

Board of Directors Amended Meeting Agenda

August 26, 2021, 2 p.m.

City of Solana Beach | Virtual Meeting

Members of the public can watch the meeting live by clicking the Live Stream Link at:

<https://thecleanenergyalliance.org/agendas-minutes/>

or

<https://www.youtube.com/channel/UCGXJILzITUJOCZwVGpYoC8Q>

Per State of California Executive Order N-29-20, and in interest of public health and safety, we are temporarily taking actions to prevent and mitigate the effects of the COVID-19 pandemic by holding Clean Energy Alliance Joint Powers Authority meetings electronically or by teleconferencing. All public meetings will comply with public noticing requirements in the Brown Act and will be made accessible electronically to all members of the public seeking to observe and address the Clean Energy Alliance Joint Powers Authority Board of Directors.

You can participate in the meeting by e-mailing your comments to the Secretary at secretary@thecleanenergyalliance.org 1 hour prior to commencement of the meeting. If you desire to have your comment read into the record at the meeting, please indicate so in the first line of your e-mail and limit your e-mail to 500 words or less. These procedures shall remain in place during the period in which state or local health officials have imposed or recommended social distancing measures.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

BOARD COMMENTS & ANNOUNCEMENTS

PRESENTATIONS

Presentation by San Diego Gas & Electric on Flex Alerts

PUBLIC COMMENT

APPROVAL OF MINUTES

Minutes of the Regular Meeting held July 29, 2021



Consent Calendar

Item 1: Clean Energy Alliance Treasurer's Report

RECOMMENDATION

Receive and File Clean Energy Alliance Interim Treasurer's Report.

New Business

Item 2: Clean Energy Alliance Interim Chief Executive Officer Operational, Administrative and Regulatory Affairs Update

RECOMMENDATION

- 1) Receive and file Community Choice Aggregation Update Report from Interim CEO.
- 2) Receive and file Community Choice Aggregation Regulatory Affairs Report from Special Counsel.

Item 3: Approve Entering into a Long-Term Renewable Energy Agreement with Powerex

RECOMMENDATION

Approve entering into a long-term renewable energy agreement with Powerex for Portfolio Category 1 renewable energy and authorize the Interim Chief Executive Officer to execute all documents, for an amount not to exceed \$8,554,000 for the delivery term October 1, 2021 - September 30, 2031, in a form substantially as attached to the report, subject to Special Transactions Attorney approval.

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS

ADJOURN

NEXT MEETING: September 30, 2021, 2 p.m., hosted by City of Solana Beach (Virtual Meeting)

Reasonable Accommodations

Persons with a disability may request an agenda packet in appropriate alternative formats as require by the Americans with Disabilities Act of 1990. Reasonable accommodations and auxiliary aids will be provided to effectively allow participation in the meeting. Please contact the Carlsbad City Clerk's Office at 760-434-2808 (voice), 711 (free relay service for TTY users), 760-720-9461 (fax) or clerk@carlsbadca.gov by noon on the Monday before the Board meeting to make arrangements.

Written Comments

To submit written comments to the Board, please contact the Clean Energy Alliance Board Clerk at secretary@thecleanenergyalliance.org. Written materials related to the agenda that are received by 5:00 p.m. on the day before the meeting will be distributed to the Board in advance of the meeting and posted on the Authority webpage.

**Clean Energy Alliance – Board of Directors
Meeting Minutes
July 29, 2021, 2 p.m.
City of Del Mar
1050 Camino Del Mar, Del Mar, CA 92014
Teleconference Locations per State of California Executive Order N-29-20**

CALL TO ORDER:

Chair Becker called to order the regular meeting of the Clean Energy Alliance (CEA) at 2:00 p.m.

ROLL CALL: Board Member Druker, Vice Chair Bhat-Patel, Chair Becker

FLAG SALUTE: Board Member Druker led the flag salute.

BOARD COMMENTS & ANNOUNCEMENTS: None

PRESENTATIONS: None

PUBLIC COMMENT: Interim Board Clerk Susan Caputo read into the record public comment made via email by Hillary Hebert of HMH Energy, regarding two clean energy project tours, EDF Innovation Drive Microgrid project and Peregrine Energy Storage Project, taking place on August 31, 2021.

APPROVAL OF MINUTES

Minutes of the Regular Meeting held June 24, 2021

Motion by Member Druker, second by Vice Chair, to approve the minutes of the regular meeting held June 24, 2021, as submitted.

Motion carried unanimously, 3/0.

Consent Calendar

Item 1: Clean Energy Alliance Treasurer's Report

RECOMMENDATION

Receive and File Clean Energy Alliance Interim Treasurer's Report.

Item 2: Report from Clean Energy Alliance Risk Oversight Committee

RECOMMENDATION

Receive and File the Clean Energy Alliance (CEA) Risk Oversight Committee Report.

Motion by Member Druker, second by Vice-Chair Bhat-Patel, to approve the Consent Calendar.

Motion carried unanimously, 3/0.

Chair Becker introduced Casey Strong, Alternate General Counsel for Greg Stepanicich, who will be presenting Item 4.

New Business

Item 3: Clean Energy Alliance Interim Chief Executive Officer Operational, Administrative and Regulatory Affairs Update

RECOMMENDATION

- 1) Receive and file Community Choice Aggregation Update Report from Interim CEO.
- 2) Receive and file Community Choice Aggregation Regulatory Affairs Report from Special Counsel.

Interim CEO Barbara Boswell updated the Board on operational affairs including completion of mass enrollment customers; call center activity; participation rate of 93% of eligible customers; activity regarding County of San Diego consideration of joining CEA and inquiries from Oceanside and San Clemente.

Special Council Ty Tosdal updated the Board on the following regulatory affairs: Resource Adequacy (RA) Framework overhaul commenting that the current program rules require frequent adjusting causing the need for overhaul. Proposals submitted include Net Energy requirement rather than capacity requirement and Slice-of-Day that that slices days into different time frames and seasons and sets RA on that basis. Additional subjects to be addressed for development of proposal include resource counting, structural elements, need determination and allocation, hedging component and unforced capacity evaluation to be implemented for the 2024 compliance period. Regarding the Decision approving the Customer Bill Debt Plan specifically related to Covid extends moratorium on disconnections, automatic enrollment in debt plans of customers that are 60 days or more past due and not enrolled in other plans, and upcoming proceedings addressing the use of state and federal funding and pro rata allocation of partial payments between CCA programs and IOUs.

Chair Becker inquired as to the percentage of CEA customers currently enrolled in CARE-FERA program and Interim CEO Boswell responded approximately 10%.

Regarding the SDG&E GRC II Settlement, Mr. Tosdal commented that the CPUC adopted the agreement regarding various rate allocation matters and instruction to SDG&E to update its sales forecast. It is not yet clear whether the sales forecast will be updated in time for SDG&E' rates next year and further advocacy and outreach is underway. Finally, regarding Hydrogen Demonstration Application submitted by PG&E and SDG&E, the CPUC dismissed the application without prejudice and conveyed that they support the goal of further developing green or renewable hydrogen.

Chair Becker commented in reference to CEO Boswell's report that she was able to meet with the staff of four of the five Board of Supervisor members with BOS Member Jim Desmond declining a meeting.

Member Druker inquired regarding the timeline for Escondido and San Marcos to decide regarding starting a CEA program by 2024. Ms. Boswell indicated that she would ensure staff is aware of timeline.

CEA Board received and filed reports.

Item 4: Amendment No. 1 to Clean Energy Alliance Joint Powers Agreement Regarding the Term of Chair and Vice Chair

Alternate General Counsel Casey Strong presented the item and gave an overview of the steps to amend the Joint Powers Agreement.

RECOMMENDATION

Direct an amendment to the Clean Energy Alliance (CEA) Joint Powers Agreement Sections 5.1 and 5.2 changing term of Chair and Vice Chair appointment from fiscal year term to calendar year term be brought to the CEA Board at its September 30, 2021, regular meeting.

Motion by Member Druker, second by Vice-Chair Bhat-Patel, to approve recommendation.

Motion carried unanimously, 3/0.

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS: Member Druker requested that a report or comment be brought forward to illustrate how CEA has fared through IOS calling for people to shut power off and Chair Becker inquired regarding the possibility of a special meeting following the determination by the San Diego County Board of Supervisors. Ms. Boswell indicated that the should the BOS decide to move forward with CEA a special meeting would be recommended for September 6.

ADJOURN: Chair Becker adjourned the meeting at 2:34 p.m.

Susan Caputo, MMC
Interim Board Clerk



Staff Report

DATE: August 26, 2021

TO: Clean Energy Alliance Board of Directors

FROM: Marie Marron Berkuti, Interim Treasurer

ITEM 1: Clean Energy Alliance Treasurer's Report

RECOMMENDATION

Receive and File Clean Energy Alliance (CEA) Interim Treasurer's Report for July 2021.

BACKGROUND AND DISCUSSION

This report provides the Board with the following financial information through July 31, 2021:

- Statement of Financial Position (Unaudited) – Reports assets, liabilities, and financial position of the CEA as of July 31, 2021.
- Statement of Revenues, Expenses and Changes in Net Position (Unaudited) for the one month ended July 31, 2021.
- Budget to Actuals Comparison Schedule (Unaudited) – Reports actual revenues and expenditures compared to the amended budget as of July 31, 2021.
- Budget Reconciliation to Statement of Revenues, Expenses and Changes in Net Position
- List of Payments Issued – Reports payments issued for July 2021.

