each jurisdiction adds value to the CAC discussion and weight to its recommendations and therefore supports a minimum number of seats from each jurisdiction.

CAC Input

At the August 26th CAC meeting Staff sought the CAC's input and a recommendation to the Board on the possible restructuring of the Community Advisory Committee. For discussion purposes, Staff presented the three options noted above.

Although a formal recommendation was not made by the CAC, the general consensus was the importance of having applicants from all jurisdictions and qualified applicants appointed to the CAC. The CAC agreed that the cities of Davis and Winters seats should be filled now, and active solicitation should continue to fill the city of Woodland and unincorporated Yolo County seats. The CAC asked Staff to discuss recruitment efforts by the respective individual Board members and discuss with the entire Board the possibility of restructuring the CAC to include some at large members. The CAC thought that at-large members could be chosen based on various approaches, including limiting to one additional from another jurisdiction, knowledge or interest areas such as rural, etc. Long term, the CAC feels that VCE is best served with a CAC that has a full complement of 12 members.

Conclusion

Staff agrees with the CAC on the need to continue the discussion on a possible long-term alternate CAC structure. Board direction will help Staff and the CAC develop a recommendation for future Board consideration.

Attachment

1. CAC staff report 8/26/21 – CAC Structure

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 9

TO: Community Advisory Committee (CAC)

FROM: Mitch Sears, Interim General Manager
Edward Burnham, Director of Finance and Operations
Alisa Lembke, VCE Board Clerk/Administrative Analyst

SUBJECT: Discussion on possible restructuring of the Community Advisory Committee

DATE: August 26, 2021

RECOMMENDATION

1. Consider Community Advisory Committee restructuring options, including maintaining existing structure.
2. Provide a recommendation to the Board for their review.

SUMMARY

Since 2017, the CAC has been helping the Board and Staff assess and provide recommendations on critical policy issues, provide feedback and insight on customer engagement, and informed advice on energy issues. Historically, it has been difficult for VCE to fully fill CAC vacancies. Staff are seeking CAC input on the possible restructuring the Community Advisory Committee. For discussion purposes, multiple options are presented. The CAC Ad Hoc Committee (Chair Christine Shewmaker and Vice Chair Cynthia Rodriguez) have reviewed and participated in discussing this staff report subject. Staff is seeking input and a recommendation from the CAC to the Board for their review and discussion at the September 9, 2021, Board meeting.

BACKGROUND

The VCE Board of Directors on December 13, 2016, via Resolution #2016-006 formed a Community Advisory Committee (CAC); on September 13, 2018, the Board approved the terms of service and officer position of members who serve on the Community Advisory Committee; and on October 18, 2018, the Board approved a three-year term for Community Advisory Committee seats, how to determine the terms of service of current CAC members, and criteria for new recruitment and selection.

On November 15, 2018, the Board adopted Resolution 2018-030, which summarized VCE's recruitment and appointment process to the CAC and appointed seats. This process included an initial staff review for completeness, a review by the Board subcommittee, and a recommendation to the full Board.

In December 2019, the Board approved the City of Winters as a member of VCE. A condition of membership was to help identify community representatives to serve on VCE's Community Advisory Committee. In June 2020, the Board appointed David Springer, Jennifer Rindahl, and Peter Meyer to fill the City of Winters seats with staggered terms. In July 2020, Cynthia Rodriguez was appointed to fill a vacant Yolo County seat.

Per the Board's request, for the Class 3 terms expiring in June 2021, solicitation of applicants from all VCE jurisdictions was advertised via social media, MailChimp, and VCE's website. The Class 3 original recruitment was extended to Thursday, July 1, 2021. As the result of this solicitation, we received two (2) applications from Davis residents. Again, the due date was extended, to Friday, August 20, 2021 by 4 p.m. to seek additional candidates. As the result of the extension, we received an application from a Winters resident and as of Thursday, August 19th, no other applications have been received.

Staff and CAC should consider the optimal size based on current and future member jurisdictions. The optimal size of the CAC ranges from eight (8) to twelve (12) seats. The CAC and Board optimal size may change, for example, if additional jurisdictions join the JPA. The JPA structure will reduce Board seats from two to one should the JPA have five or more member jurisdictions. The optimal size and equal representation provide effective participation and equitable representation of member jurisdictions at the CAC committee and task group support functions.

