BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of Energy Efficiency Rolling Portfolio Business Plan.	Application 17-01-013 (Filed January 17, 2017)
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Application of Pacific Gas and Electric Company for Approval of 2018-2025 Rolling Portfolio Energy Efficiency Business Plan and Budget (U39M).	Application 17-01-015 (Filed January 17, 2017)
Application of SOUTHERN CALIFORNIA GAS COMPANY (U904G) for adoption of its Energy Efficiency Rolling Portfolio Business Plan and related relief.	Application 17-01-016 (Filed January 17, 2017)
In the Matter of the Application of Marin Clean Energy for Approval of its Energy Efficiency Business Plan.	Application 17-01-017 (Filed January 17, 2017)

COMMENTS OF MARIN CLEAN ENERGY ON SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES

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COMMENTS OF MARIN CLEAN ENERGY ON SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES

I. INTRODUCTION

Marin Clean Energy ("MCE") submits the following comments in response to the *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judges* ("Scoping Ruling") filed April 14, 2017. MCE provides answers to the questions directed to all prospective program administrators ("PAs") and to the questions specifically directed to MCE. Administrative Law Judge Kao granted a motion requesting a later deadline for some questions in the Scoping Ruling. This motion only affected MCE's answer for Question 9 below.

II. BACKGROUND

MCE is the only Community Choice Aggregator ("CCA") energy efficiency ("EE") PA authorized by the California Public Utilities Commission ("Commission"). MCE filed an application with a business plan on January 17, 2017. The Scoping Ruling calls for each PA to respond to specific questions by May 15, 2017.

III. QUESTIONS APPLICABLE TO ALL PROSPECTIVE PROGRAM ADMINISTRATORS

A. Business Plans Overall

1. Present a single table summarizing by sector (for the six specified sectors) their energy efficiency market potential, annual savings targets through 2025, and key metrics. This table should enable / facilitate assessment of how (well) the business plans go after efficiency potential, and of progress toward this potential.

MCE provided annual savings targets and key metrics in its business plan application. The savings targets are divided by sector and are located in Appendix A of the business plan (included as Table 1, Table 2, and Table 3 below).[1] The metrics are located in each sector chapter in the body of the business plan. There is a detailed metrics table for each chapter including: Single Family;[2] Multifamily;[3] Industrial;[4] Agricultural;[5] Commercial;[6] and Workforce.[7] MCE provides these metric tables as Attachment A to these comments. MCE found it infeasible to combine the annual savings targets and key metrics into a single table.

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[1] MCE EE Business Plan, Appendix A: Placemats, at p. 135-136. Available at https://www.mcecleanenergy.org/2017-EE-Business-Plan.
[2] MCE EE Business Plan at p. 48-49.
[3] MCE EE Business Plan at p. 64-65.
[4] MCE EE Business Plan at p. 78-79.
[5] MCE EE Business Plan at p. 90-91.
[6] MCE EE Business Plan at p. 110-111.
[7] MCE EE Business Plan at p. 124-125.

Table 1: Electric (kWh) Savings

Program #	Sector	Years 1–2		Years 3–4		Years 5–10	
		Gross kWh Savings	% of Total Portfolio Savings Goal	Gross kWh Savings	% of Total Portfolio Savings Goal	Gross kWh Savings	% of Total Portfolio Savings Goals
MCE01	Residential Single Family	3,802,162	20%	4,320,954	19%	12,620,832	16%
MCE02	Residential Multifamily	3,458,921	18%	3,301,830	15%	9,802,518	13%
MCE03	Commercial	7,259,309	38%	9,237,506	41%	32,758,342	42%
MCE04	Industrial	1,712,578	9%	3,568,890	16%	16,938,397	22%
MCE05	Agricultural	3,086,521	16%	2,120,622	9%	5,884,606	8%
Total		19,319,492	100%	22,549,802	100%	78,004,696	100%

Table 2: Demand (kW) Savings

Program #	Sector	Years 1–2		Years 3–4		Years 5–10	
		Gross kW Savings	% of Total Portfolio Savings Estimate	Gross kW Savings	% of Total Portfolio Savings Goal	Gross kW Savings	% of Total Portfolio Savings Goals
MCE01	Residential Single Family	505	30%	544	43%	1,642	46%
MCE02	Residential Multifamily	103	6%	147	12%	346	10%
MCE03	Commercial	583	34%	323	26%	677	19%
MCE04	Industrial	125	7%	115	9%	538	15%
MCE05	Agricultural	393	23%	122	10%	394	11%
Total		1,710	100%	124,018	100%	3,595	100%

Table 3: Gas (therm) Savings

Program #	Sector	Years 1–2		Years 3–4		Years 5–10	
		Gross Therm Savings	% of Total Portfolio Savings Goal	Gross Therm Savings	% of Total Portfolio Savings Goal	Gross Therm Savings	% of Total Portfolio Savings Goals
MCE01	Residential Single Family	182,344	22%	481,414	31%	1,316,875	26%
MCE02	Residential Multifamily	317,023	39%	693,910	44%	2,535,675	50%
MCE03	Commercial	11,041	1%	13,249	1%	47,696	1%
MCE04	Industrial	294,276	36%	353,131	22%	1,271,271	25%
MCE05	Agricultural	11,134	1%	13,360	1%	48,097	1%
Total		815,817	100%	1,555,065	100%	5,219,615	100%