As of July 31, 2021, liabilities represent invoices received for services, but not yet paid. The noncurrent accounts payable are amounts due to the cities of Carlsbad, Del Mar and Solana Beach for the \$150,000 advance made by each member agency for start-up costs and services provided to CEA for the period December 2019 to June 2020. These invoices are scheduled to be paid three years from the time CEA is operational.

JULY 31, 2021 REPORTS

STATEMENT OF FINANCIAL POSITION (Unaudited)

**CLEAN ENERGY ALLIANCE
STATEMENT OF NET POSITION
As of July 31, 2021**

ASSETS

Current Assets

Cash Operating Account	\$ 603,379.49
Lockbox Account	1,268,380.32
A/R Customers	6,293,892.30
A/R NEMS	187,065.37

Total Current Assets 8,352,717.48

Noncurrent Assets

Deposits	
CCA Bond	147,000.00
CAISO Collateral Deposit	500,000.00
SDG&E Collateral Deposits	585,000.00

Total Noncurrent Assets 1,232,000.00

Total Assets 9,584,717.48

LIABILITIES

Current Liabilities

Accounts Payable	704,444.93
Accrued Liabilities	15,170.97
Electric Energy Surcharge	31,111.86

Total Current Liabilities 750,727.76

Noncurrent Liabilities

Due to Member Agencies	
Due to City of Carlsbad	186,571.79
Due to City of Del Mar	151,892.97
Due to City of Solana Beach	165,552.69
Total Due to Member Agencies	<u>504,017.45</u>

JPMorgan Revolving Credit Agreement 5,250,000.00

Total Noncurrent Liabilities 5,754,017.45

Total Liabilities 6,504,745.21

NET POSITION

Unrestricted (deficit) 3,079,972.27

Total Net Position \$ 3,079,972.27

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION (Unaudited)

**CLEAN ENERGY ALLIANCE
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
For the one month ended July 31, 2021**

Operating Revenues	\$ 3,414,223.18
Operating Expenses	
Power Supply	\$ 189,631.83
Data Manager	70,610.00
Staffing/Consultants	10,500.00
Legal Services	22,106.25
Professional Services	43,191.58
Software & Licenses	298.00
Membership Dues	28,399.50
Print/Mail Services	17,615.09
Miscellaneous	283.29
Total Operating Expenses	382,635.54
Operating Income (Loss)	3,031,587.64
Non-Operating Expenses	
Interest Expense	(2,620.83)
Change in Net Position	3,028,966.81
Net Position at beginning of period	51,005.46
Net Position at end of period	\$ 3,079,972.27

BUDGET TO ACTUALS COMPARISON SCHEDULE

CEA received its first customer revenue in June 2021 and revenue has been increasing as CEA ramps up its service to customers.

At its January 21, 2021 board meeting, the CEA Board approved a Credit Agreement with JPMorgan for \$6MM to provide start-up funding for cash flow needs and a line of credit should the need arise. Drawdowns through June 30, 2021 equaled \$5MM. A drawdown was made on July 1, 2021 in the amount of \$250,000 for a total borrowing of \$5,250,000.

At its June 24, 2021 board meeting, the CEA Board adopted the Fiscal Year (FY) 2021/22 budget approving \$51,547,500 in total operating expenses and uses of funds. Through July 2021, \$385,256.37 has been expended, leaving \$51,162,243.63.

The Budget to Actuals Comparison Schedule is shown on the next page.

CLEAN ENERGY ALLIANCE
BUDGET TO ACTUALS COMPARISON SCHEDULE
For the one month ended July 31, 2021

	ADOPTED BUDGET	ACTUALS	VARIANCE
Operating Revenues			
Energy Sales	\$ 53,573,000.00	\$ 3,414,223.18	\$ 50,158,776.82
Total Operating Revenue	53,573,000.00	3,414,223.18	50,158,776.82
Operating Expenses			
Power Supply	48,700,000.00	189,631.83	48,510,368.17
Data Manager	811,000.00	70,610.00	740,390.00
Staffing/Consultants	235,700.00	10,500.00	225,200.00
Legal Services	510,000.00	22,106.25	487,893.75
Professional Services			
Technical	283,200.00	23,600.00	259,600.00
Schedule Coordinator	155,400.00	11,700.00	143,700.00
Marketing	115,000.00	7,891.58	107,108.42
SDGE Service Fees	270,000.00	-	270,000.00
Other Professional Services	25,000.00	-	25,000.00
	848,600.00	43,191.58	805,408.42
Audit Services	25,000.00	-	25,000.00
Software & Licenses	9,100.00	298.00	8,802.00
Membership Dues	116,000.00	28,399.50	87,600.50
Print/Mail Services	43,100.00	17,615.09	25,484.91
Advertising	15,000.00	-	15,000.00
Insurance	7,000.00	-	7,000.00
Bank Fees	2,000.00	-	2,000.00
Miscellaneous	-	283.29	(283.29)
Total Operating Expenses	51,322,500.00	382,635.54	50,939,864.46
Operating Income (Loss)	2,250,500.00	3,031,587.64	(781,087.64)
Non-Operating Expenses			
Interest Expense	225,000.00	2,620.83	222,379.17
Other Sources and Uses			
Sources			
JPMorgan Revolving Credit Agreement	-	250,000.00	(250,000.00)
Total Sources	-	250,000.00	(250,000.00)
Net Increase (Decrease) in Available Fund Balance	\$ 2,025,500.00	\$ 3,278,966.81	\$ (1,253,466.81)
	-		
Total Operating and Non-Operating Expenses and Uses of Funds	\$ 51,547,500.00	\$ 385,256.37	\$ 51,162,243.63

BUDGET RECONCILIATION TO STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

**CLEAN ENERGY ALLIANCE
BUDGET RECONCILIATION TO STATEMENT OF
REVENUES, EXPENSES, AND CHANGES IN NET POSITION
For the one month ended July 31, 2021**

Net Increase (Decrease) in Available Fund Balance per Budgetary Comparison Schedule	\$ 3,278,966.81
Adjustments needed to reconcile to the changes in Net Position in the Statement of Revenues, Expenses, and Changes in Net Position	
Subtract Advances-JPMorgan Revolving Credit Agreement	(250,000.00)
Change in Net Position	<u>\$ 3,028,966.81</u>

LIST OF PAYMENTS ISSUED

The report on the following page provides the detail of payments issued by CEA for July 2021. All payments were within approved budget.

**Clean Energy Alliance
List of Payments Issued July 2021**

Date	Via	Vendor	Description	Amount
07/01/21	WIRE	JPMorgan	1-Jun-2021 30-Jun-2021 30 days \$500,000.00 3.700000%	\$ 1,541.67
07/01/21	WIRE	JPMorgan	04/01/21-06/30/21 unutilized fee	7,256.25
07/01/21	WIRE	The Energy Authority (TEA)	Scheduling Coordinator & CRR Management Services/May2021	19,900.00
07/01/21	ACH	Tripepi, Smith & Associates, Inc.	May 2021 Other-Video	2,180.75
07/01/21	ACH	Richards, Watson & Gershon	April 2021 General Counsel Svcs	1,842.50
07/01/21	ACH	Hall Energy Law PC	May 2021 Energy Procurement Counsel Svcs	5,712.00
07/01/21	ACH	Keyes & Fox LLP	May ERRA Forecast Counsel Services	5,888.50
07/01/21	ACH	Tosdal APC	May 2021 Regulatory Counsel Svcs	7,214.50
07/01/21	ACH	Tripepi, Smith & Associates, Inc.	May 2021 Retainer	9,223.75
07/01/21	ACH	Bayshore Consulting Group, Inc	May CEO Services	12,577.34
07/01/21	ACH	Neyenesch Printers	Invoices through 06/28/21	20,409.51
07/01/21	ACH	Pacific Energy Advisors, Inc	May 2021 Technical Consulting Svcs	23,600.00
07/01/21	WIRE	Pattern SC Holdings LLC	Refund Exclusivity Deposit	75,000.00
07/02/21	ACH	Marie Marron Berkuti	Sept - Feb & April	17,279.10
07/02/21	ACH	Marie Marron Berkuti	Mar 2021 Interim Treasurer/CFO Services	2,891.99
07/02/21	ACH	The Energy Authority (TEA)	06/11/20-06/17/21	94,760.10
07/06/21	WIRE	JPMorgan	4-Jun-2021 5-Jul-2021 32 1,500,000.00 3.700000%	4,933.33
07/06/21	WIRE	JPMorgan	7-Jun-2021 6-Jul-2021 30 3,000,000.00 3.700000%	9,250.00
07/09/21	ACH	USPS	07/09/21 Mailing	5,473.77
07/12/21	WIRE	The Energy Authority (TEA)	06/18/21-06/23/21	203,351.36
07/12/21	ACH	OneStream Networks, LLC	June Telephone	313.09
07/12/21	ACH	USPS	07/12/21 Mailing	112.64
07/19/21	WIRE	The Energy Authority (TEA)	06/24/21-06/30/21	310,867.61
07/19/21	WIRE	California Choice Energy Authority-	September 2021 - RA	106,500.00
07/20/21	ACH	Bolt Energy Marketing, LLC	June 2021 Invoice Resource Adequacy Confirmation Letters	74,750.00
07/20/21	WIRE	Direct Energy	Jun 2021 PWR-CAP	157,000.00
07/20/21	WIRE	SDG&E	June 2021 RA Sales	623,733.00
07/21/21	ACH	USPS	07/21//21 Mailing	660.61
07/22/21	ACH	USPS	07/22/21 Mailing	155.61
07/26/21	ACH	The Energy Authority (TEA)	07/01/21-07/08/21	134,496.71
07/27/21	RCB	River City Bank	Bank Analysis Fee-06/21	31.87
07/28/21	ACH	Braun Blaising Smith Wynne	June 2021	2,729.65
07/28/21	ACH	The Energy Authority (TEA)	June 2021 Scheduling Coordinator & CRR Management Services	4,900.00
07/28/21	ACH	Hall Energy Law PC	Jun 2021 Energy Procurement Counsel Svcs	6,069.00
07/28/21	ACH	Keyes & Fox LLP	Jun ERRA Forecast Counsel Services	13,987.25
07/28/21	ACH	Pacific Energy Advisors, Inc	Jun 2021 Technical Consulting Svcs	23,600.00
07/28/21	ACH	Calpine	May 2021 Services - 50,495 meters @ \$1.00	50,495.00
07/28/21	ACH	Tripepi, Smith & Associates, Inc.	Jun 2021 Other - Video	247.50
07/28/21	ACH	Braun Blaising Smith Wynne	May 2021	1,660.94
07/28/21	ACH	Richards, Watson & Gershon	May 2021 General Counsel Svcs	3,015.00
07/28/21	ACH	Tosdal APC	Jun 2021 Regulatory Counsel Svcs	6,897.50
07/28/21	ACH	Tripepi, Smith & Associates, Inc.	Jun 2021 Retainer	9,223.75
07/28/21	ACH	Calpine	June 2021 Services - 68,698 meters @ \$1.00	68,698.00
07/28/21	ACH	Bayshore Consulting Group, Inc	Jun CEO Services	12,041.25
07/28/21	ACH	USPS	07/26/21 Mailing	808.76
			Total July Payments-Operating Account	\$ 2,143,281.16
07/19/21	WIRE	Shell Oil North America	May 2021 Power Sale	\$ 1,474,172.48
			Total July Payments-Lockbox Account	\$ 1,474,172.48

