



## Staff Report – Agenda Item 8

---

**To:** Clean Power Alliance (CPA) Board of Directors

**From:** David McNeil, Chief Financial Officer  
Kate Freeman, Financial Strategy and Initiatives Manager

**Approved By:** Ted Bardacke, Chief Executive Officer

**Subject:** Adopt Resolution No. 22-06-033 Authorizing and Approving Entry into an Amendment to the Revolving Credit Agreement with JPMorgan Chase Bank, and Delegating Authority to CPA Authorized Representatives to Execute and Deliver Such Amendment and Other Documents Related Thereto; and

Adopt Resolution No. 22-06-034 Authorizing and Approving the Issuance for the Account of CPA of One or More Surety Bonds and the Entry into Indemnity Agreement(s) Related to any such Surety Bond(s) and Delegating Authority to CPA Authorized Representatives to Approve the Terms of any such Surety Bond and to Execute and Deliver such Indemnity Agreement and Other Documents Related Thereto

**Date:** June 2, 2022

---

### **RECOMMENDATION**

- a) Adopt Resolution No. 22-06-033 authorizing and approving entry into an amendment to the revolving credit agreement (“credit agreement”) with JPMorgan Chase Bank (“JPM”), and delegating authority to CPA authorized representatives to execute and deliver such amendment and other documents related thereto.
- b) Adopt Resolution No. 22-06-034 authorizing and approving the issuance for the account of CPA of one or more Surety Bonds and the entry into Indemnity Agreement(s) related to any such Surety Bond(s) and delegating authority to CPA authorized representatives to approve the terms of any such Surety Bond and to execute and deliver such Indemnity Agreement and other documents related thereto.

The combined sum of the increase in credit limit under the amended JPM Credit Agreement and the Indemnity Agreement(s) for Surety Bond(s) will be at or near the amount required for CPA to satisfy its Financial Security Requirement (FSR) posting obligations for the July to December 2022 period, which currently stands at \$97,011,591 pursuant to SCE Advice Letter 4789-E. Costs associated with the issuance of financial instruments to satisfy the FSR posting are included in the proposed FY 2022/23 Budget.

### **BACKGROUND**

All CCAs are required to post a financial instrument with their Investor-Owned Utility (IOU)/Provider of Last Resort (POLR) to meet its FSR. The IOU/POLR may draw on the financial instrument to cover administrative and net procurement costs that the IOU incurs in the event that a CCA fails, and its customers are involuntarily returned to the IOU. The requirement arises from California Public Utilities Code Section 394.25(e), as implemented by the California Public Utilities Commission (“CPUC”).

The FSR amount is recalculated every six months using updated power prices, electricity use forecasts and IOU retail rates. FSRs have a six-month duration covering the January to June and July to December periods. The FSR amount is calculated in May each year for the July to December posting period and in November for the January to June posting period. The minimum posting amount is currently \$147,000. From the inception of CPA service through June 2022, the FSR amount has never exceeded the minimum amount.

In April 2022, a historic surge in forward power prices occurred just prior to SCE’s calculation of the new FSR, leading to an extreme rise in the FSR amount for CCAs in SCE territory. On May 10, 2022, SCE submitted its Advice Letter 4789-E to CPUC indicating it had determined the amount of the FSR amount applicable to CPA for the posting period commencing July 1, 2022, to be \$97,011,591, a sudden increase of over 65,000%.

CPA, through its trade association CalCCA, protested the SCE’s Advice Letter on May 31, seeking to have the new FSR amount reduced through a change in pricing and other

assumptions. CPA staff is unsure whether this protest will be successful and in what time frame.

Given the uncertain regulatory outcome and the fact that failure to post the FSR at the required amount could lead to CPA decertification and other adverse consequences, CPA staff has pursued different financing options to ensure that it posts one or more financial instruments to meet its FSR without adversely impacting CPA's liquidity going into the volatile summer months. At its May 25, 2022, meeting CPA's Finance Committee discussed the options for satisfying the FSR and expressed support for bringing both a credit line increase and surety bond(s) options to the full Board for consideration.

