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June 17, 2013

CA Public Utilities Commission  
Energy Division  
Attention: Tariff Unit  
505 Van Ness Avenue, 4th Floor  
San Francisco, CA 94102-3298

**Re: Comments of Marin Energy Authority on Capacity-Only  
Combined Heat and Power Contracts referenced in Draft Resolution  
E-4529 (rev. 2), Alternate Draft Resolution E-4529, Draft Resolution E-  
4569 (rev. 2) and Alternate Draft Resolution E-4529**

Dear Energy Division:

Pursuant to Commission Rule 14.5; the Energy Division cover letters accompanying Draft Resolution E-4529 (rev. 2) and Draft Resolution E-4569 (rev. 2) (together, the "ED Draft Resolutions"); and the Energy Division cover letters accompanying Alternate Draft Resolution E-4529 and Alternate Draft Resolution E-4529 (together the "Peevey Draft Resolutions"),<sup>1</sup> Marin Energy Authority ("MEA") provides the following comments.

**1. The Commission Should Minimize the Overall Costs and  
Procurement via CAM under the CHP Settlement**

To the extent that a RA-only CHP contract under the CHP Settlement is the lowest cost option for overall CAM costs and procurement borne by CCAs and their customers, MEA supports using these lowest cost contracts to fill the needs under the CHP Settlement. Minimizing these CAM costs is the prudent use of ratepayer funds since CCA customers – and customers of other load serving entities ("LSEs") – bear the costs of this procurement, but CCAs (and other LSEs) are excluded from reviewing the reasonableness of the CAM costs and the value of the RA to be received by the LSE.

Based on PG&E's most recent Energy Resource Recovery Account filing, PG&E CAM costs on a per kWh basis paid by CCA customers is proposed to triple in 2014. The Commission must be cognizant of the significant impacts these charges have on CCA customers, and the significant procurement impacts CAM has on CCAs.

<sup>1</sup> The ED Draft Resolutions and the Peevey Draft Resolutions (together, the "Draft Resolutions") each relate to certain transactions among Pacific Gas and Electric Company ("PG&E"), Southern California Edison Company ("SCE") and Calpine Energy Services, L.P. ("Calpine") for resource adequacy ("RA") only combined heat and power ("CHP") contracts pursuant to the CHP Settlement approved in D.10-12-035. In each case, the contracts would be granted cost allocation mechanism ("CAM") treatment, meaning that community choice aggregators ("CCAs") would receive an allocation of RA, and CCA customers would bear the costs of the contract.

**2. MEA Notes That CAM Can Only Be Granted for System and Local Area Reliability Purposes, and the Commission Application of CAM Treatment During the GHG Target Period Would Be Subject to Legal Challenge**

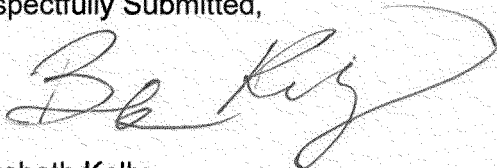
MEA reminds the Commission that CAM treatment is authorized only where a specific “system or local area reliability need” exists. (P.U. Code Section 365.1(c)(2).) As a result, any requirements under the CHP Settlement not pursuant to the Megawatt Target would not be recoverable by CAM. If CAM treatment were nevertheless granted, such a Commission Decision would be subject to legal challenge. Greenhouse Gas (“GHG”) determinations are not driven by system or local area reliability need, and therefore, imposing CAM treatment during the GHG Target Period of the CHP Settlement would violate P.U. Code Sections 365.1(c)(2), 380(b)(4), and 380(h)(5).

The Commission should not expect CCA customers to bear CHP costs after the Megawatt Target Period. As such, the Commission should take into consideration the “big picture” of the CHP Settlement as it evaluates how the contract options set forth in the Draft Resolutions could impact the Commission’s future determinations.

**3. A Rulemaking or Other Formal Proceeding Should Be Started to Address CHP Settlement Implementation Issues in a Stakeholder Process.**

As MEA has previously noted, the Advice Letter process is not appropriate for the types of implementation decisions being made under the CHP Settlement. MEA continues to recommend that CHP Settlement implementation issues be addressed in a formal stakeholder process, such as through a Commission Rulemaking.

Respectfully Submitted,



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Marin Energy Authority

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