MCE cannot provide information on the market potential within its service area that would be consistent with Pacific Gas and Electric Company's ("PG&E's") market potential because the Goals and Potential Study[8] is not granular enough to discern the market potential for MCE's service area. The Commission has acknowledged this challenge when developing goals and has declined to establish goals for CCAs.[9] MCE utilized other data sources and strategies, as discussed in the business plan, to conduct an overarching market analysis[10] and an analysis for each resource sector including: Single Family;[11] Multifamily;[12] Industrial;[13] Agricultural;[14] and Commercial.[15]

2. What evaluation studies or other research did you rely upon to inform your proposed intervention strategies and tactics for each sector, and how did those studies/research demonstrate the efficacy of the strategies and tactics in delivering the targeted savings?

MCE utilized three broad sources of information including: (1) publicly available, ratepayer funded Evaluation, Measurement & Verification ("EM&V") studies; (2) websites of prominent industry organizations (*e.g.* American Council for an Energy-Efficient Economy ("ACEEE") and Energy Star); and (3) information from local sector-specific organizations (*e.g.* University of California Cooperative Extension and Build it Green). MCE incorporated the

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[8] EE Potential and Goals Studies Webpage, Commission. Available at http://www.cpuc.ca.gov/General.aspx?id=2013.
[9] "Data limitations continue to require us to develop goals by IOU service territories, rather than by PAs. This means that we have not established separate goals for regional energy networks (RENs) or Community Choice Aggregators (CCAs). Their expected savings are embedded within the savings for the service territories of the IOUs." D.15-10-028 at p. 8.
[10] MCE Business Plan at p. 21-28
[11] MCE EE Business Plan at p. 39-44.
[12] MCE EE Business Plan at p. 56-60.
[13] MCE EE Business Plan at p. 72-74.
[14] MCE EE Business Plan at p. 85-89.
[15] MCE EE Business Plan at p. 98-104.

recommendations found in the evaluation reports for intervention strategies that were previously evaluated.[16] For intervention strategies that did not appear to be supported through previous research or evaluations, MCE included them as areas for future EM&V studies.

B. Management and Administrative Strategies

3. Please justify administrative budgets, and describe primary determinants of budget. What are the drivers of administrative and implementation (non-incentive) cost categories?

MCE offers below a general description of the categories and drivers of administrative and implementation (non-incentive) expenditures. These expenses are necessary to support operation of MCE's programs and comply with the Commission requirements for ratepayer funded EE programs. Administrative cost category drivers include:

- **Reporting:** Reporting involves receiving and reviewing claims data from implementers to ensure accuracy and consistency. It also involves synthesizing the claims data and other program activities into reports for submittal to the Commission.
- **Data Management:** Data Management includes managing data inputs (*e.g.* review, scrubbing, and providing quality assurance and quality control ("QA/QC") of data as necessary), merging data feeds with internal database structure, and running queries to support program implementation.
- **Rebate Processing:** Rebate Processing includes review of rebate requests and work to correct deficiencies and finalize rebates in a timely manner.

[16] See Attachment B to these comments for a list of references from the MCE Business Plan.

- **Contract Management:** Contract Management includes administering solicitation processes, negotiation of contracts, and execution of contracts.

Implementation (non-incentive) cost category drivers include:

- **Program Management:** Program Management involves determining project scopes and incentive payments, coordination with implementers, and other activities associated with delivering programs.
- **Customer Interface:** Customer Interface includes developing a specific project with a customer and serving as a Single Point of Contact for customers.
- **Program Implementation Contractor Time:** Program Implementation Contractor Time includes time an implementer spends providing Program Management, Customer Interface, and Technical Assistance.
- **Contractor Management:** Contractor Management includes training contractors in program policies and procedures including reporting needs, processing contractor invoices, and managing contract amendments as needed.

4. How are administrative costs and implementation (non-incentive) costs expected to vary over time, either by sector or portfolio-wide?

MCE proposes a portfolio budget with a ramp-up period for the first two years. The budget is initially weighted toward administrative expenditures to allow for planning activities and setup. After two years, the administrative expenditures are anticipated to decline with a relative increase in implementation expenditures. A similar pattern at a smaller scale will exist to the extent MCE includes new communities within its service area and rolls out programs to those new communities. Rolling out to new communities will generally require a proportionate budget increase so that existing and new communities can receive a comprehensive offering of programs. MCE will leverage existing program infrastructure to minimize the additional cost of expanding programs.

5. As PAs transition to a role largely composed of administration, what are the best practices in administration the PAs will adopt (in order to maximize budgetary and administrative efficiency)? Describe any other internal approaches, metrics, or strategies that will be implemented by the PAs to ensure budgetary efficiency.