### **DISCUSSION**

The following options would enable the issuance of one or more financial instruments to meet the FSR for July to December 2022 posting period:

- Amending CPA's existing Credit Agreement with JPM to increase the credit limit and enable the issuance of a letter of credit
- Arranging for the issuance of one or more Surety Bond(s) by a surety provider

#### **Amendment to JPM Credit Agreement**

An amendment to the JPM Credit Agreement would increase the credit limit under the Credit Agreement by up to \$100 million for the purpose of permitting JPM to issue a letter of credit (LC) to meet the FSR. The LC would have a term covering the July to December 2022 FSR posting period. CPA would pay an LC Facility Fee based on the LC amount and an annualized rate of 1.65% consistent with the existing Fee Agreement with JPM. JPM and CPA have reached a tentative agreement on these terms. JPM has proposed a new covenant requiring CPA to maintain a minimum ratio of cash and cash equivalents to the aggregate amount of outstanding loans and LCs under the Credit Agreement of 1.0x, tested quarterly, which will only be applicable during the term of the FSR LC. The proposed new covenant is under negotiation.

### Surety Bond

Staff has engaged with surety bond broker Aon to solicit surety bond providers to issue one or more Surety Bonds providing up to \$97 million of Surety Bonds to meet the FSR. Surety Bonds are financial instruments issued by a surety provider which can be called upon by the beneficiary (in this case SCE) to meet financial obligations of the principal (in this case CPA). In the event that SCE draws on the Surety Bond, CPA would be required to repay the amount SCE draws to the surety provider. In order to facilitate the issuance of a Surety Bond, CPA would be required to enter into an Indemnity Agreement with the surety provider in which CPA would agree to pay applicable issuance fees to the surety provider and reimburse the surety provider if SCE draws on the Surety Bond.

Staff is recommending authorization from the Board to pursue both options for the following reasons:

- Multiple options provide greater certainty that CPA can arrange for the issuance of financial instruments in an aggregate amount of \$97 million by July 1, 2022, hedging against delays or failure to execute one of the options.
- Multiple options allow CPA greater flexibility to minimize costs and other impacts of satisfying the FSR.

The proposed Resolutions would allow execution of one or more financial instruments to meet the FSR posting by the July 1, 2022, due date subject to the terms specified in the Resolutions.

### **FISCAL IMPACT**

The Proposed FY 2022/23 budget includes \$2,100,000 in expenses associated with the posting of one or more financial instruments to meet CPA's FSR. These expenses will be recorded as Interest Expense or General and Administrative expenses, depending on the financial instrument(s) that CPA elects to use.

### **ATTACHMENTS**

1. Resolution No. 22-06-033
2. Resolution No. 22-06-034
3. Presentation on Financing Options for CPA's Financial Security Requirement

**RESOLUTION NO. 22-06-033**

**RESOLUTION OF THE BOARD OF DIRECTORS OF CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA (CLEAN POWER ALLIANCE) AUTHORIZING AND APPROVING ENTRY INTO AN AMENDMENT TO THE REVOLVING CREDIT AGREEMENT WITH JPMORGAN CHASE BANK, N.A. AND DELEGATING AUTHORITY TO THE CLEAN POWER ALLIANCE AUTHORIZED REPRESENTATIVES TO EXECUTE AND DELIVER SUCH AMENDMENT AND OTHER DOCUMENTS RELATED THERETO**

**THE BOARD OF DIRECTORS OF CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA DOES HEREBY FIND, RESOLVE, AND ORDER AS FOLLOWS:**

**WHEREAS**, Clean Power Alliance of Southern California (formerly known as Los Angeles Community Choice Energy Authority) (“Clean Power Alliance” or “CPA”) was formed on June 27, 2017, under the provisions of the Joint Exercise Powers Act of the State of California, Government Code section 6500 *et seq.*;

**WHEREAS**, Clean Power Alliance is duly organized, validly existing, and in good standing under and by virtue of the laws of the State of California, is duly authorized to transact business, having obtained all necessary filings, governmental licenses and approvals in the State of California, and has the full power and authority to own its properties and to transact the business in which it is presently engaged or presently proposes to engage;

**WHEREAS**, Clean Power Alliance maintains an office at 801 S. Grand Ave., Suite 400, Los Angeles, CA 90017, and this is the principal office at which it keeps its books and records;

