



California Wind Energy Association

November 13, 2018

California Customer Choice Team
California Public Utilities Commission
505 Van Ness Avenue
San Francisco CA 94102

Re: Comments on Draft Gap Analysis / Choice Action Plan

Submitted via customerchoice@cpuc.ca.gov

The California Wind Energy Association (CalWEA) appreciates this opportunity to comment on the October 2018 Draft Gap Analysis/Choice Action Plan. In summary, CalWEA encourages the Commission to revise the Choice Action Plan as follows:

- The Commission should take immediate action to ensure that near-term RPS goals will be met by conducting a review of LSEs' creditworthiness, establishing a procurement entity, and underscoring its intent to levy non-compliance penalties; and
- The Commission should more-aggressively promote informed customer choice and meaningful products by (a) encouraging the CEC to adopt the Clean Net Short (CNS) methodology for developing product content labels, (b) refining its own CNS methodology to promote meaningful products that discourage resource shuffling, and (c) establishing a single centralized clearinghouse to enable residential consumers to compare the rates and product offerings available to them.

CalWEA proposes four refined or new recommendations below, which are included at the end of these comments in redlined language for the relevant items from the Draft Gap Analysis/Choice Action Plan summary chart.

1. The Commission Should Take Immediate Action to Ensure that Near-Term RPS Goals Will Be Met

As discussed below, the following should be added to the list of recommendations in the final Gap Analysis/Choice Action Plan:

- **CPUC should immediately: (a) request each CCA and ESP to demonstrate that it will meet industry creditworthiness standards necessary to support the volume of long-term RPS projects required to satisfy its 2021 RPS**

requirements; (b) take steps to establish a procurement entity; and (c) remind all ESPs and CCAs of the consequences of failing to meet their RPS obligations, including the levy of non-compliance penalties.

The Draft Gap Analysis/Choice Action Plan identifies a need only for “analysis” in addressing troubling facts identified by the draft Plan that jeopardize achievement of California’s near-term RPS and GHG goals: namely, that renewable energy procurement has slowed significantly and, apart from one CCA, no CCA currently possesses the creditworthiness required to support project financing. Further, six of 20 Energy Service Providers (ESPs) have been found to be non-compliant with their RPS obligations, four of which have paid their non-compliance penalties and two of which have requested waivers.¹

To address these concerns, far greater urgency than “policy analysis”² is warranted in the final Choice Action Plan to ensure that renewable energy procurement occurs in the very near-term. Near-term procurement will be essential, given multi-year project development lead times, in meeting increased RPS requirements under SB 100 for the early 2020s and the 65% RPS long-term contracting requirement that takes effect in 2021. CalWEA agrees with the statement of TURN’s Matt Freedman that it will be essential for the Commission to get out in front and develop policies to prevent RPS non-compliance so that it is not faced with “company-killing penalties”³ (at least without providing a clear advance warning, as proposed below).

CalWEA does not believe that analyzing state options to support financing of CCA purchases⁴ is warranted for two reasons. First, CCAs already have the option of utilizing the credit ratings associated with their local government host institutions, as the Draft Gap Analysis/Choice Action Plan noted.⁵ If local governments are unwilling to use their own credit status to support investments by their CCAs, it is not clear that the state stepping in will be effective, since any state investments for CCAs would presumably also need to be backed by the CCA.⁶ Second, the Commission already has an option to support renewable energy procurement backed by CCA customers – namely, California law provides that the Commission “may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for electricity products from

¹ CPUC “2018 California Renewables Portfolio Standard Annual Report” at p. 23 (November 2018).

² Draft Gap Analysis/Choice Action Plan at p.48.

³ October 29, 2018, En Banc hearing transcript at p. 151.

⁴ E.g., the Draft Gap Analysis/Choice Action Plan suggests, at p. 48-49, that the state could deploy “credit risk mitigation measures” and “a state financing vehicle” to support renewables procurement.

⁵ *Ibid.*

⁶ It would be inappropriate for the state to incur financing risks for the benefit of CCAs shouldering no risk themselves.

eligible renewable energy resources” and to “recover reasonable administrative and procurement costs through the retail rates of end-use customers that are served by the procurement entity.”⁷

Moreover, given a scant two or three years before more stringent RPS requirements take effect, there is insufficient time to study and implement the new options suggested in the Draft Gap Analysis/Choice Action Plan.⁸

Instead, the Commission should immediately request each CCA and ESP to demonstrate that it will acquire sufficient creditworthiness to support the volume of long-term RPS projects that will be necessary to meet its 2021 RPS requirements, in consideration of typical project-development lead times of at least two years. Note that merely signing contracts does not demonstrate creditworthiness. Those contracts must be able to support project financing, and the more contracts that are signed, the more credit backing will be required.