FISCAL IMPACT

There is no fiscal impact associated with these items.



Staff Report

DATE: August 26, 2021

TO: Clean Energy Alliance Board of Directors

FROM: Barbara Boswell, Interim Chief Executive Officer

ITEM 2: Clean Energy Alliance Operational, Administrative and Regulatory Affairs Update

RECOMMENDATION

- 1) Receive and File Operational and Administrative Update Report from Interim CEO.
- 2) Receive Community Choice Aggregation Regulatory Affairs Report from Special Counsel.

BACKGROUND AND DISCUSSION

This report provides an update to the Clean Energy Alliance (CEA) Board regarding the status of operational, administrative, and regulatory affairs activities.

OPERATIONAL UPDATE

CEA completed mass enrollment of its customers in June 2021, with a handful of clean up items needed. On an on-going basis, as customers establish new electric service within CEA territory, they will be automatically enrolled with CEA and receive two notices notifying them of the enrollment and providing power supply options and opt-out information.

Expansion of Clean Energy Alliance

CEA staff continues to work with County of San Diego (County) staff as they prepare the analysis of options to the county for bringing community choice energy (CCE) to the unincorporated County residents and businesses. The results of the analysis will be presented to the County Board of Supervisors at its meeting August 31, 2021. Should the decision of the Board of Supervisors be to join Clean Energy Alliance, a resolution will be brought to the next CEA Board meeting to consider approval of adding the County as a CEA member. CEA staff and consultants would then begin preparing the Amended Implementation Plan that will be required to be submitted to the California Public Utilities Commission by January 1, 2022, for a 2023 CCE implementation.

Programs Update

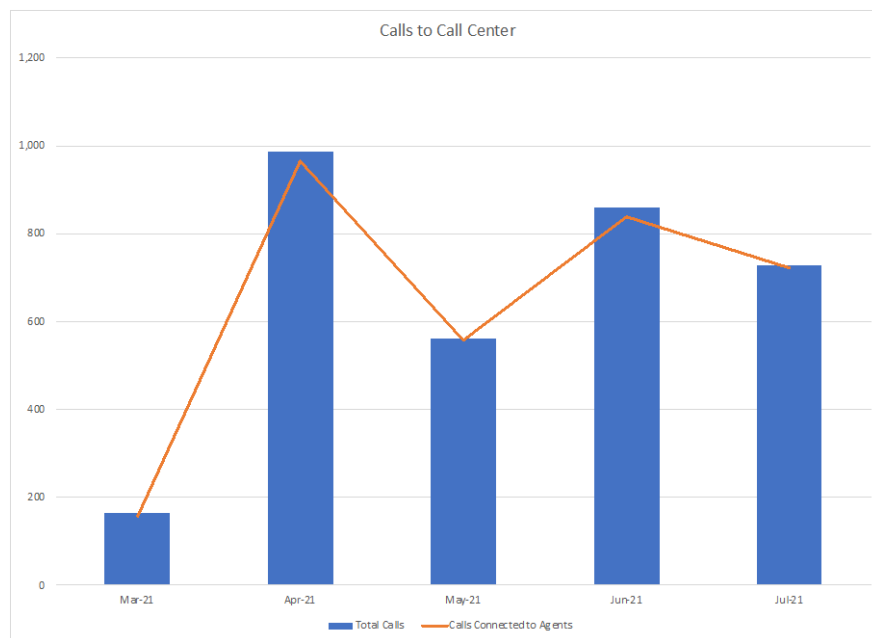
CEA staff has been investigating opportunities to offer programs to customers with no outflow of cash to CEA and has identified a program geared towards residential customers and another towards commercial/municipal customers.

The first is a partnership with OhmConnect that provides smart thermostats to residential customers free of charge while encouraging customers to reduce usage during peak demand times and Flex Alerts. CEA will partner for purposes of marketing and program enrollment information. Driving customer energy usage to reduce during peak times lowers CEA's exposure to peak energy pricing and has potential for reducing overall power supply costs, while also reducing risk of blackouts.

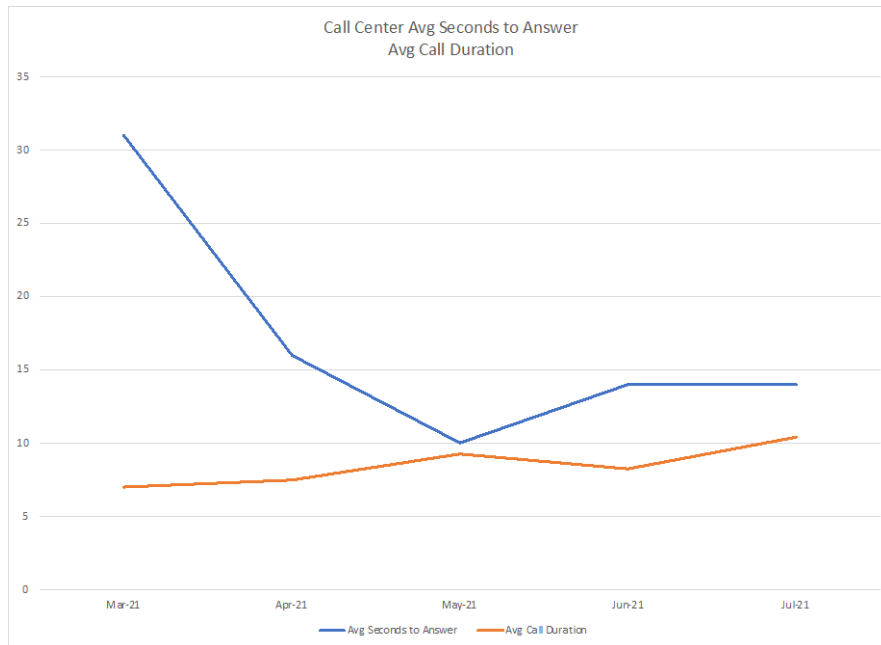
CEA is also issuing a request for proposal (RFP) seeking interested parties to provide solar/battery facilities to our commercial and municipal customers at no cost to the customer or CEA, with the goal of reducing energy costs to the customers and increasing grid reliability and reducing power supply costs to CEA. The RFP will be released by the end of August.