**WHEREAS**, pursuant to California Public Utilities Code Section 394.25(e), as implemented by the California Public Utilities Commission (the “CPUC”), if a customer of a community choice aggregator (a “CCA”) is involuntarily returned to service provided by an electrical corporation, any reentry fee imposed on that customer that the CPUC deems is necessary to avoid imposing costs on other customers of the electrical corporation shall be the obligation of the CCA, and as a condition of its registration, a CCA shall post a bond or demonstrate insurance sufficient to cover those reentry fees (the “Financial Security Requirement” or “FSR”);

**WHEREAS**, the FSR applicable to Clean Power Alliance is determined pursuant to Southern California Edison (“SCE”) Tariff Rule 23 (“Rule 23”) for the six month period from January to June and July to December, respectively, of each year, with the amount recalculated every six months and the updated amount provided by SCE to the CPUC not later than May 10 and November 10 of each year, and subject to a minimum amount currently equal to \$147,000 (the “Minimum Amount”), and

**WHEREAS**, for each period prior to July 1, 2022, the FSR applicable to Clean Power Alliance has been equal to the Minimum Amount;

**WHEREAS**, on May 10, 2022, SCE submitted its Advice Letter 4789-E to CPUC indicating that it had determined the amount of the FSR applicable to Clean Power Alliance for the posting period commencing July 1, 2022, to be \$97,011,591, an increase of \$96,864,591 (“Advice Letter”);

**WHEREAS**, under Rule 23, the FSR may be met by posting and maintaining with SCE a financial security instrument in the form of an irrevocable standby letter of credit with terms mutually agreeable to SCE, CCA, and the third-party issuer of the letter of credit, provided that (i) the issuer of the letter of credit has an investment grade rating equivalent to at least an A- by Standard & Poor’s or A3 by Moody’s, and (ii) such letter of credit is issued by a U.S. national bank, or by a U.S. branch of a foreign bank mutually acceptable to SCE and Clean Power Alliance, in form, substance and amount satisfactory to SCE, and naming SCE as the beneficiary or recipient of the letter of credit;

**WHEREAS**, although Clean Power Alliance is contesting SCE’s calculation, the Board desires to (i) authorize and approve an amendment (such amendment, or amendment and restatement) (the “Amendment”) of its Revolving Credit Agreement, dated as of September 21, 2021 (the “Credit Agreement”) with JPMorgan Chase Bank, N.A. (the “Lender”) in order to provide for, among other things described herein, an increase in the commitment amount under the Credit Agreement for purposes of permitting the issuance of a letter of credit by the Lender supporting the FSR amount, and (ii) authorize the Authorized Representatives, specified below, to execute and deliver the Amendment with such terms as described herein and in such form as the Authorized Representatives, specified below, shall approve as in the best interest of Clean Power Alliance;

**NOW, THEREFORE, BE IT DETERMINED, ORDERED, AND RESOLVED BY THE BOARD OF DIRECTORS OF THE CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA THAT:**

- (1) **AUTHORIZED REPRESENTATIVES.** The following named individuals are the authorized representatives of Clean Power Alliance with the respective titles specified below (collectively referred to as “**Authorized Representatives**” and individually referred to as an “**Authorized Representative**”):

| <b><u>NAMES</u></b> | <b><u>TITLES</u></b>     |
|---------------------|--------------------------|
| Diana Mahmud        | Chair of the Board       |
| Julian Gold         | Chair-Elect of the Board |
| Ted Bardacke        | Chief Executive Officer  |
| David McNeil        | Chief Financial Officer  |

|             |                 |
|-------------|-----------------|
| Nancy Whang | General Counsel |
|-------------|-----------------|