The Commission has called for investor owned utility ("IOU") PAs to transition to a role largely composed of administration through directing 60% of their portfolios be bid out under the new definition of Third Party Programs by 2020.[17] The requirements for Third Party programs do not apply to non-utility PAs,[18] so this question is not entirely applicable to MCE. One action MCE has taken to improve administrative efficiency is to contract out the majority of our reporting activities to the same entity that handles reporting for the Bay Area Regional Energy Network ("BayREN"). This arrangement allows BayREN and MCE to share the costs to attend reporting-related meetings and helps to leverage knowledge across multiple agencies as it relates to reporting.

6. What metrics will PAs use to determine administrative effectiveness and efficiency specifically?

MCE will continue to track program expenditures using the Commission's approved cost-effectiveness tests. MCE did not provide additional metrics related to administrative efficiency in the business plan. However, MCE plans to track the percentage of budget and staff

[17] D.16-08-019, Conclusion of Law 58 at p. 105.
[18] D.16-08-019, Conclusion of Law 60 at p. 105.

time spent on administrative activities. MCE will also track the reduction of administrative expenditures as a proportion of total expenditures as programs ramp up.

7. How often and what information will the PAs report to the Commission reflecting PA administrative spending and efficiency?

MCE will comply with all Commission reporting requirements. Quarterly and Annual reports will show the percentage of budget by sector spent on administrative activities. There will be additional reporting to the California Energy Efficiency Coordinating Committee ("CAEECC") that is yet to be determined. To achieve administrative efficiency, MCE recommends the Commission leverage the CAEECC reporting as an opportunity for additional insight into program performance in lieu of developing parallel reporting requirements.

C. Proposed Budgets

8. Present a single table summarizing energy savings targets, and expenditures by sector (for the six specified sectors). This table should enable / facilitate assessment of relative contributions of the sectors to savings targets, and relative cost-effectiveness.

MCE provided tables summarizing electric and gas energy savings targets and expenditures for all resource sectors in its business plan[19] and above in Table 1, Table 2, and Table 3. MCE also provided a short-term Total Resource Costs ("TRC") cost-effectiveness assessment for each resource sector within the sector chapter including: Single Family (1.13 TRC);[20] Multifamily (1.33 TRC);[21] Industrial (1.24 TRC);[22] Agricultural (1.27 TRC);[23] and Commercial (1.17 TRC).[24]

[19] MCE Business Plan, Appendix A at p. 135-136.
[20] MCE EE Business Plan at p. 36.
[21] MCE EE Business Plan at p. 53.

9. Using a common budget template developed in consultation with interested stakeholders (hopefully agreed upon at a "meet and confer" session), display how much of each year's budget each PA anticipates spending "inhouse" (e.g., for administration, non-outsourced direct implementation, other non-incentive costs, marketing), by sector and by cross-cutting program.

The PAs, the Utility Reform Network ("TURN"), and the Office of Ratepayer Advocates ("ORA") are still engaged in the meet and confer process directed in the Scoping Ruling. They have not determined the budget template as of the time for filing these comments. These parties requested, via motion, the opportunity to respond to this question on June 12, 2017. Today, Administrative Law Judge Kao issued a ruling granting the motion. Pursuant to the ruling, MCE will provide a response to this question by June 12, 2017.

10. Present a table akin to PG&E's Figure 1.9 (Portfolio Overview, p 37) or SDG&E's Figure 1.10 (p. 23) that not only shows anticipated solicitation schedule of "statewide programs" by calendar year and quarter, but also expected solicitation schedule of local third-party solicitations, by sector, and program area (latter to extent known, and/or by intervention strategy if that is more applicable). For both tables, and for each program entry on the calendar, give an approximate size of budget likely to be available for each solicitation (can be a range).

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[22] MCE EE Business Plan at p. 69.
[23] MCE EE Business Plan at p. 82.
[24] MCE EE Business Plan at p. 95.

This question is not applicable to MCE. MCE does not propose to administer any statewide programs in its business plan. As discussed in response to Question 5, the requirements of Third Party Programs do not apply to MCE.

D. Proposed Solicitation Structure and Schedule

11. How long does each PA anticipate the solicitation, contract negotiation, and mobilization period will take for third-party contracts? Describe the timetable for the entire process.

This question is not applicable to MCE. As discussed in response to Question 5, the requirements of Third Party Programs do not apply to MCE.

IV. QUESTIONS APPLICABLE TO MCE

60. MCE requests authority to be the sole PA in areas where it overlaps with PG&E. In its 2017 Budget advice letter, MCE forecast 2 GWh savings for its entire portfolio. Under this new proposed structure, MCE projects that it will save 120 GWh from all program savings in their territories over 10 years. That projection equates to an average of 12 GWh/year in total portfolio savings.

- *Years 1-2 would see an average 500 percent increase from current annual portfolio savings.*
- *Years 3-4 would see an average 550 percent increase from current annual portfolio savings.*
- *Years 5-10 would see an average 400 percent increase from current annual portfolio savings.*

Provide evidence that supports these energy savings projections within the overlapping PG&E/MCE areas.