Call Center Activity

The chart below reflects call activity to CEA's call center through July 31, 2021:

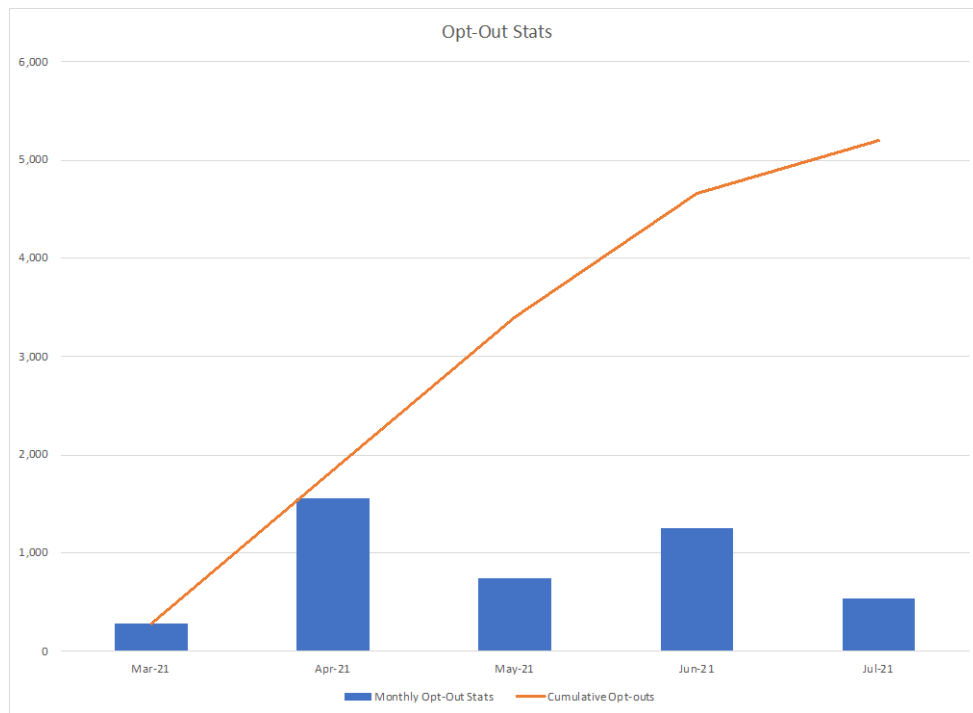


The call center saw a drop off in activity, which is expected as enrollments have now been completed, and final notices have now gone out.



Calls are being answered within 14 seconds on average, with an average duration of approximately 10 minutes.

The chart below reflects the monthly and cumulative opt-outs for CEA.



Opt-out requests have dropped to their lowest since March, with CEA's overall participation rate at 92.2%.

220 customers have opted up to Green Impact, 100% renewable energy and 85 customers have opted down to Clean Impact.

Return to In-Person Board Meetings

Governor Newsom’s Executive Order N-29-20 temporarily amended the Brown Act to allow public agencies to hold remote meetings without in-person public participation since last March. With the Governor’s Beyond the Blueprint plan to reopen California, as well as Executive Order N-08-21, Executive Order N-29-20 will be lifted on September 30, 2021. CEA’s in-person Board meetings will resume with its regular meeting on October 28, 2021, scheduled to be hosted by the City of Del Mar. The Brown Act rules related to teleconference meetings will be back in effect. A Board Member may still meet remotely after September 30, but the agenda would need to identify the remote location of the Board member, the public would have a right to participate in the meeting at the Board member’s remote location, and an agenda would need to be timely posted at each remote location. Staff will coordinate with the member agencies regarding hosting the in-person CEA meetings.

Resource Adequacy Compliance

As a load serving entity serving customers in 2021, CEA has an obligation to procure Resource Adequacy (RA), based on quantities allocated by CPUC and California Independent System Operator (CAISO). RA procurements do not supply any energy to CEA or its customers, rather it commits the seller to be available to supply energy to the grid if called upon by the CAISO and reduce the possibility of outages. This process is key to ensuring grid reliability. CEA successfully procured all its 2021 - 2023 RA requirements and is fully compliant with its RA obligation. CEA is in progress of procuring its 2022 - 2024 RA obligations, which are required to be completed by October 2021.

Contracts \$50,000 - \$100,000 entered into by Interim Chief Executive Officer

VENDOR	DESCRIPTION	AMOUNT
None		

REGULATORY UPDATE

CEA’s regulatory attorney, Ty Tosdal, will provide an update to the Board on current regulatory activities (Attachment A).

FISCAL IMPACT

There is no fiscal impact by this action.

ATTACHMENTS

Attachment A – Tosdal APC Regulatory Update Report

Clean Energy Alliance Board Update

August 26, 2021

The logo for Tosdal Energy & Environmental Law is displayed on a yellow rectangular background. It features the word "TOSDAL" in a large, bold, dark blue sans-serif font. A white circle is positioned between the "T" and "S". Below "TOSDAL", the words "ENERGY & ENVIRONMENTAL LAW" are written in a smaller, dark blue, all-caps sans-serif font.

T • SDAL
ENERGY & ENVIRONMENTAL LAW

Ty Tosdal
Tosdal APC



Overview

- **Executive Order and Emergency Reliability ([R. 20-11-003](#))**
- **Financial Security Requirements ([R. 03-10-033](#))**
- **Customer Bill Debt Due to COVID-19 ([R. 21-02-014](#))**
- **SDG&E ERRA Forecast 2022 ([A. 21-04-010](#))**



Executive Order and Emergency Reliability

- Governor Newsom issued an [executive order](#) proclaiming a state of emergency due to climate change on July 30.
- Recognizes dangers to power generation and delivery from extreme heat and fire.
 - Eg) Hydropower from Oregon is down 4,000 MW.
- Instructs CPUC to take action to increase clean energy supply and reduce demand.
- CPUC taking action in emergency reliability proceeding.
 - Reducing time to bring projects online.
 - RA and other procurement rule changes.
 - Demand response and voluntary usage reductions.



Financial Security Requirements

- Financial Security Requirements are a form of collateral, similar to a bond, that protect the utility against a mass involuntary return of CCA customers.
 - Administrative costs
 - Procurement costs
- Failure of Western Community Energy has triggered a mass involuntary return for the first time in CCA history.
 - SCE is seeking \$14.7 million from Western for customer reentry fees under this framework, in addition to millions owed under separate contracts.
- Utilities and Public Utilities Commission staff are reevaluating some of the inputs and methods used to determine FSR amount.
- SDG&E made recent changes to its inputs that we are examining, although CEA's FSR remains at the minimum \$147,000 level.



Customer Bill Debt due to COVID-19

- IOUs are required to enroll eligible residential and commercial customers in a 24-month amortization plan by September 30 for payment arrears.
 - Allocation of partial payments
 - Customers returning with arrearages
 - Billing transparency
 - Distribution of federal and state CAPP funding



SDG&E ERRRA Forecast 2022

- Major issue last year was the use of an outdated sales forecast for 2021 that did not incorporate departing load.
- Administrative law judge amended scoping order for 2022 to include updated sales forecast this year and in future years that incorporate departing load.
- New testimony from SDG&E in that proceeding acknowledges that an updated sales forecast will be provided in November.
- Work remains to examine the methodology used and determine whether it is reasonable.



Staff Report

DATE: August 26, 2021

TO: Clean Energy Alliance Board of Directors

FROM: Barbara Boswell, Interim Chief Executive Officer

ITEM 3: Approve Entering into a Long-Term Renewable Energy Agreement with Powerex

RECOMMENDATION

Approve entering into a long-term renewable energy agreement with Powerex for Portfolio Category 1 renewable energy and authorize the Interim Chief Executive Officer to execute all documents, for an amount not to exceed \$8,554,000, for the delivery term October 1, 2021 - September 30, 2031, in a form substantially as attached, subject to Special Transactions Attorney approval.

BACKGROUND AND DISCUSSION

In October 2015, the State of California enacted Senate Bill 350, also known as The Clean Energy and Pollution Reduction Act of 2015 (the Act). The Act established new clean energy, clean air, and greenhouse gas reduction goals for the state. Specifically, the Act requires that all load serving entities, including Community Choice Aggregators (CCAs) such as Clean Energy Alliance (CEA), enter into long-term renewable energy contracts, defined as 10-years or longer.

The agreement with Powerex meets the requirements of SB 350, as well as meets CEA's JPA goal of focusing on Portfolio Category 1 renewable energy. CEA's long-term contracting requirement begins in the year of launch, 2021, and this agreement will fill a portion of CEA's need for 2021, as well as through September 30, 2031.

CEA plans to layer in additional long-term renewable energy by issuing a solicitation in the next few months.

FISCAL IMPACT

Funds for the long-term renewal power purchase agreement will come from revenue generated from CEA customers and costs are within the assumed costs in the CEA pro forma that was used to set CEA rates.

ATTACHMENTS

Draft Agreement between Powerex Corp and Clean Energy Alliance for Long-Term Renewable Energy



**AGREEMENT BETWEEN
Powerex Corp. * and Clean Energy Alliance
Powerex Deal No. HZC585**

This document (“**Confirmation**”) confirms the agreement reached between Powerex Corp.* (“**Powerex**” or “**Seller**”) and Clean Energy Alliance, a California joint powers authority (“**CEA**” or “**Purchaser**”) regarding the sale and purchase of the Product in accordance with the WSPP, Inc. Agreement in effect on the Reference Date (as amended and supplemented by the Master Confirmation and Netting Agreement between the Parties dated June 29, 2021, the “**WSPP Agreement**”) and Service Schedule R thereto, as amended and supplemented by this Confirmation under the following terms and conditions. Consistent with Section 35 of the WSPP Agreement, this transaction and Confirmation, together with all other transactions and Confirmations (as defined under the WSPP Agreement) between the Parties and the WSPP Agreement, form a single integrated agreement and are not separate contracts.

Seller: Powerex

Purchaser: CEA

Transaction: This Transaction is for Purchaser to procure Bundled Renewable Energy, all in accordance with the terms and conditions of this Confirmation.

Vintage (Generation Term): For the purposes of this Confirmation and the Bundled Renewable Energy to be procured pursuant hereto, the generation term for Bundled Renewable Energy is October 1, 2021, to September 30, 2031, inclusive (“**Generation Term**”).