- (2) **DESCRIPTION OF AMENDMENT.** The Amendment shall contain the following terms (capitalized terms used below shall have the meanings provided in the Credit Agreement or the Fee Agreement referenced therein, as applicable):
- (a) an increase in the Commitment by an amount not to exceed \$100,000,000 which increased amount may be used solely for the issuance of a Letter of Credit (“LC”) under the terms and provisions of the Credit Agreement for the benefit of SCE in respect of the FSR, with an effective date of July 1, 2022, and an expiration date of December 31, 2022, subject to renewal or extension in accordance with the terms of the Credit Agreement;
  - (b) the LC Facility Fee of 1.65% per annum specified in the Fee Agreement to the Letter of Credit and to be calculated and paid in accordance with the Fee Agreement;
  - (c) the \$500 fee specified in the Fee Agreement for the issuance of the LC shall be payable upon issuance of the LC;
  - (d) no Amendment Fee will be payable in connection with the Amendment;
  - (e) the provisions of the Credit Agreement relating to LIBOR will be deleted and replaced with corresponding provisions relating to the Secured Overnight Financing Rate (SOFR); and
  - (f) the addition to the Credit Agreement of a new credit covenant requiring Clean Power Alliance to maintain a minimum ratio of cash and cash equivalents to the aggregate amount of outstanding loans and Letters of Credit under the Credit Agreement of 1.0x, tested quarterly, which will only be applicable during the term of the Letter of Credit or other such less restrictive credit covenant as mutually agreed by Clean Power Alliance and the Lender.
- (3) **ACTIONS AUTHORIZED.** Any one of the Authorized Representatives is authorized and approved to (a) execute and deliver the Amendment, containing terms substantially conforming to those specified in paragraph 2 herein subject to such changes to such form as the Authorized Representatives shall approve as in the best interest of Clean Power Alliance, such approval to be conclusively evidenced by such Authorized Representative’s execution and delivery thereof, and (b) do and perform such other acts and things, to pay any and all fees and costs, and to execute and deliver such other documents and agreements as any Authorized Representative may in his or her discretion deem reasonably necessary or proper in order to carry into effect the provisions of this Resolution.

**IT IS HEREBY FURTHER DETERMINED AND ORDERED** that the Authorized Representatives are duly elected, appointed, or employed by or for the Clean Power Alliance, as the case may be. This Resolution now stands of record on the books of the Clean Power Alliance, is in full force and effect, and has not been modified or revoked in any manner whatsoever.

**IT IS HEREBY FURTHER DETERMINED AND ORDERED** that any and all acts authorized pursuant to this Resolution and performed prior to the passage of this Resolution are hereby ratified and approved. This Resolution shall be continuing, shall remain in full force and effect and Lender may rely on it until written notice of its revocation shall have been delivered to and received by Lender at Lender's address set forth in the JPM Credit Agreement. Any such notice shall not affect any of the Clean Power Alliance's agreements or commitments in effect at the time notice is given.

**IT IS FURTHER DETERMINED AND ORDERED** that this Resolution shall take effect upon its passage.

**ADOPTED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

By: \_\_\_\_\_  
Diana Mahmud, Chair

ATTEST:

\_\_\_\_\_  
Gabriela Monzon, Secretary

**RESOLUTION NO. 22-06-034**

**RESOLUTION OF THE BOARD OF DIRECTORS OF CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA (CLEAN POWER ALLIANCE) AUTHORIZING AND APPROVING THE ISSUANCE FOR THE ACCOUNT OF CLEAN POWER ALLIANCE OF ONE OR MORE SURETY BONDS AND THE ENTRY INTO AN INDEMNITY AGREEMENT RELATED TO ANY SUCH SURETY BOND AND DELEGATING AUTHORITY TO THE CLEAN POWER ALLIANCE AUTHORIZED REPRESENTATIVES TO APPROVE THE TERMS OF ANY SUCH SURETY BOND AND TO EXECUTE AND DELIVER SUCH INDEMNITY AGREEMENT AND OTHER DOCUMENTS RELATED THERETO**

**THE BOARD OF DIRECTORS OF CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA DOES HEREBY FIND, RESOLVE, AND ORDER AS FOLLOWS:**

**WHEREAS**, Clean Power Alliance of Southern California (formerly known as Los Angeles Community Choice Energy Authority) (“Clean Power Alliance”) was formed on June 27, 2017, under the provisions of the Joint Exercise Powers Act of the State of California, Government Code section 6500 *et seq.*;

**WHEREAS**, Clean Power Alliance is duly organized, validly existing, and in good standing under and by virtue of the laws of the State of California, is duly authorized to transact business, having obtained all necessary filings, governmental licenses and approvals in the State of California, and has the full power and authority to own its properties and to transact the business in which it is presently engaged or presently proposes to engage;

**WHEREAS**, Clean Power Alliance maintains an office at 801 S. Grand Ave., Suite 400, Los Angeles, CA 90017, and this is the principal office at which it keeps its books and records;

**WHEREAS**, pursuant to California Public Utilities Code Section 394.25(e), as implemented by the California Public Utilities Commission (the “CPUC”), if a customer of a community choice aggregator (“CCA”) is involuntarily returned to service provided by an electrical corporation, any reentry fee imposed on that customer that the CPUC deems is necessary to avoid imposing costs on other customers of the electrical corporation shall be the obligation of the CCA, and as a condition of its registration, a CCA shall post a bond or demonstrate insurance sufficient to cover those reentry fees (the “Financial Security Requirement” or “FSR”);