There are two overarching facts supporting the increase in energy savings. First, MCE will expand its existing programs to a broader geographic area and increase customer participation. Second, MCE will begin serving new sectors. It is helpful to examine each sector to contextualize the increase in savings outlined in MCE's business plan. As overarching context, MCE's service area grew substantially (serving 60% more load) in 2016.

As stated in the business plan, MCE will achieve 1,729 MWh in first-year savings within the Multifamily Sector.[25] This number is discounted by 60% to enable a comparison with MCE's existing Multifamily Program. The resulting discounted savings figure is 692 MWh. In 2016, MCE had 688 MWh enter into rebate reservation in the existing Multifamily program. The relative savings, when controlling for new community inclusion, are comparable between MCE's existing Multifamily Program and the proposed savings in the business plan.

As proposed, MCE will accomplish 3,629 MWh in first-year savings within the Commercial Sector.[26] Reducing this number by 60% to 1,452 MWh discounts for the 2016 growth and improves comparison with MCE's existing programs. MCE's Small Commercial Program delivering direct installation service achieved 1,088 MWh in 2015.[27] MCE will be able to increase savings under the business plan because the Commercial Sector offerings are not limited to a small commercial direct installation program. MCE conducted an analysis of the size of commercial buildings, and while 40%-60% of businesses are less than 5,000 square feet, the remaining businesses are larger with over 20% between 10,000 square feet and 100,000 square

[25] MCE Business Plan, Appendix A at p. 135.
[26] MCE Business Plan, Appendix A at p. 135.
[27] MCE includes savings from 2015 because 2016 had uncharacteristically low savings due to PG&E increasing incentive levels on the jointly administered program.

feet.[28] MCE's program delivery expanding in the Commercial Sector will provide broader offerings and achieve greater savings compared with MCE's existing programs.

MCE will also launch new offerings for the Industrial Sector, Agricultural Sector, and Single Family Residential Sector. MCE's existing Single Family Program is a non-resource program. The Single Family Sector offerings in the business plan include resource offerings. MCE estimated participation levels for each of these sectors and used those estimates to develop savings targets based on the planned resource offerings. These offerings will produce additional savings because they are additional to MCE's existing programs.

61. Provide evidence supporting gas energy savings projections.

MCE is increasing the gas proportion of its budget relative to the electric funds. This additional budget will be used to provide more extensive gas savings offerings for each sector. The table below (Table 4) shows the gas savings (therms) attributed to each end use by sector as shown in MCE's Cost-Effectiveness Tool ("CET") output file. In the Single Family Sector, the majority of the gas savings comes from custom comprehensive retrofits. In the Multifamily Sector, the majority of gas savings comes from water heating, pumps and custom comprehensive measures. In the Industrial Sector and Agricultural Sector, the greatest percentage of savings comes from pipe insulation. In the Commercial Sector, the greatest gas savings come from water heating. MCE will reduce fossil fuel consumption and make important progress towards the state's climate goals through these expanded gas savings measures.

[28] MCE Business Plan, Figure 35 at p. 101.

Table 4: Gas Savings by End Use by Sector

Sector	Measure Group	Therms savings
Single Family	Pipe Insulation	4,320
	Custom Comprehensive Retrofit Package	22,745
	Showerhead	7,235
	Faucet Aerator	1,541
	Water Heater	893
	LED Lighting	(40)
	Refrigeration	(50)
	Total Therms Savings Year 1	**36,644**
	Pipe Insulation	5,760
	Custom Comprehensive Retrofit Package	78,732
	Showerhead	13,263
	Faucet Aerator	2,825
	Water Heater	893
	LED Lighting	(40)
	Refrigeration	(50)
	Total Therms Savings Year 2	**101,384**
Multifamily	Speed Pump	15,129
	Custom Comprehensive Retrofit Package	3,966
	Water Heater	25,164
	LED Lighting	(5)
	Showerhead	1,493
	Faucet Aerator	488
	Total Therms Savings Year 1	**46,234**
	Speed Pump	24,439
	Custom Comprehensive Retrofit Package	22,861
	Water Heater	99,494
	LED Lighting	(5)
	Showerhead	4,665
	Faucet Aerator	1,525
	Water Heating Controls	290
	MF Custom ZNE	933
	Total Therms Savings Year 2	**154,203**

Table 4 (cont'): Gas Savings by End Use by Sector

Sector	Measure Group	Therms savings
Industrial	Ecomizer	(455)
	Pipe Insulation	74,656
	SCT Control	18
	HVAC Motors	(38)
	LED Lighting	(68)
	Custom Comprehensive Retrofit Package	2,116
	SST Setpoint	1
	Boiler	29
	VSD	(3)
	Total Therms Savings Year 1	**76,256**
	Ecomizer	(1,630)
	Pipe Insulation	111,956
	SCT Control	42
	HVAC Motor	(61)
	LED Lighting	(111)
	Custom Comprehensive Retrofit Package	2,005
	SST Setpoint	2
	Boiler	63
	VSD	(5)
	Fryer	905
	Air Volume Box	729
	Clothes Washer	14
	Total Therms Savings Year 2	**113,910**
Agricultural	Pipe Insulation	2,073
	Boiler	141
	Custom Comprehensive Retrofit Package	594
	Total Therms Savings Year 1	**2,808**
	Pipe Insulation	2,764
	Boiler	219
	Custom Comprehensive Retrofit Package	1,113
	Total Therms Savings Year 2	**4,097**

