INFORMAL REPLY COMMENTS OF THE ALLIANCE FOR RETAIL ENERGY MARKETS, DIRECT ACCESS CUSTOMER COALITION, AND JOINT COMMUNITY CHOICE AGGREGATORS ON ENERGY DIVISION'S BIOMAT PROGRAM REVIEW AND PROPOSAL
January 4, 2019
R.18-07-003

The Alliance for Retail Energy Markets[1] ("AReM"), Direct Access Customer Coalition[2] ("DACC"), and Joint CCAs[3] ("DA/CCA Parties") provide this informal reply to comments submitted December 7, 2018 on the *Bioenergy Market Adjusting Tariff (BioMAT) Program Review and Staff Proposal* ("Staff's Proposal") issued by the California Public Utilities Commission's ("Commission") Energy Division staff ("Staff") on October 30, 2018. The DA/CCA Parties focus their reply on informal comments submitted by other parties regarding the Staff's Proposal to revise the current method of cost recovery for the BioMAT program.[4]

The DA/CCA Parties' December 7th comments opposed Staff's recommendation to revise the current method of cost recovery for the BioMAT program and provided supporting legal and policy rationale. In particular, the DA/CCA Parties explained that the BioMAT program was created by statute in 2012, Senate Bill ("SB") 1122,[5] which was silent on cost recovery but required investor-owned utilities ("IOUs") to procure

[1] AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California's direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members respect to the issues addressed herein.
[2] DACC is a regulatory alliance of educational, commercial, industrial and governmental customers who have opted for direct access to meet some or all of their electricity needs. In the aggregate, DACC member companies represent over 1,900 MW of demand that is met by both direct access and bundled utility service and about 11,500 GWH of statewide annual usage.
[3] The Joint CCAs Include: California Choice Energy Authority, Marin Clean Energy, Peninsula Clean Energy Authority, Pioneer Community Energy and Sonoma Clean Power Authority.
[4] Staff's Proposal, p. 18 and Table, p. 20.
[5] Stats. 2012, Ch. 612.

electricity from certain types of bioenergy facilities under standard contract terms and conditions.[6] The Commission subsequently implemented the program with cost recovery from bundled customers, who receive the benefits of the electricity from the biomass facilities, and from customers that depart bundled service after the BioMAT contract has been executed. The DA/CCA Parties also noted that IOUs and other parties made several attempts to modify this cost recovery, but these efforts failed. In each case, the Commission reaffirmed cost recovery from bundled customers and customers that depart bundled service after the BioMAT contract has been executed.

In opening comments, the Bioenergy Association of California ("BAC") expressly echoed the DA/CCA Parties' statutory objections, explaining that modifying the current method of cost recovery "would require a change in statute and is simply not a priority at this point given how few projects are participating in the BioMAT program."[7] The Public Advocates Office also acknowledged that the BioMAT program stems from "legislative directive."[8] Thus, legislative directives are required to modify its cost recovery. The Staff's Proposal failed to identify or address these statutory issues. Moreover, while BAC stated in its comments that it "would support a non-bypassable charge to *all California ratepayers*,"[9] Staff proposed non-bypassable charges only to the *IOUs' distribution customers*,[10] which is far less expansive. BAC concluded that "focusing on ratepayer costs is little more than a red herring."[11] The DA/CCA Parties strongly concur. Beyond this, as illustrated by BAC's and the Public Advocates Office's

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[6] Public Utilities Code Section 399.20(f)(2).
[7] BAC's December 7th Comments, p. 15.
[8] Public Advocates Office's December 7th Comments, p. 14.
[9] BAC's December 7th Comments, p. 15, emphasis added.
[10] Staff's Proposal, p. 18.
[11] BAC's December 7th Comments, p. 15.

opening comments, focusing on modifications to the current cost-recovery method is misplaced at best, considering that such modifications need to follow legislative directives.

For these reasons and as detailed in the DA/CCA Parties' December 7th Comments, the Staff should remove its recommendation to modify cost recovery of the BioMAT program.