**WHEREAS**, the FSR applicable to Clean Power Alliance is determined pursuant to Southern California Edison (“SCE”) Tariff Rule 23 (“Rule 23”) for the six month period from January to June and July to December, respectively, of each year, with the amount

recalculated every six months and the updated amount provided by SCE to the CPUC not later than May 10 and November 10 of each year, and subject to a minimum amount currently equal to \$147,000 (the “Minimum Amount”), and

**WHEREAS**, for each period prior to July 1, 2022, the FSR applicable to Clean Power Alliance has been equal to the Minimum Amount;

**WHEREAS**, on May 10, 2022, SCE submitted its Advice Letter 4789-E to CPUC indicating that it had determined the amount of the FSR applicable to Clean Power Alliance for the posting period commencing July 1, 2022, to be \$97,011,591, an increase of \$96,864,591 (“Advice Letter”);

**WHEREAS**, under Rule 23, the FSR may be met by posting and maintaining with SCE a financial security instrument in the form of a surety bond with terms mutually agreeable to SCE, CCA, and the surety provider, provided that (i) the surety provider has an investment grade rating equivalent to at least an A- by Standard & Poor’s or A3 by Moody’s, (ii) the surety provider is an insurer mutually acceptable to SCE and Clean Power Alliance authorized to issue and hold surety bonds in the State of California, in form, substance and amount satisfactory to SCE, and naming SCE as the beneficiary or recipient of the surety bond, and (iii) if co-sureties are used, the bonds must be issued on a “joint and several” basis;

**WHEREAS**, although Clean Power Alliance is contesting SCE’s calculation, the Board desires to (i) authorize and approve the issuance of one or more surety bonds (each a “Surety Bond”) by one or more surety providers meeting the requirements of Rule 23, in an aggregate amount not to exceed the FSR, and (ii) authorize the Authorized Representatives, specified below, to execute and deliver an Indemnity Agreement with each surety provider providing for the reimbursement of amounts claimed under the related Surety Bond and in such form as the Authorized Representatives, as defined below in paragraph 1, shall approve as in the best interest of Clean Power Alliance;

**NOW, THEREFORE, BE IT DETERMINED, ORDERED, AND RESOLVED BY THE BOARD OF DIRECTORS OF THE CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA THAT:**

- (1) **AUTHORIZED REPRESENTATIVES.** The following named individuals are the authorized representatives of Clean Power Alliance with the respective titles specified below (collectively referred to as “**Authorized Representatives**” and individually referred to as an “**Authorized Representative**”):

| <u><b>NAMES</b></u> | <u><b>TITLES</b></u>     |
|---------------------|--------------------------|
| Diana Mahmud        | Chair of the Board       |
| Julian Gold         | Chair-Elect of the Board |
| Ted Bardacke        | Chief Executive Officer  |

|              |                         |
|--------------|-------------------------|
| David McNeil | Chief Financial Officer |
| Nancy Whang  | General Counsel         |

- (2) **DESCRIPTION OF SURETY BOND AND INDEMNITY AGREEMENT.** Any Surety Bond (a) shall be issued for the benefit of SCE by a surety provider meeting the requirements of Rule 23, (b) shall provide for a coverage amount, on a joint and several basis with any other Surety Bond so issued, not exceeding the FSR, and (c) shall contain provisions for payment of claims thereunder that meet the requirements of Rule 23. Any Indemnity Agreement related to a Surety Bond so issued shall provide for the payment of the applicable premium for such Surety Bond, reimbursement on demand of amounts paid under such Surety Bond, with such reimbursement obligation being either unsecured or secured on a subordinate basis and may include such credit covenant or covenants as are mutually agreed by Clean Power Alliance and the surety provider.
- (3) **ACTIONS AUTHORIZED.** Any one of the Authorized Representatives is authorized to (a) approve the issuance of one or more Surety Bonds, (b) execute and deliver an Indemnity Agreement relating thereto containing terms substantially in conformance with those in paragraph 2 and such other terms as the Authorized Representatives shall approve as in the best interest of Clean Power Alliance, such approval to be conclusively evidenced by such Authorized Representative's execution and delivery thereof, and (c) do and perform such other acts and things, to pay any and all fees and costs, and to execute and deliver such other documents and agreements as any Authorized Representative may in his or her discretion deem reasonably necessary or proper in order to carry into effect the provisions of this Resolution.