Table 4 (cont'): Gas Savings by End Use by Sector

Sector	Measure Group	Therms savings
Small Commercial	LED Lighting	(1,756)
	Custom Comprehensive Retrofit Package	713
	Boiler	63
	Refrigeration	523
	HVAC Motor	(1,827)
	Economizer	(15,099)
	SCT Control	24
	SST Setpoint	0
	Water Heater	19,284
	Total Therms Savings Year 1	**1,924**
	LED Lighting	(4,953)
	Custom Comprehensive Retrofit Package	713
	Boiler	63
	Refrigeration	531
	HVAC Motor	(3,469)
	Economizer	(28,202)
	SCT Control	37
	SST Setpoint	0
	Water Heater	23,727
	Spray Valve	9,570
	Total Therms Savings Year 2	**(1,983)**

V. CONCLUSION

MCE thanks Commissioner Peterman, Administrative Law Judge Fitch, and Administrative Law Judge Kao for their thoughtful consideration of these comments.

Respectfully submitted,

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May 15, 2017

Attachment A:
Metrics Tables
(excerpted from MCE EE Business Plan)

Table 4. Single Family Sector Market Barriers & Metrics

Problem Statement	Market Barriers	Desired Market Effects/ 10–year Vision	Intervention Strategies	Sector Metric	Baseline	Metric Source	Short Term Target (1–3 years)	Mid Term Target (4–7 years)	Long Term Target (8–10 years)
Customers lack sufficient funds to cover the costs of upgrades. Customers are not aware of financing options or do not qualify for traditional financing tools	Financial barrier; lack of awareness	Increase in the number of homeowners who are aware of and make use of financing options to help them cover the cost of energy efficient home upgrades	1. Rebates[1] 2. Education about financing offered by other entities (i.e. PACE)	1. Number of completed projects 2. Number of referrals to PACE programs 3. Number of completed projects using PACE financing	1. Program Year 1 (PY1) 2. PY1 3. 2015 Baseline: 128 projects completed in MCE service area using PACE tax assessments	1. Program tracking data 2. Program tracking data 3. PACE providers	1. Increase 10% over PY1 baseline 2. Increase 10% over PY1 baseline 3. Increase 5% over 2015 baseline	1. Increase 20% over PY1 baseline 2. Increase 20% over PY1 baseline 3. Increase 10% over 2015 baseline	1. Increase 30% over PY1 baseline 2. Increase 30% over PY1 baseline 3. Increase 15% over 2015 baseline
In renter–occupied homes the homeowner pays for the upgrades but the renter sees the financial benefit on their utility bill resulting in fewer homeowners willing to make the investment in energy efficiency	Split incentive	Increase in the awareness of non–energy benefits of energy efficiency measures (i.e. comfort, light quality, etc.) and the value that has on the rental market	1. Door–to–door direct install provides energy efficiency measures free of cost 2. Behavioral campaigns encourage low–cost and no–cost solutions	1. Number of homes receiving direct install measures 2. Number of customers reached through behavioral campaigns	1. PY1 Participation 2. PY1 Participation	1. Program tracking data 2. Program tracking data	1. 0.1% of homes 2. 2% of residential customers	1. 0.5% of homes 2. 5% of residential customers	1. 1% of homes 2. 10% of residential customers
There are a limited number of contractors with technical knowledge of integrated and comprehensive demand–side management or above code opportunities	Lack of contractors trained in IDSM and how to meet or exceed code	Increase in the number of contractors who understand the benefits of IDSM and can use that knowledge to sell projects	1. Contractor training	1. Number of contractors that participate in training	1. 2015 Baseline: 17 contractors attended training	1. Program tracking data	1. 10% increase over 2015 baseline	1. 10% increase over 2015 baseline	1. 10% increase over 2015 baseline
There is a perception among contractors that rebate programs are time and labor intensive	Confusion among contractors about program processes, high administrative burden of participating in programs	Increase participation and decrease customer/ contractor confusion	1. SPOC guides customers through various program offerings and supports contractors in selling projects	1. Number of repeat participants 2. Number of projects provided with technical assistance 3. Percentage of projects completed with more than one demand side strategy	1. PY1 Participation 2. PY1 Participation 3. PY1 Participation	1. Program tracking data 2. Program tracking data 3. Program tracking data	1. NA 2. 2% of homes 3. 50% of projects	1. 5% of participants 2. 10% of homes 3. 60% of projects	1. 10% of participants 2. 20% of homes 3. 80% of projects
Energy Efficiency improvements are not as visible as other clean energy strategies, such as rooftop solar panels, and therefore they are not valued as highly by homeowners or prospective home buyers	Low perceived value of energy efficiency measures	Energy efficiency improvements are valued in the real estate market	1. Home information and automation devices to make energy consumption more conspicuous 2. Community engagement and gamification to motivate customers to save energy	1. Increase in value of energy efficiency retrofits in home sales 2. Participation in community outreach/ competitions	1. PY1 Participation 2. PY1 Participation	1. Market study 2. Program tracking data	1. Increase 2% over PY1 baseline 2. 2% of residential customers	1. Increase 5% over PY1 baseline 2. 5% of residential customers	1. Increase 7% over PY1 baseline 2. 10% of residential customers
Customers are not aware of the potential benefits of energy efficiency upgrades or the availability of MCE's program	Lack of awareness	Increased awareness of MCE's program offerings and financial benefit of energy efficiency upgrades	1. Door–to–door campaigns and community outreach increase awareness of MCE programs 2. SPOC approach tracks opportunities for an individual customer over time	1. Participation in door to door campaigns and community outreach activities 2. Number of repeat referrals from SPOC	1. PY1 Participation 2. PY1 Participation	1. Program tracking data 2. Program tracking data	1. 2% of residential customers 2. NA	1. 5% of residential customers 2. 5% of participants	1. 10% of residential customers 2. 10% of participants
Customers are concerned about uncertainty in achievable savings	Uncertainty in savings	Increased certainty around achievable energy savings	1. Metered energy savings increase accuracy of projected energy savings and validate savings post–installation	1. Increased alignment between projected energy saving and metered energy savings	1. PY1 Participation	1. Impact evalua-tion	1. Realization rate > 75%	1. Realization rate > 80%	1. Realization rate > 90%