Simultaneously, the Commission should invite all interested persons to submit proposals to serve as a procurement entity on behalf of CCA customers and develop one of the options. The procurement entity should be established and commence procurement in 2019, to ensure that 2021 goals will be met and also to enable CCA ratepayers and ESP customers to benefit from imminently declining federal tax credits. As Ralph Cavanagh (an Ad Hoc Advisory Committee member to this project) stated, the Commission has “the authority to direct centralized procurement and to distribute the costs among all customers and to ensure that everyone using the grid pays their fair share. And you need to be credibly standing ready to use that authority.”⁹

The Commission should invite each CCA and ESP to voluntarily utilize the services of a procurement entity, particularly those that do not make a convincing demonstration that they have the capacity to meet their RPS requirements. The Commission should also inform all ESPs and CCAs (via direct letters) of the consequences of failing to meet their RPS obligations, including the levy of non-compliance penalties for having insufficient renewable generation under long-term contract by 2021.¹⁰ This step is both necessary and appropriate: Pat Wood (an Ad Hoc Advisory Committee member to this project) discussed why levying penalties is

⁷ Cal. Pub. Util. Code §399.13(f)(2).

⁸ See Gap Analysis/Choice Action Plan at pp. 48-49.

⁹ October 29, 2018, En Banc hearing transcript at p. 31.

¹⁰ See D. 18-05-026 at p. 9 (“Long-term procurement is at the core of RPS program and a central legislative mandate, and the current enforcement scheme is carefully designed to promote long-term procurement. Lower (differential) penalties for not meeting the long-term procurement goals would undermine the core mandate of the RPS program.”).

essential to ensuring compliance with state policies,¹¹ and CCA representative Shalini Swaroop stated, “Give us the rules, we’ll follow the rules.”¹² Finally, the Commission should ensure that all LSEs actually maintain sufficient resources to actually pay any assessed noncompliance penalties.

2. The Commission Should More Aggressively Promote Informed Customer Choice and Meaningful Products

The Draft Gap Analysis/Choice Action Plan and many speakers at the En Banc hearing recognized the importance of providing consumers with rate and product-content information that enables them to make informed and meaningful choices.¹³ The recommended actions in this area should be strengthened in three ways, as follows.

- **Encourage the CEC to adopt the Clean Net Short methodology.**

The CPUC has developed and implemented the Clean Net Short (CNS) methodology to measure each load-serving entity’s (LSE’s) attainment of greenhouse-gas-emission goals as part of the Integrated Resource Planning process.¹⁴ The CNS methodology is far preferable to the draft methodology currently being proposed by Energy Commission staff for use in conjunction with Product Content Labels because the CNS methodology tracks what LSEs actually plan to use on an hourly basis to serve their customers, rather than annual resource accounting which masks mismatches of load and resources. The CNS methodology will provide the most accurate representation of what consumers are actually paying for and consuming, and therefore should be used to inform product content labels as well as portfolio planning. The CNS methodology will encourage LSEs to assemble resource portfolios that are capable of physically serving their loads.¹⁵

Therefore, the Commission should work closely with the Energy Commission and the Air Resources Board to encourage the consistent use of the CNS methodology for GHG compliance

¹¹ October 29, 2018, En Banc hearing transcript at p. 26-27, 32-33, and 43.

¹² October 29, 2018, En Banc hearing transcript at p. 144.

¹³ See Draft Gap Analysis/Choice Action Plan at p. 29 and October 29, 2018, En Banc hearing transcript at pp. p. 48 and 50 (Pat Wood), pp. 113-115 (Matt Freedman); p. 101 (Caroline Choi).

¹⁴ See CPUC Decision 18-02-018 (February 8, 2018) and the CPUC’s Ruling in Rulemaking 16-02-007 (April 3, 2018).

¹⁵ Peninsula Clean Energy stands out as a CCA that is responsibly planning to meet its load with a diversity of renewables on an hourly basis, not including large out-of-state hydropower. (See PCE’s 2018 Integrated Resource Plan, August 1, 2018.)

and for informing product content labels. Actually delivering GHG-free resources to consumers, as opposed to paper accounting exercises, will be necessary for California to truly demonstrate how an economy can physically reduce its reliance on GHG-emitting resources. Mismatched portfolios and loads could also lead to the need for more storage to ensure system reliability, making it more expensive to achieve our GHG goals.

- **Refine the Commission’s CNS methodology to promote meaningful products that discourage resource shuffling.**

The large majority of out-of-state (OOS) hydro resources are owned and operated by the federal government or local public utilities in the Northwest, and are highly likely to continue operating on economic grounds regardless of sales to California. These transactions therefore likely represent mere resource shuffling and could even result in dispatching additional fossil units, and yet LSEs are currently allowed to count these resources as GHG free. The Commission should provide a clear disincentive for contracting with these resources by not crediting LSEs for purchases of large OOS hydro resources as GHG-free unless the LSE can demonstrate that the purchase significantly increases the likelihood that the resource will continue to operate. Instead, those resources should be treated under the CNS methodology in the same way as dispatchable GHG-emitting resources are treated – namely, hydro resources would be included as part of the system power mix to be allocated as part of the “net short” of each LSE. The CPUC should encourage the Energy Commission to follow suit with regard to product content disclosures.