**IT IS HEREBY FURTHER DETERMINED AND ORDERED** that the Authorized Representatives are duly elected, appointed, or employed by or for the Clean Power Alliance, as the case may be. This Resolution now stands of record on the books of the Clean Power Alliance, is in full force and effect, and has not been modified or revoked in any manner whatsoever.

**IT IS HEREBY FURTHER DETERMINED AND ORDERED** that any and all acts authorized pursuant to this Resolution and performed prior to the passage of this Resolution are hereby ratified and approved. This Resolution shall be continuing, shall remain in full force and effect and each provider of a Surety Bond may rely on it until written notice of its revocation shall have been delivered to and received by such provider at its address set forth in the related Indemnity Agreement. Any such notice shall not affect any of the Clean Power Alliance's agreements or commitments in effect at the time notice is given.

**IT IS FURTHER DETERMINED AND ORDERED** that this Resolution shall take effect upon its passage.

**ADOPTED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_ **2022**.

By: \_\_\_\_\_  
Diana Mahmud, Chair

ATTEST:

\_\_\_\_\_  
Gabriela Monzon, Secretary



# Financing Options for CPA's Financial Security Requirement

June 2, 2022



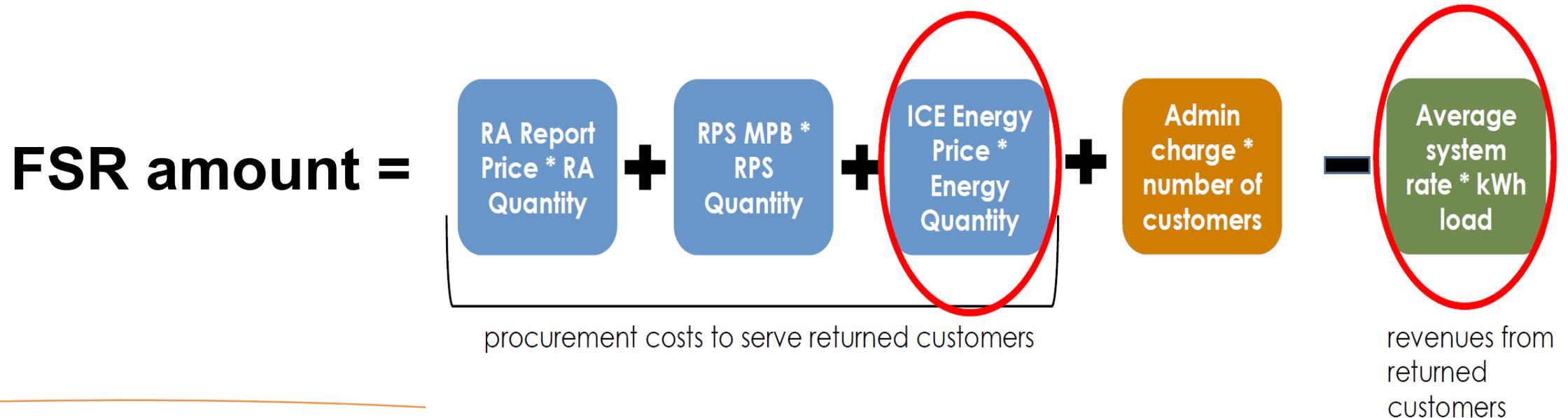
# Recommendation

- a) Adopt Resolution No. 22-06-033 Authorizing and Approving Entry into an Amendment to the Revolving Credit Agreement with JPMorgan Chase Bank, and Delegating Authority to CPA Authorized Representatives to Execute and Deliver Such Amendment and Other Documents Related Thereto
- b) Adopt Resolution No. 22-06-034 Authorizing and Approving the Issuance for the Account of CPA of One or More Surety Bonds and the Entry into Indemnity Agreement(s) Related to any such Surety Bond(s) and Delegating Authority to CPA Authorized Representatives to Approve the Terms of any such Surety Bond and to Execute and Deliver such Indemnity Agreement and Other Documents Related Thereto