Table 9. Multifamily Sector Market Barriers & Metrics

Problem Statement	Market Barriers	Desired Market Effects/10–year Vision	Intervention Strategies	Sector Metric	Baseline	Metric Source	Short Term Target (1–3 years)	Mid Term Target (4–7 years)	Long Term Target (8–10 years)
Energy efficiency upgrades can be costly	Lack of capital and willingness to incur financing	Energy efficiency becomes the norm (7% increase over 2016 baseline)	1. Educate property owners on the value of energy efficiency upgrades[1] 2. Work with properties to develop long–term scope of work that fits into capital improvement plans 3. Develop programs that address entire portfolios	1. Number of properties completing assessments 2. Number of properties that complete multiple projects over multiple years 3. Dollar amount of rebates given at the portfolio level	2016 baseline	Program tracking data	Increase 2% over baseline	Increase 5% over baseline	Increase 7% over baseline
Energy efficiency upgrades can be costly[2]	Risk adverse underwriting and high–interest loans	Financing programs that meet the needs of property owners opposed to financial institutions (5% increase over 2016 baseline)	1. Work with partners to design financing programs that meet the needs of properties[3] 2. Partner with existing financing programs to educate properties on their options	1. Number of loans disbursed 2. Increase in number of referrals to other financing programs	2016 baseline	Program tracking data	Increase 1% over baseline	Increase 3% over baseline	Increase 5% over baseline
Affordable properties and HOAs have multiple owners and complex operating structures requiring time—consuming coordination to get buy–in, consensus and sign–off for individual measures and large–scale projects	It is difficult to access decision makers	MCE is the first point of contact for property owners considering upgrades (7% increase over 2016 baseline)	1. Partner with trusted entities already working with properties[4] 2. Leverage existing relationships for introductions to other decision makers[5] 3. Targeted outreach to decision makers[6]	1. Number of properties brought in by trusted partners 2. Number of projects from referrals 3. Number of meetings/presentations to decision makers	2016 baseline	Program tracking data	Increase 2% over baseline	Increase 5% over baseline	Increase 7% over baseline
Market rate property owners are more likely to complete common area measures than resident unit upgrades[7]	Property owners are hesitant to disturb or displace residents and risk loss of income	Energy efficiency improvements are valued and desired by renters (7% increase over 2016 baseline)	1. Develop a long–term plan to upgrade units at turnover using a sliding scale incentive 2. Resident energy efficiency certificate program	1. Percentage of market rate property owners completing common and in–unit measures 2. Number residents receiving certifications	2016 baseline	Program tracking data	Increase 2% over baseline	Increase 5% over baseline	Increase 7% over baseline
Renters are typically responsible for paying their own utility bill, disincentivizing owners from paying for in–unit upgrades[8]	Split–incentive issue	Energy efficiency improvements are valued and desired by renters (7% increase over 2016 baseline)	1. Stand alone direct install program 2. Resident energy efficiency certificate program 3. Cost–share direct install program for in–unit measures 4. Higher incentives for in–unit measures paid for by owners[9]	1. Number of units served 2. Number of units receiving in–unit upgrades where resident pays utility bill 3. Number of units served 4. Number of units receiving upgrades (not including DI)	Determine baseline from PY1 data	Program tracking data	Increase 2% over baseline	Increase 5% over baseline	Increase 7% over baseline
Contractors perceive rebate programs to be time and labor intensive[10]	High transaction cost of engaging with complex rebate programs	Contractors incorporate energy efficiency measures into all proposals and MCE is their first point of contact for rebate programs (7% increase over 2016 baseline)	1. Establish a contractor advisory committee to help design and champion program offerings[11] 2. Develop feedback loops for contractor input on processes and systems 3. Work with manufacturers to train contractors on new technologies	1. Number of unique contractors on the advisory committee 2. Number of project referrals from contractors 3. Number of contractors participating in trainings	Determine baseline from PY1 data	Program tracking data	Increase 2% over baseline	Increase 5% over baseline	Increase 7% over baseline
Properties are reluctant to participate in current programs based on past experiences being negative[12]	Property owners'/ managers' perception of rebate programs	MCE is the first point of contact for property owners considering upgrades (7% increase over 2016 baseline)	1. Add more resources offerings to the SPOC program 2. SPOC will build and maintain long–term relationships with property owners and managers[13] 3. Provide opportunities for properties to experience MCE's program without having to make a long–term commitment	1. Number of referrals to other resource/ rebate programs 2. Number of properties completing multiple projects 3. Number of properties phasing upgrades	2016 baseline	Program tracking data	Increase 2% over baseline	Increase 5% over baseline	Increase 7% over baseline