Product: “**Bundled Renewable Energy**”, which is comprised of energy generated by the Project(s) and the associated Green Attributes.

Bundled Renewable Energy will be considered a Firm Bundled REC product for the purposes of Service Schedule R, as amended hereby.

Environmental Attributes: All Attributes.

Applicable Program: RPS, as defined herein.

Delivery: The Parties recognize that a schedule of energy to the CAISO Balancing Authority is a delivery to the CAISO and not directly to Purchaser. Scheduling Energy to the CAISO Balancing Authority shall constitute Delivery of Bundled Renewable Energy to Purchaser, provided the WREGIS Certificates evidencing the Green Attributes comprised in the Bundled Renewable Energy are Delivered to Purchaser as provided in this Confirmation.

Energy

Purchaser elects to take Delivery of the energy by either Delivery Method 1 (Category 1 Product) or Delivery Method 2 (Category 2 Product), or both, as specified under the “Contract Quantity” section. The Parties intend that the Product as procured by Purchaser and as Delivered by Seller in accordance with (i) Delivery Method 1 will meet the Category 1 Product Eligibility Requirements

and (ii) Delivery Method 2 will meet the Category 2 Product Eligibility Requirements.

Green Attributes

Green Attributes to be Delivered to Purchaser hereunder shall be represented by WREGIS Certificates. The transfer of WREGIS Certificates through WREGIS shall be deemed to transfer title to all of the Green Attributes associated with the Product.

Due to WREGIS Timelines, completion of Delivery of the Green Attributes may occur after the Generation Term or Generation Sub-term, as applicable, however such delay shall not constitute a failure to Deliver the WREGIS Certificates by Seller. Seller will match WREGIS Certificates with e-Tags prior to transferring WREGIS Certificates to Purchaser (unless there are no e-Tags associated with the Energy Delivery).

Transfer Date: As per Section R-3.2.1 of Service Schedule R.

Contract Quantity: During the Generation Term, Purchaser shall procure a minimum of [REDACTED] MWh up to a maximum of [REDACTED] MWh of Bundled Renewable Energy from Seller (“**Contract Quantity**”) to be Delivered by Seller in accordance with the Delivery Method Election elected by Purchaser in the table below:

Delivery Method Election

	<u>Quantity (MWh)</u>	<u>Delivery Method / Category Product</u>
<input checked="" type="checkbox"/>	Minimum [REDACTED] MWh up to a Maximum [REDACTED] MWh	“ Delivery Method 1 ” – (Category 1 Product) – Energy directly Delivered from the Project on an hourly, sub-hourly or real-time basis to the Delivery Point without substituting electricity from another source (“ Project Energy ”).
<input type="checkbox"/>	-	“ Delivery Method 2 ” – (Category 2 Product) – Energy generated by a source other than the Project, Delivered to the Delivery Point in substitution for, and in an amount matching the amount of, Project Energy (“ Substitute Energy ”).

If both boxes are checked, Purchaser is deemed to have selected a combination of Delivery Method 1 and Delivery Method 2 as detailed above.

Energy Delivery Profile

The Energy shall be Delivered by Seller in compliance with the applicable minimum and maximum amounts as set forth in the table below. For greater certainty, (i) Seller’s delivery obligation in the first Generation Sub-term (October 1 through December 31, 2021) shall be based on delivery of the minimum amount for that period with delivery of any additional quantity up to the maximum amount specified for such period at Seller’s sole discretion and (ii) where both a minimum annual amount and three year aggregate amount is specified below, the [REDACTED] MWh difference between the sum of the minimum annual quantities and applicable three year aggregate quantity for each three year period specified below may be

delivered by Seller at Seller's sole discretion in any one or more Generation Sub-terms comprising such three year period.

<u>Generation Sub-term</u>	<u>Category 1 Product (MWh)</u>		<u>Category 2 Product (MWh)</u>	
	<i>Minimum</i>	<i>Maximum</i>	<i>Minimum</i>	<i>Maximum</i>
October 1, 2021, - December 31, 2021	██████	up to ██████	-	-
January 1, 2022, - December 31, 2022	██████ <i>annual</i>	██████	-	-
January 1, 2023, - December 31, 2023	██████	3 year <i>aggregate</i>	-	-
January 1, 2024, - December 31, 2024	3 year <i>aggregate</i>		-	-
January 1, 2025, - December 31, 2025	██████ <i>annual</i>	██████	-	-
January 1, 2026, - December 31, 2026	██████	3 year <i>aggregate</i>	-	-
January 1, 2027, - December 31, 2027	3 year <i>aggregate</i>		-	-
January 1, 2028, - December 31, 2028	██████ <i>annual</i>	██████	-	-
January 1, 2029, - December 31, 2029	██████	3 year <i>aggregate</i>	-	-
January 1, 2030, - December 31, 2030	3 year <i>aggregate</i>		-	-
January 1, 2031, - September 30, 2031	██████	██████	-	-

Seller may schedule or cause to be scheduled the Energy during any or all hours in the Generation Term.

Contract Price: In this Confirmation,

“CAISO Credit” means the Energy Price paid by the CAISO for the Energy.

“Category 1 GA Price”: means ██████/MWh for each MWh of the Category 1 Product Delivered hereunder

“Category 2 GA Price”: N/A.

“Energy Price” means, for each MWh of Energy delivered, the applicable Locational Marginal Price, as defined in the CAISO Tariff and published by CAISO, at the CAISO Point where CAISO models the physical injection of such Energy.

“GA Price” means the Category 1 GA Price or the Category 2 GA Price, as applicable.

For each MWh of Category 1 Product or Category 2 Product Delivered to Purchaser, the **Contract Price** shall consist of the sum of the Energy Price and the applicable GA Price, less the CAISO Credit, calculated as follows:

$$\text{Contract Price} = (\text{Energy Price} + \text{applicable GA Price}) - \text{CAISO Credit}$$

Facilities: Bundled Renewable Energy procured under this Confirmation will be generated by one or more of the facilities listed in Schedule “A”. For the purposes of Delivering Category 1 Product, Seller may add additional facilities from time to time by providing Purchaser with an updated Schedule “A” (with additional facilities listed in Part B) which shall replace the existing Schedule “A” to this Confirmation *provided* that such facility must be added by Seller prior to the generation and delivery of Project Energy from such facility pursuant to this Confirmation *and provided further* each such additional facility is a Carbon Free Source at the time it is added to Schedule “A” by Seller.

Delivery Point: Seller may deliver Energy to any CAISO Point. For greater certainty, in the event an e-Tag includes more than one CAISO Point, the Delivery Point shall be the last point of delivery (POD) or “sink” CAISO Point on such e-Tag.

Scheduling and Tagging:

Scheduling

Seller shall schedule or cause to be scheduled, at its sole discretion, Energy to the CAISO Balancing Authority on a day-ahead, hour-ahead, sub-hourly and/or real-time basis.

All Energy shall be scheduled in accordance with Generally Accepted Utility Practice.

E-tagging

Seller shall generate all e-Tags required to schedule the Energy to the Delivery Point and such e-Tags will be in accordance with generally accepted e-tagging practices and standards in the WECC region. For greater certainty, no e-Tags will be generated for Deliveries from a facility within the CAISO Balancing Authority. Each e-Tag will include the following, depending on the Category Product:

<u>E-Tag Location</u>	<u>Category 1 Product</u>	<u>Category 2 Product</u>
Last CA (Control Area) under ‘Physical Path’	CAISO Balancing Authority	CAISO Balancing Authority
First ‘POR/ POD’ under ‘Physical Path’	A single Project	<i>N/A</i>
Last or ‘sink’ PSE (Purchasing Selling Entity) under ‘Physical Path’	-	-
Misc(Token/Value) field	RPS ID for that Project	One or more, up to a maximum of ten, of the RPS ID numbers for facilities listed in Schedule “A”.
Comment field	<i>No comment required</i>	<i>No comment required</i>

If a “sink” PSE is not specified above by Purchaser, Seller may, and Purchaser authorizes Seller to, use a sink PSE (including its own) consistent with generally accepted e-tagging practices and standards in the WECC region (including CAISO deliveries).

Tracking System: WREGIS.

For Category 1 Product, WREGIS Certificates will be transferred to Purchaser following applicable WREGIS Timelines. For Category 2 Product, WREGIS Certificates will be transferred to Purchaser following the later of (i) applicable WREGIS Timelines and (ii) the month after delivery of associated Substitute Energy. WREGIS Certificates will be transferred to Purchaser’s WREGIS account as specified in Purchaser’s WREGIS Notice (as defined below). Purchaser shall provide Seller with written notice specifying Purchaser’s WREGIS account name and number for transfer of WREGIS Certificates hereunder (“**WREGIS Notice**”). In the event Seller wishes to transfer WREGIS Certificates to Purchaser’s WREGIS account and Seller has not received the WREGIS Notice from Purchaser, Seller will provide written notice to Purchaser of the quantity of WREGIS Certificates (and associated Category Product) available for transfer by Seller pursuant to this Confirmation and (i) such quantity will be considered Delivered for all purposes of this Confirmation, (ii) Seller will retain such WREGIS Certificates in its own WREGIS account until such time as it receives the WREGIS Notice from Purchaser, and promptly thereafter Seller will transfer the WREGIS Certificates, and (iii) to the extent any delay in transferring WREGIS Certificates as a result of the foregoing causes a Category Product not to meet or satisfy the applicable Eligibility Requirements or any element or component thereof, such failure shall constitute a Purchaser Eligibility Failure.