# FSR Background

- ⚡ All CCAs are required to arrange for the posting of a financial instrument to meet its Financial Security Requirement (FSR). The FSR is intended to cover administrative and net procurement costs the IOU/POLR would incur for six months if a CCA failed and its customers were involuntarily returned to the IOU. The FSR arises from the Public Utilities Code as implemented by the CPUC. (see the appendix for details)
- ⚡ The FSR amount is recalculated every six months using updated power prices and energy use forecasts. The minimum FSR amount is currently \$147,000 and CPA has never been required to post more than the minimum



# Spring Update (FSR July – Dec 2022)

- ⚡ A historic surge in forward power prices right before SCE calculated the new FSR amount led to an extreme rise in the FSR amount for CCAs in SCE territory

## **SCE Advice 4789-E**

Total \$ 127 million in required collateral collectively from CCAs by July 1

## **PG&E Advice 6589-E**

\$147,000 minimum required for each CCA

## **SDG&E Advice 4002-E**

\$147,000 minimum required for each CCA

\* Some differences among IOU calculations are inherent in (1) varying levels of bundled customer rates, since bundled revenues offset costs in the FSR formula; (2) NP15/SP15 energy price differences; (3) IOU load weighting of ICE prices



# CPA Impact & Regulatory Response

- ⚡ Unless the FSR amount is recalculated using a more favorable methodology, or the Advice Letter is suspended by the CPUC, CPA must post \$97 million by July 1, 2022
- ⚡ Dialogue with CPUC, Energy Division, SCE
- ⚡ Advice Letter Protest filed May 31
  - Correct errors
  - Use different assumptions
- ⚡ Address issues in the ongoing POLR Proceeding
- ⚡ **It is unclear when a response to the Protest will be forthcoming and whether that response will be favorable**



# Financing Options for satisfying FSR

- ⚡ Two financing options are being sought in order to post \$97 million to meet the FSR

## Amend JPM Credit Agreement

- ⚡ CPA has received credit approval from JPM to upsize its existing Credit Agreement by up to \$100 million for the July to December 2022 period
- ⚡ **CPA would post a Letter of Credit of up to \$97 million to satisfy the FSR**

## Issue a Surety Bond(s)

- ⚡ CPA and Aon are soliciting surety providers to underwrite Surety Bonds
  - Surety bonds are a form of guaranty provided by a surety provider to, in this case, SCE. CPA would incur fees for the issuance of a surety bond and would be required to repay the surety if SCE draws on the bond. A surety bond would not otherwise impact CPA's liquidity metrics.
- ⚡ **CPA would execute Indemnity Agreements supporting one or more Surety Bonds up to an aggregate amount of \$97 million to satisfy the FSR**

- ⚡ Two-pronged approach provides greater certainty of being able to post the FSR by July 1 and gives flexibility to seek a financially optimal solution. \$2.1 million is included in the FY 2022/23 budget to support the issuance of financial instruments to meet the FSR



# Recommendation

- a) Adopt Resolution No. 22-06-033 Authorizing and Approving Entry into an Amendment to the Revolving Credit Agreement with JPMorgan Chase Bank, and Delegating Authority to CPA Authorized Representatives to Execute and Deliver Such Amendment and Other Documents Related Thereto
- b) Adopt Resolution No. 22-06-034 Authorizing and Approving the Issuance for the Account of CPA of One or More Surety Bonds and the Entry into Indemnity Agreement(s) Related to any such Surety Bond(s) and Delegating Authority to CPA Authorized Representatives to Approve the Terms of any such Surety Bond and to Execute and Deliver such Indemnity Agreement and Other Documents Related Thereto



# Appendix

# FSR Background

- ⚡ The FSR arises from California Public Utilities Code Section 394.25(e), as implemented by the California Public Utilities Commission, which reads:

*If a customer of an electric service provider or a community choice aggregator is involuntarily returned to service provided by an electrical corporation, any reentry fee imposed on that customer that the commission deems is necessary to avoid imposing costs on other customers of the electrical corporation shall be the obligation of the electric service provider or a community choice aggregator....*

*As a condition of its registration, an electric service provider or a community choice aggregator shall post a bond or demonstrate insurance sufficient to cover those reentry fees. In the event that an electric service provider becomes insolvent and is unable to discharge its obligation to pay reentry fees, the fees shall be allocated to the returning customers.*