Table 13. Industrial Sector Market Barriers & Metrics

Problem Statement	Market Barriers	Desired Market Effects/ 10–year Vision	Intervention Strategies	Sector Metric	Baseline	Metric Source	Short Term Target (1–3 years)	Mid Term Target (4–7 years)	Long Term Target (8–10 years)
Energy efficiency upgrades need to compete against other possible investments for funding and often have to pass initial screening to be considered, such as a very short payback period (under three years)	Financial barrier; prioritization barrier	Modify industrial practices to have organizations naturally consider and adopt EE solutions	1. Intelligent outreach 2. Strategic and continuous energy improvement / SEM 3. Rebates and incentives 4. Direct install 5. Financing	1. Number of industrial customer participating in EE programs	2015 SEM participation levels in Oregon Energy Trust (OET) – % of industrial customer participation	OET Program Report	50% of OET 2015 participation level	75% of OET 2015 participation level	OET 2015 participation level
Lost production time resulting from equipment being off–line for efficiency upgrades is costly to a manufacturer	Equipment downtime	Create simple, no hassle, low cost program transaction that encourages greater customer investment in EE	1. Intelligent outreach 2. Peer outreach and training cohorts	2. Amount of EE savings achieved from process–related projects	Program Year 1 (PY1)	MCE Program database	Increase in program savings by 10% over 2017 levels by Year 3	Increase in program savings by 15% over PY1 levels by Year 7	Increase in program savings by 20% over PY1 levels by Year 10
Manufacturers with unique processes may be unwilling to invite outside energy auditors to assess their facilities in the interest of protecting proprietary information	Proprietary information	Win customers' trust as a partner and advisor	1. Intelligent outreach 2. Strategic and continuous energy improvement / SEM	3. Number of industrial customer participating in EE programs	2015 SEM participation levels in Oregon Energy Trust	OET Program Report	50% of OET 2015 participation level	75% of OET 2015 participation level	OET 2015 participation level
Smaller manufacturers may not have dedicated energy professionals on staff	Lack of time and awareness	Majority of industrial facilities have an energy manager	1. Incentives and trainings for dedicated and shared energy managers	4. Percentage of industrial customers with a dedicated or shared energy manager	PY1	MCE Program database	Increase by 10% over baseline	Increase by 15% over baseline	Increase by 20% over baseline

needs over time, MCE proposes the following studies be conducted:

» **Potential Study:** The existing Navigant potential study provides little insight for MCE customers. It is not granular enough to provide insights into the potential in MCE's service area. Further, the limited industrial segmentation in the study is unlikely to provide useful insights due to the uniqueness of industrial facilities — even when producing a similar product. The forthcoming potential study, spearheaded by the Energy Division, should include more detail on the industrial sector, including more measure–level categories (currently only machine drivers and process refrigeration are included).

» **Market Assessments:** Aimed at understanding key drivers and decision making processes for industrial customers, market assessments are to be conducted by the Energy Division or MCE.

» **Impact Evaluation:** Impact evaluations, which focus on key program metrics, are to be conducted by the Energy Division.

» **Process Evaluation:** Aimed at providing insights into customer drivers for participating, and areas for program design and process improvements, process evaluations are to be conducted by the Energy Division or MCE. For the strategic and continuous energy improvement strategy, MCE proposes an independent survey of participants to gather qualitative information on program design, marketing and outreach, program implementation, participation experience, and market barriers.

In addition, MCE will conduct a cross–sector process evaluation of the SPOC offering to determine to what degree it helps alleviate customer confusion and encourages repeat participation through project phasing.

10.5 Coordination

MCE is an independent Program Administrator operating within PG&E's service territory and overlapping the Bay Area Regional Energy Network's service territory. Coordination among different programs will be important to minimize customer and contractor confusion while also achieving program objectives.