In the event WREGIS changes the WREGIS Operating Rules in effect on the Reference Date (or its application thereof) such that WREGIS Certificates cannot be transferred to Purchaser as required under this Confirmation, the Parties will negotiate in good faith using commercially reasonable efforts to revise or amend this Confirmation to the extent possible to enable the transfer of WREGIS Certificates to Purchaser.

Invoicing and Payment:

For the purposes of this Transaction, invoicing and payment for Energy and Green Attributes Delivered to Purchaser shall be in accordance with Section 9 of the WSP Agreement as modified by this Confirmation, including below under the heading “Custom Invoicing and Settlement”. The CAISO Credit will be reflected in the Energy invoice. The Parties acknowledge that invoicing and payments for the Energy may not occur in the same month as invoicing and payments for the Green Attributes associated with such Energy. Seller shall be entitled to retain for its account all revenues received from the CAISO associated with the delivery of Energy to the CAISO Balancing Authority.

Custom Invoicing and Settlement

Purchaser shall pay [REDACTED] installments as follows:

(a) [REDACTED]

[REDACTED]

(b) [REDACTED]

(c) [REDACTED]

(d) [REDACTED]

(e) [REDACTED]

(f) [REDACTED]

Purchaser agrees to pay Seller's invoice prepared in accordance with this Confirmation within the time provided in the WSPP Agreement.

Seller's invoices may be delivered by email from Seller to Purchaser.

Change in Law:

Regulatorily Continuing, provided that Seller's obligations to make reasonable efforts or commercially reasonable efforts to obtain compliance with a Change in Law (or "change in law") shall not require Seller to incur any costs and expenses related thereto or suffer any losses in connection therewith, whether direct or indirect, in excess of the limits set forth in Section 9 of the Special Conditions. Subject to the above noted agreed maximum amount, provided that Seller is making reasonable efforts or commercially reasonable efforts, as applicable, to obtain compliance with any Change in Law (or change in law), any non-compliance shall not be an Event of Default and, to the extent such Change in Law (or change in law) results in a Failing Category Product hereunder, Section 2 of the Special Conditions shall apply and be the exclusive remedy of the Parties (and all other damages or remedies are waived).

SPECIAL CONDITIONS

1. Additional Definitions and Modifications. The defined terms set forth in Schedule “B” and the amendments and modifications to the WSPP Agreement and Service Schedule R set forth in Schedule “C” shall apply to this Confirmation.
2. Eligibility Requirements. If, at any time, a Category Product does not meet the applicable Eligibility Requirements (a “**Failing Category Product**”), it shall not be an Event of Default for the purposes of the WSPP Agreement. If a Failing Category Product does not meet or satisfy the Eligibility Requirements for any reason other than a Purchaser Eligibility Failure, a Seller Eligibility Failure or Uncontrollable Force, the following shall apply:
 - (a) the Parties will negotiate in good faith using commercially reasonable efforts to revise or amend this Confirmation as appropriate so that the Failing Category Product meets or satisfies the applicable Eligibility Requirements in a manner consistent with the intent of the Parties as set out in this Confirmation.
 - (b) If the Parties are unsuccessful in revising or amending the Confirmation as provided in (a) above:
 - (i) the Parties will have no liability to each other for any failure to schedule, Deliver or Accept the Failing Category Product that is not then Delivered (provided, for greater certainty, that Purchaser shall remain liable for any Green Attributes associated with Energy already Delivered to Purchaser); and
 - (ii) either Party may, by written notice to the other, immediately terminate the Transaction and this Confirmation, without penalty, termination payment or liability of either Party to the other except as provided in sub-paragraph (i) above.
3. Failure to Deliver/Accept. Notwithstanding the Contract Price being expressed as the sum of the Energy Price (less CAISO Credit) and the applicable GA Price, the calculation of damages for failure to Deliver or Accept the Product (or any component thereof) shall be calculated in accordance with Section R-9.1.2(a), subject to the modifications set forth herein. For greater certainty: (i) any quantity of Category Product that does not meet or satisfy the applicable Eligibility Requirements as a result of a Seller Eligibility Failure shall be considered a failure to Deliver by Seller, and (ii) Seller shall not be liable to Purchaser for any quantity of Category Product that does not meet or satisfy the applicable Eligibility Requirements as a result of a Purchaser Eligibility Failure. If WREGIS Certificate(s) are not transferred as required by this Confirmation solely as a result of an error or omission of WREGIS or the CAISO, it shall not be a failure to Deliver or Accept, however the Parties shall use commercially reasonable effort and cooperate in good faith to cause WREGIS to correct its error or omission to complete such transfer.
4. Waived Shortfall – Category 2 Product. If Seller reasonably anticipates that it will be unable to Deliver the required quantity of Category 2 Product with respect to any Generation Sub-term or the Generation Term, Seller may provide written notice to Purchaser on or before sixty (60) days prior to the end of the applicable Generation Sub-term and, upon Purchaser’s receipt of such notice, the Parties will negotiate in good faith using commercially reasonable efforts to determine whether Seller may deliver a product comparable in all material respects to the Category 2 Product generated by or attributable to an Alternate Eligible Facility or Alternate Source (“Alternate Supply”). If the Parties mutually agree to such arrangements for Alternate Supply, they will enter into a separate agreement respecting same (which will include the same Contract Price and otherwise be in substantially the same form as this Confirmation) and Purchaser will waive the shortfall and any related liquidated damages that may otherwise be payable pursuant to this Confirmation for the amount of such Alternate Supply.

5. Events of Default; Remedies. For purposes of this Transaction:
- (a) For the purposes of determining payments under Section 22 of the WSPP Agreement, with respect to this Transaction, the economic benefits or losses of the Non-Defaulting Party resulting from termination of this Transaction shall be based on the energy and Green Attributes components of the Product.
 - (b) The remedies for failure to Deliver or Accept the Product (including Green Attributes) provided for in the WSPP Agreement and Service Schedule R, as amended by this Confirmation, are the sole and exclusive remedies and all other remedies are waived.
6. Importer of Energy/Compliance Obligation. For any Energy imported into California, Seller will be the electricity importer into California for purposes of the Cap and Trade Regulations. The Parties acknowledge that Seller will be responsible for satisfying the Compliance Obligation under the Cap and Trade Regulations associated with the energy which Seller shall schedule and import into the CAISO Balancing Authority as part of the Product to be delivered under this Confirmation and that Seller may and shall have the right to claim that any Energy that Seller has scheduled and imported into the CAISO Balancing Authority is from a Specified Source and claim the RPS Adjustment with respect to Substitute Energy. Purchaser agrees to assist Seller in making the Specified Source and RPS Adjustment claims, including agreeing as follows:
- (a) Specified Source – Category 1 Product. Purchaser agrees, by May 15 following the end of each calendar year in the Generation Term, to provide Seller with a written attestation providing a detailed breakdown of the total quantity of WREGIS Certificates transferred under this Confirmation associated with the Category 1 Product that have been placed in a WREGIS retirement subaccount and those that remain in a WREGIS active subaccount and the name of each such account.
 - (b) RPS Adjustment – Category 2 Product. [*Reserved*].

This Section 6 is based on the Cap and Trade Regulations and Mandatory Reporting Rule as of the Reference Date of this Confirmation. In the event that the regulatory requirements for mitigating the Compliance Obligation change after the Reference Date, Purchaser shall make commercially reasonable efforts to assist Seller in meeting such regulatory requirements. This provision shall survive expiry or earlier termination of this Transaction until such time as the information contemplated herein in respect of the last year of the Generation Term is provided to Seller by Purchaser.

7. Standard/Non-Modifiable Terms and Conditions.
- (a) This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. [STC 17]
 - (b) Seller shall be responsible for ensuring that: (i) each Project is certified as an eligible renewable energy resource for the RPS prior to delivery of Category 1 Product or Category 2 Product hereunder from such Project; and (ii) the Green Attributes have been or will be transferred to Seller and will be transferrable to Purchaser through or using WREGIS, or such similar generation information or attributes tracking system as may be approved by or other method of transfer acceptable to the Energy Commission;


- (c) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract [STC REC-2];
- (d) Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Project to Purchaser as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Project, and Seller agrees to convey and hereby conveys all such Green Attributes to Purchaser as included in the delivery of the Product from the Project; and
- (e) For the purposes of this Transaction:
 - (i) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource (“ERR”) as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law [STC 6]; and
 - (ii) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC REC-1]

For the purposes of STC 6 above, for the Category 2 Product, the Parties acknowledge that Substitute Energy, in substitution for Project Energy, and Green Attributes are delivered to Purchaser.

As used in Section 7(e) of these Special Conditions, “Delivery Term” has the same meaning as “Generation Term” provided that, for the purposes of STC 6 above with respect to any facility listed in Schedule “A”, the Parties agree that the representation and warranty therein applies only to the portion of such Delivery Term that is after the eligibility date issued by the CEC and during which the output from that facility is being delivered to Purchaser.