- **Immediately pursue the establishment of a single centralized clearinghouse to enable residential consumers to compare the rates and product offerings available to them.**

The Draft Gap Analysis/Choice Action Plan recommendations along these lines do not reflect sufficient urgency in meeting this goal. The recommendation should call for the CPUC to take all necessary steps to establish, as soon as possible, an online platform where customers may access information about electricity rates/prices as well as the product content offered by all LSEs that are available to residential consumers. Information related to CCA products is publicly available, thus there is no reason why the Commission should not compile this information and post it to an online comparison platform hosted by the CPUC.¹⁶ As much as possible, the platform should provide accurate information on all product-content claims, such as “local” generation and “GHG free” resources (e.g., accurate information on the GHG benefits, or lack thereof, of contracting with OOS large hydro as discussed above).

¹⁶ As mentioned at the En Banc hearing, the Texas PUC hosts the www.PowertoChoose.org website, which allows consumers to compare the retail options available to them by zip-code.

The above recommendations are included in revisions to the summary table from the Draft Gap Analysis/Choice Action Plan, appended to these comments below.

Respectfully submitted,

/s/ Nancy Rader
Nancy Rader
Executive Director
California Wind Energy Association
1700 Shattuck Ave., #17
Berkeley CA 94709
Telephone: (510) 845-5077 x1
Email: nrader@calwea.org

November 13, 2018

Category	Issue	Regulatory Action (Existing)	Regulatory Action (New)	Legislative Action	Additional Analysis
<p>Reliability/Resource Procurement/Achievement of state clean energy goals</p>	<p>Contracting for reliability¹⁷ renewable resource requirements</p>			<p>None at this time.</p>	<p>CPUC can work with key parties, including the financial institutions, to: 1) categorize the new market developments; 2) discern what requirements are necessary to deploy capital to support investment that will advance statewide goals; 3) identify the credit risk mitigation measures that the state can deploy to support the necessary investment. 4) determine how IRP proceeding comply with the loading order and other resource-specific requirements as directed by Public Utilities Code Sections 454.52(a)(1)(A)-(H) and 454.52(b)(3). <u>CPUC should immediately: (a) request each CCA and ESP to demonstrate that it will acquire sufficient creditworthiness to support the volume of long-term RPS projects that will be necessary to meet its 2021 RPS requirements; (b) take steps to establish a procurement entity; and (c) remind all ESPs and CCAs of the consequences of failing to meet their RPS obligations, including the levy of non-compliance penalties.</u></p>

¹⁷ The Commission has addressed reliability issues under separate “Reliability/ Resource Procurement” and “Duty to Serve” categories.

Consumer Protection	Disclosure of GHG and renewables content in LSE electricity portfolios	Monitor/follow CEC rulemaking on this issue. <u>Encourage the CEC to adopt the Clean Net Short methodology.</u> The CEC will initiate a rulemaking for the power source disclosure amendments based on its October 9, 2018 staff proposal that was developed in consultation with the CARB and consideration of feedback received from the CPUC, retail suppliers and other stakeholders. The paper includes proposed operational definitions for key terms; proposed guidance for classifying renewable energy resources and for disclosing unbundled renewable energy credits; a proposed adjustment mechanism for qualifying publicly owned utilities to generate emissions adjustments for		None at this time.	
---------------------	--	---	--	--------------------	--

		qualifying GHG-free electricity; proposed new reporting requirements; and an updated power content label and reporting template.			
<u>Consumer Protection</u>	<u>Resource shuffling</u>	<u>CNS greenhouse gas accounting methodology</u>	<u>Count OOS large hydro resources as part of the system power mix rather than as a “GHG free” resource. Encourage Energy Commission to follow suit w.r.t power content labels.</u>		
Consumer Protection	<u>Price and product content disclosure: All LSE residential rates and product offerings</u>		CPUC has jurisdiction over IOUs and can proceed within their authority to direct the IOUs to create an online platform with pricing information. Among other elements, the CPUC has authority to regulate the registration of CCAs. ...	Legislation may be desirable <u>required</u> to: 1) require the data to be collected from all LSEs and 2) authorize the CPUC (or another state agency such as the CEC) to serve as the state clearinghouse for pricing and program disclosure for all LSEs 3) provide stronger enforcement authority.	The Public Utilities Code grants broad statutory authority over the investor-owned utilities, and thus has the authority to require the creation for an online platform in the case of IOUs. <u>Information regarding CCA products is publicly available.</u> The CPUC should conduct an analysis that will examine the necessary steps needed to take all necessary steps to establish, as soon as possible, <u>conduct an analysis that will examine the necessary steps to establish, as soon as possible,</u> an online platform where customers may access <u>and compare</u> information about electricity rates/prices <u>and the product content of all LSEs available to residential consumers.</u>

###