Currently, there are nine (9) seats filled out of twelve (12) seats total. The current CAC quorum requirement is seven (7) seats based on 50% of seats +1 of 12 seats (filled or vacant). The options below are based on Davis and Winters reappointment/appointment of a representative from the current pool of reapplicant/applicants to serve out the Class 3 term as regular seats (not as alternates described in option 3).

Please see the below details of the current class appointments and terms for the CAC.

CLASS 3 – (Expired) June 2021
Yolo Rep.– Vacant
Woodland Rep. - Christine Casey
Davis Rep.– Lorenzo Kristov
Winters Rep. - Peter Meyer

Class 3 Updates: Lorenzo Kristov (Davis) has submitted his interest to be reappointed. Christine Casey (Woodland) and Peter Meyer (Winters) did not seek reappointment. Mr. Kristov has agreed to remain an active CAC participant as the Board considers reappointment/appointments to the CAC.

Class 1 and 2 are as follows:
CLASS 1 – Expiring June 2022
Yolo Rep. – Cynthia Rodriguez
Woodland Rep. – Mark Aulman
Davis Rep.– Yvonne Hunter
Winters Rep. – David Springer

CLASS 2 – Expiring June 2023
Yolo Rep.– Marsha Baird
Woodland Rep. – Christine Shewmaker
Davis Rep.– Gerry Braun
Winters Rep. – Jennifer Rindahl

ANALYSIS
Since formed in 2018, the CAC has provided over 1,800 hours of volunteer service to VCE, helping assess and provide recommendations on critical policy issues, provide feedback and insight on customer engagement, and informed advice on energy issues. However, it has been difficult for VCE to fill CAC vacancies. Therefore, Staff outlines several options for consideration that attempt to address this issue while retaining the value the CAC provides to VCE's decision-making process. Three possible options are:

Option 1 - No Change:
Option 1 continues a twelve-seat committee structure with three seats from each current jurisdiction. This option includes no changes or modifications. The recommendation below includes continued recruitment for two vacancies (unincorporated Yolo County - Class 3 and Woodland - Class 3).

- Reappoint / Appoint from the current applicant pool for Davis and Winters Class 3 seats.
- Continue to actively advertise and solicit applicants for the two vacant seats (Woodland and Yolo)

As described above, the current structure has proven to provide support and meaningful contributions to the organization successfully.

Option 2 – Addition of Member-at-large appointment:
Option 2 is a twelve-seat committee structure with three seats from each jurisdiction. This option includes modifications to allow the temporary appointment of Member-at-large for vacancies greater than 90 days. The recommendation below includes one reappointment, one appointment, and continued recruitment for two vacancies (Yolo County - Class 3 and Woodland - Class 3).

Member-at-large is an applicant(s) from jurisdictions that have filled all available seats for their respective jurisdiction. Member-at-large would be appointed for a one-year term and limited to one per jurisdiction.

For example, the current CAC committee has two vacancies. The two vacant seats are Woodland and unincorporated Yolo County. The two vacancies could be filled by one Davis and one Winters Member-at-large. Member-at-large would participate in task group and committee meetings as a voting committee seat until the one-year term or the Class Term has expired.

- Continue recruitment for the two (2) vacant positions (Yolo and Woodland),

- Allow appointment for member-at-large to CAC vacancies for a one (1) year term for vacancies greater than 90 days.
- Member-at-large terms limited to one per jurisdiction. i.e., A maximum of four seats for each jurisdiction of the twelve-seat committee to prevent majority jurisdiction representation.

Option 3 - Modified Structure:
Option 3 is an eight-seat committee structure with two seats from each jurisdiction and the creation of one alternate from each jurisdiction. This modified structure would reduce CAC seats from twelve to eight committee seats and add four (4) alternates. This modified structure is aligned with the current form of VCE Board seats. Alternates would be allowed to act in the absence of a committee seat of their jurisdiction with voting rights at CAC meetings. Additionally, alternates may participate in all task group activities and CAC meetings without voting rights.

- Terms for the eight seats would continue to be staggered
- Continue recruitment for the two (2) vacant seats (Yolo and Woodland),
- Before the adoption and implementation of Option 3, Option 1 in the interim period

Transition to this option would be optimal for future years, provided there are continued vacancies. Current structure and recruitment would continue, and strategy for implementation developed with Staff and CAC Ad Hoc Committee for future consideration.

CONCLUSION
Staff is seeking feedback/recommendation on Community Advisory Committee restructuring options, including the option to maintain the existing structure.