8. Resale. Seller makes no representation or warranty that the Category 1 Product or Category 2 Product will satisfy applicable Eligibility Requirements if re-sold to a third party by Purchaser. In the event all or any portion of the Category Product(s) purchased or to be purchased by Purchaser hereunder is re-sold by Purchaser, any such resale does not affect Purchaser’s obligations hereunder and Purchaser remains primarily liable to Seller for all Purchaser’s obligations hereunder.
9. Commercially Reasonable Efforts.
 - (a) A Party required to use or make “reasonable efforts” or “commercially reasonable efforts” pursuant to this Confirmation shall not be required to incur more than \$25,000 in aggregate

direct or indirect costs, including lost profits, and out-of-pocket costs and expenses, to comply with such “commercially reasonable efforts”, and then only to the extent incurring such costs would be reasonably likely to achieve the desired effect.

- (b) In the event an issue or circumstance requiring a Party to use or make reasonable efforts or commercially reasonable efforts similarly affects one or more other transactions between the Parties, the limit set forth in paragraph (a) above shall not be cumulative to any limits applicable to such other transactions.
10. Supporting Data. For the applicable Category Product delivered from facilities outside CAISO Balancing Authority Area, Seller will provide Purchaser with hourly meter data, e-Tag data and, if applicable, associated calculations of the lesser of each by hour for each month RECs are delivered to Purchaser under this Confirmation. Further, Seller will use commercially reasonable efforts to provide such other data or information as may be reasonably requested and required by Purchaser for the purposes of using the applicable Category Product for its compliance with the RPS *provided* such requested data or information is available to Seller and can be disclosed by Seller to Purchaser without breaching confidentiality obligations owed to a third party.
11. Collateral Requirements. 
12. Confidentiality. Section 30.1 of the WSPP Agreement is amended by deleting the “or” immediately before subsection (7) and inserting the following immediately after the end of subsection (7) “or, (8) to Deliver RECs pursuant to the requirements of the Tracking System”.
13. Entire Agreement. This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product.
14. Condition Precedent. This Confirmation (and the Transaction confirmed thereby) shall not be binding upon any Party until and unless both Powerex and CEA have executed and delivered this Confirmation to the other Party before 4:00 p.m. Pacific Prevailing Time on September 24, 2021. If either Party fails to satisfy the foregoing condition precedent, then this Confirmation (and the Transaction confirmed thereby) shall have no force and effect and all offers hereunder shall be deemed rescinded.

This Confirmation is being provided pursuant to and in accordance with the WSPP Agreement, and constitutes part of and is subject to the terms and provisions of the WSPP Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the WSPP Agreement.

[Remainder of this page intentionally left blank]

The Parties agree it is their intention that the Transaction provided for in this Confirmation is not capable of being agreed to orally and shall only become binding on the Parties when this Confirmation is executed by both Parties.

ACKNOWLEDGED AND AGREED TO:

POWEREX CORP.*

**CLEAN ENERGY ALLIANCE, a
California joint powers authority**

Name:
Title:
Date:
**doing business in California as Powerex Energy Corp*

Name:
Title:
Date:

Contact:
Anthony Des Lauriers
Tel: (604) 891-6018
Fax: (604)891-5056

Contact:
Barbara Boswell
Tel: (661) 510-0425
Email: ceo@thecleanenergyalliance.org

Scheduling:
Tel: (604) 891-5007 (Prescheduler)
Tel: (604) 891-5091 (Real Time)
Tel: (604) 891-5057 (Mid-Office Agreement)
Fax: (604) 891-5045
E-mail: cash.desk@powerex.com

Scheduling:
Tel: (425) 460-1118 (Prescheduler)
Tel: (425) 460-1118 (Real Time)
Tel: (805) 260-9047 (Mid-Office Agreement)
E-mail: jharr@teainc.org

SCHEDULE “A”

Facilities

Part A – Initial Facilities

<u>Facility Name</u>	<u>State / Province</u>	<u>Technology</u>	<u>RPS ID</u>	<u>Total Facility Nameplate (MW)</u>	<u>EIA ID / CEC Proxy*</u>	<u>WREGIS Generating Unit ID</u>	<u>Facility COD**</u>	<u>Facility City**</u>
[REDACTED]	[REDACTED]	Wind	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	Wind	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	Wind	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	Wind	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	Wind	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	Wind	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	Wind	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Part B – Additional Facilities for Category 1 Product

[to be added under the terms of the section - “Facilities” as required]

Notes:

** EIA ID are included for convenience. Certain facilities may not have an EIA ID (e.g. facilities located outside the United States). Where no EIA ID is available but a CEC Proxy ID has been created by the CEC for the Power Source Disclosure Program (PSDP), the CEC Proxy ID has been provided as included in 2020 PSDP annual report template created by the CEC. Purchaser should check to ensure such information is accurate prior to including in any filing(s).*

*** Facility COD and Facility City are included for convenience and provided as reported by the CEC via RPS Online as of the Reference Date. Seller has not independently verified nor does Seller make any representation as to the accuracy or completeness of this information. Purchaser should check to ensure such information is accurate prior to including in any RPS filing(s).*

13
SCHEDULE “B”

Additional Definitions

For the purposes of this Confirmation, the following terms shall have the following meanings:

- (a) “Accept”, “Accepts” or “Accepted” has the same meaning as Acceptance in Service Schedule R.
- (b) “Agreement”, as used in Section 7 of the Special Conditions, means, collectively, all of the terms applicable to a REC Transaction under the WSPP Agreement, Service Schedule R, and this Confirmation.
- (c) “Alternate Eligible Facility” means an alternate generation facility that is certified as an eligible renewable energy resource for the RPS and from which Seller is entitled to energy and associated Green Attributes generated during the Generation Term (or portion thereof in respect of which bundled energy and associated Green Attributes to be Delivered hereunder are generated by such facility).
- (d) “Alternate Source” means an alternate source of supply of energy and associated Green Attributes generated by the same facility as a Project during the Generation Term and which Seller is entitled to pursuant to its purchase agreements for output from the facility.
- (e) “Buyer” means Purchaser.
- (f) “CAISO Balancing Authority” means, as the context requires, CAISO as “Balancing Authority” or “CAISO Balancing Authority Area”, as such terms are used in the CAISO Tariff.
- (g) “CAISO Point” means any Location in the CAISO Balancing Authority or CAISO Controlled Grid, including any Scheduling Point (as such terms are defined in the CAISO Tariff).
- (h) “CAISO Tariff” means the applicable tariff and protocol provisions of the California Independent System Operator (“**CAISO**”) (as amended from time to time).
- (i) “Cap and Trade Regulations” means the regulations entitled California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms set forth at Article 5 of Subchapter 10 of Title 17 of the California Code of Regulations.
- (j) “Carbon Free Source” means any energy source, except for nuclear-powered generation assets, that is located within the WECC area and that is considered by the State of California to have zero greenhouse gas emissions in accordance with the Mandatory Reporting Rule and the Cap and Trade Regulations. For greater certainty, wind, hydroelectric and solar facilities that are certified as ERRs by the CEC shall be Carbon Free Sources.
- (k) “Category 1 Product” means the Product where Purchaser has elected to have the energy Delivered as Project Energy in accordance with Delivery Method 1.
- (l) “Category 1 Product Eligibility Requirements” means, with respect to the Category 1 Product only, any applicable criteria or requirements of the RPS in force and effect as of the Reference Date regarding the eligibility or qualification of the Category 1 Product to meet the criteria of Section 399.16(b)(1) of the California Public Utilities Code or this Confirmation or the Transaction confirmed hereby for the RPS, including without limitation any eligibility criteria applicable to an out-of-state resource.
- (m) “Category 2 Product” means the Product where Purchaser has elected to have Substitute Energy Delivered in substitution for Project Energy in accordance with Delivery Method 2.

- (n) “Category 2 Product Eligibility Requirements” means, with respect to Category 2 Product only, any applicable criteria or requirements of the RPS in force and effect as of the Reference Date regarding the eligibility or qualification of the Category 2 Product to meet the criteria of Section 399.16(b)(2) of the California Public Utilities Code or this Confirmation or the Transaction confirmed hereby for the RPS, including without limitation any eligibility criteria applicable to an out-of-state resource.
- (o) “Category Product” means Category 1 Product or Category 2 Product, as applicable.
- (p) “change in law” means “Change in Law” as defined in Service Schedule R, as modified herein.
- (q) “Compliance Obligation” has the meaning set forth by the Cap and Trade Regulations.
- (r) “CPUC” means the California Public Utilities Commission.
- (s) “Effective Date” means the date on which both Parties have executed and delivered this Confirmation.
- (t) “Eligibility Requirements” means Category 1 Product Eligibility Requirements or Category 2 Product Eligibility Requirements, as applicable.
- (u) “Energy” means Project Energy or Substitute Energy, as applicable.
- (v) “Energy Commission” or “CEC” means the California Energy Commission.
- (w) “Environmental Attributes” means Green Attributes.
- (x) “Generally Accepted Utility Practice” means a practice established by the Western Electricity Coordinating Council (“WECC”) or any successor regional reliability council, as such practice may be revised from time to time, or if no practice is so established, means a practice otherwise generally accepted in the WECC region.
- (y) “Generation Sub-term” means any sub-period within the Generation Term as specified in the Energy Delivery Profile Table under the heading “Delivery Method Quantity” (and for greater certainty means Generation Term if only one Generation Sub-term).
- (z) “Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere;¹ (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser’s discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international

¹ Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project.

- (aa) “Green Tag Purchaser”, as used in the definition of Green Attributes, means Purchaser.
- (bb) “Mandatory Reporting Rule” means the regulations entitled Mandatory Greenhouse Gas Emissions Reporting set forth at Article 2 of Subchapter 10 of Title 17 of the California Code of Regulations.
- (cc) “Party” means Purchaser or Seller, and “Parties” means both Purchaser and Seller.
- (dd) “Permitted Encumbrances” means any liens, claims, security interests or other encumbrances arising or attaching upon or after transfer of title or through Purchaser.
- (ee) “Project” means a facility listed in Schedule “A” provided that, for the purposes of Section 7(d) of the Special Conditions, the term “Project” shall be read to refer to all such facilities listed in Schedule “A” but only to the extent of Seller’s contractual rights to the energy and Green Attributes produced by such facilities. Seller must be contractually entitled to all or a portion of the bundled energy and associated Green Attributes generated by the facilities listed in Schedule “A” during the Generation Term (or portion thereof in which the Product is generated by or attributed to such facility). Purchaser acknowledges that Seller (i) may deliver the Product from any or all facilities, and (ii) may not have a contractual right to the entire output of such facilities.
- (ff) “Purchaser Eligibility Failure” means a failure of a Category Product to meet or satisfy the applicable Eligibility Requirements or any element or component thereof which are in the direct control of Purchaser to meet or satisfy as a result of or if caused by or attributable to an act or omission of Purchaser, including use of the Product other than for its own RPS compliance purposes, a failure by Purchaser to accept an applicable transfer on WREGIS, to provide information and data available to Purchaser (including as provided by Seller) as may be required to verify the Green Attributes comprised in the Products or failure to retire or designate for retirement the RECs for the purposes of compliance with the RPS.
- (gg) “REC” or “Renewable Energy Credit” means “renewable energy credit” as set forth in California Public Utilities Code Section 399.12(h).
- (hh) “Reference Date” means the date that Powerex has executed this Confirmation (as reflected on the signature page hereto).
- (ii) “RPS” means the California Renewables Portfolio Standard Program codified at California Public Utilities Code Section 399.11 *et seq.*
- (jj) “RPS Adjustment” means the reduction in the Compliance Obligation of an electricity importer authorized by and calculated in accordance with section 95852 (b)(4) of the Cap and Trade Regulations and section 95111(b)(5) of the Mandatory Reporting Rule.

- (kk) “RPS ID” means the “California Energy Commission RPS certification number”, the “identification number” and/or the “RPS ID”, as such terms are used by the CEC to describe the identification number for an eligible renewable energy resource that has been certified (or will be certified for the period of deliveries) as such by the CEC for the purposes of the RPS. The RPS ID for each Project is set out beside the applicable facility under the column “RPS ID” in the table attached hereto as Schedule “A”.
- (ll) “Scheduling Point” has the meaning set forth in the CAISO Tariff, including (without limitation) the SYLMARDC_2_N501 and MALIN_5_N101 Scheduling Points.
- (mm) “Seller Eligibility Failure” means a failure of Category 1 Product or Category 2 Product to meet or satisfy the applicable Eligibility Requirements or element or component thereof applicable to a Category Product which are in the direct control of Seller to meet or satisfy as a result of or if caused or attributable to an act or omission by Seller, unless such failure is excused by Uncontrollable Force.
- (nn) “Special Conditions” means the terms and conditions identified under the heading “Special Conditions” of this Confirmation.
- (oo) “Specified Source” means “specified source”, as such term is defined in the Mandatory Reporting Rule.
- (pp) “WREGIS” means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.
- (qq) “WREGIS Certificate” means a “Certificate” as defined by WREGIS in the WREGIS Operating Rules and designated by law as eligible for complying with the RPS and for evidencing the Green Attributes associated with the Product.
- (rr) “WREGIS Operating Rules” means the operating rules and requirement adopted by WREGIS, as amended from time to time.
- (ss) “WREGIS Timelines” means the time line for WREGIS Certificate creation by WREGIS in accordance with WREGIS Operating Rules as applied by WREGIS.

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SCHEDULE “C”

Amendments and Modifications to WSPP Agreement and Service Schedule R

The Parties agree to the following applications of the WSPP Agreement and the following conditions shall apply to this Transaction.

1. Clarification Regarding “All Attributes”. The following is inserted after the word “producing” on the fourth line of Section R-2.4.1 of Service Schedule R: “associated with the REC to be transferred”.
2. Clarification Regarding Delivery of RECs. The following is deleted from the first sentence of Section R-3.1.1: “the Contract Quantity to Purchaser” and replaced with “a REC to Purchaser in accordance with this Agreement or as otherwise provided in a Confirmation”.
3. Clarification Regarding Acceptance of RECs. The following is added to the end of Section R-3.1.2 of Service Schedule R: “Purchaser shall not be entitled to reject or refuse to Accept any RECs Delivered to Purchaser which comply with the requirements of a Confirmation pursuant to which they are Delivered. Purchaser’s rejection of or failure to Accept any conforming RECs Delivered in accordance with this Agreement and the applicable Confirmation shall be subject to Section R-9.1.1 or R-9.1.2 of Service Schedule R, as the case may be, as modified by a Confirmation.”
4. Clarification Regarding Delivery in Bundled REC Transactions. The following is deleted from the first sentence of Section R-3.2.1: “the Contract Quantity of the REC and the Contract Quantity of the Energy” and replaced with “the REC and the Energy in accordance with this Agreement or as otherwise provided in a Confirmation”.
5. Passage of Title of RECs in Bundled REC Transactions. The second sentence of Section R-3.2.3 of Service Schedule R is deleted and replaced with the following: “If the REC is to be generated on or after the Effective Date, title to the REC shall pass from Seller to Purchaser upon Delivery and Acceptance.”
6. Generation Information and Expedited Certificates. The first sentence of Section R-3.3.1 of Service Schedule R is deleted. The Parties acknowledge and confirm that this Confirmation does not provide for forward transfer certificates in WREGIS or for any other designated Tracking System to expedite transfer of certificates.
7. Clarification Regarding Issuance of RECs. The first sentence of Section R-3.3.2 is deleted up to the semicolon and replaced with the following: “Seller is responsible for ensuring the transfer and issuance of RECs by the Tracking System;”.
8. Clarification Regarding Conveyance. The words “As of both Delivery and” are deleted from the first line of Section R-3.4 of Service Schedule R and replaced with “Upon”.
9. Definition of “Change in Law”. The first sentence of Section R-5.2.2(a) is deleted and replaced with the following: “(a) “Change in Law” means any addition, amendment, decision, ruling, order, binding interpretation, determination, guideline, policy or guidance by or of a Governmental Authority, to or regarding any laws, rules, regulations, orders, or judicial precedent, that applies to an Applicable Program designated in the Confirmation, that is enacted, issued or becomes effective after the Reference Date and materially affects the Applicable Program or compliance of the REC with the Applicable Program.”
10. Title Representation. The words “As of both Delivery and” are deleted from the first line of Section R-6.1 of Service Schedule R and replaced with “Upon”. The following is added at the end of the last sentence of Section R-6.1: “other than Permitted Encumbrances.”

11. Other Programs. The following is added after the last sentence of Section R-6.3: “Except as expressly set forth herein regarding the Applicable Program, Seller makes no representation or warranty that the Product will meet any particular requirement or will have any particular use or value or will be eligible for any particular renewable portfolio standard, green pricing program or governmental or voluntary compliance program or will offset, avoid, reduce or obtain credit for any reduction of pollutants or air emissions created by Purchaser’s or any other person’s electric generating facilities or any other facilities (each, an “**Alternative Program**”), and Seller shall have no obligations to Purchaser with respect to any such Alternative Programs.”
12. Information Disclosed. The end of the last sentence of Section R-7.2 is deleted after the word “Confirmation.”
13. Uncontrollable Force. For purposes of this Transaction, the performance of the Parties’ obligations under the WSPP Agreement and this Confirmation shall be subject to Uncontrollable Force and Section 10 of the WSPP Agreement shall apply such that either Party will be relieved of its obligations to sell and Deliver or purchase and Accept the Product without liability to the extent that, and for the period during which such performance is prevented by Uncontrollable Force. The following is added at the end of subparagraph (ii) of Section 10 of the WSPP Agreement as set out in Section R-8: “, except to the extent such supply is itself subject to Uncontrollable Force.” The following is added to the sixth line of the addition to the second paragraph of Section 10 of the WSPP Agreement as set out in Section R-8 after the words “Schedules B and C”: “or similar products which are not of an as-run nature”. In the event of any dispute regarding Seller’s allocation of production during a period of curtailment, all information relating to such allocation and Seller’s compliance with Section R-8 shall be provided to a qualified independent third party selected by Seller for review and determination and shall not be provided directly to Purchaser. Purchaser shall be entitled to receive a written copy of such independent third party’s determination provided that no confidential or commercially sensitive information of Seller or third parties is disclosed therein or has been redacted therefrom.
14. Failure to Accept or Deliver in Bundled REC Transactions. The last sentence of the modification to Section 21.3(a)(1) of the WSPP Agreement as set forth in Section R-9.1.2(a) is deleted. The text falling after the words “achieve such reduction)” in the modification to Section 21.3(a)(2) of the WSPP Agreement as set forth in Section R-9.1.2(a) is deleted.
15. Replacement Price and Resale Price. “Energy” is deleted from the eighth line of Section R-10.1.4 and from the sixth line of Section R-10.1.5 and replaced with “the Product (or such component thereof)”.