Key Partners

MCE will partner closely with other organizations promoting resource conservation, including water districts, climate coalitions, renewable and distributed generation companies and installers, and electric vehicle companies. MCE will communicate regularly with these entities to ensure that they have the latest program information. MCE will facilitate program participants' applications for rebates with these partner agencies and to the extent possible integrate those applications with the MCE application to streamline participation in multiple programs.

best practices around operations, maintenance, and behavioral energy efficiency. Additionally, MCE will work with each group to develop energy management metrics. Bringing similar operations together will foster a network for sharing best practices and benchmarking. The cohorts could also provide a valuable feedback channel for MCE on its agricultural program offerings.

Energy Efficiency Assistance for Farm Worker Housing

There are approximately 500 farm workers in Marin, many of whom are living in homes that do not meet minimum housing standards.[74] In Napa, the number is even greater. At the peak of the grape harvesting season there may be as many as 7,000 farmworkers in Napa.[75] Not all of these workers live in Napa permanently, but due to concerns about US immigration policy and a growing demand for year–round work, the trend is for an increasing number to remain in Napa year–round.[76]

Year–round residents have greater housing requirements than seasonal workers — they tend to need family housing instead of just a bed.[77] A 2013

74 Trevor Bach, "Farm Worker Housing: 200 Units Planned," Point Reyes Light, February 23, 2012. http://www.ptreyeslight.com/article/farm–worker–housing–200–units–planned

75 Bae Urban Economics, "Final Report: 2012 Napa County Farmworker Housing Needs Assessment," Napa County Housing and Intergovernmental Affairs, March 29, 2013.

76 Ibid.

77 Bae Urban Economics, "Final Report: 2012 Napa County Farmworker Housing Needs Assessment," Napa County Housing and Intergovernmental Affairs, March 29, 2013.

survey of Napa farm workers found that 34% live in apartments, 31% live in farm worker centers, 14% live in mobile homes, 12% live in single family homes and 9% live in bunk houses or dormitories. MCE will use relationships in the agriculture industry developed through this program to target farm worker housing for participation in MCE's multifamily program.

Financing

MCE will help customers navigate the landscape of financing offerings available and encourage them to participate to the extent that it facilitates energy efficiency upgrades. Financing will help reduce up–front costs and address challenges with seasonal cash flow. Financing is available either through the commercial On–Bill Repayment program offered by MCE, the Property Assessed Clean Energy (PACE) financing programs available in the MCE service area, the California Energy Commission (CEC) low interest loan program, or agricultural specific lending programs such as those offered by the United States Department of Agriculture (USDA).

The SPOC will facilitate access to financing programs that are most suitable for the applicant. The SPOC will provide assistance in completing applications, supply information about the energy impacts of the proposed project where appropriate, and provide project management and oversight of the application to keep the process moving forward.

Metrics Tables (Table 17)

Alongside the other program administrators, MCE developed metrics that connect market barriers to intervention strategies and provide near–, mid–, and long–term targets that build towards a 10–year vision.

Table 17. Agriculture Sector Market Barriers & Metrics

Problem Statement	Market Barriers	Desired Market Effects/ 10–year Vision	Intervention Strategies	Market Effect Metrics	Baseline	Metric Source	Short Term Target (1–3 years)	Mid Term Target (4–7 years)	Long Term Target (8–10 years)
Dairies operate under constrained cash flow due to regulations that set milk prices. Other agricultural operations may face capital constraints due to fluctuating production, environmental factors such as drought, and market prices of products	Financial barrier	Increase in the number of customers who are aware of and make use of financing options and rebate programs to help them achieve energy savings	1. Incentives 2. Education about available financing options	1. Number of completed projects through program	1. Program Year 1 (PY1) Participation	1. Program tracking data	1. Increase 5% over PY1 baseline	1. Increase 10% over PY1 baseline	1. Increase 15% over PY1 baseline
Agricultural operations often follow a seasonal calendar that determines high and low periods of activity and equipment use. The seasonal cycles also affect cash flow and financial planning. Energy efficiency projects need to be arranged for at the appropriate point in the planning process, and conducted at key points during the year	Financial barrier, seasonal time constraints	Increase in the number of customers that have long term energy efficiency plans to upgrade specific equipment during times of low use	1. Technical assistance 2. Increased phasing of projects through SPOC approach	1. Number of customers who receive technical assistance 2. Number of customers with long term action plan under SPOC approach 3. Number of repeat referrals through SPOC	1. PY1 Participation 2. PY1 Participation 3. PY1 Participation	1. Program tracking data 2. Program tracking data 3. Program tracking data	1. 2% of ag customers 2. 50% of program participants 3. N/A	1. 5% of ag customers 2. 75% of program participants 3. 5% of participants	1. 10% of ag customers 2. 90% of program participants 3. 10% of participants
Compared to other regions of the state, agricultural operations in MCE service area are smaller with fewer employees and fewer acres in production. These operations may not have staff with energy expertise and may not know where to seek out assistance, rebates, and financing for energy efficiency upgrades	Lack of awareness of programs and energy efficiency equipment	Increased awareness of MCE's program offerings	1. Increase awareness of MCE's program and energy efficiency opportunities through peer to peer outreach, training cohorts and leveraging existing green certification programs	1. Number of completed projects through program 2. Number of customers attending training sessions	1. PY1 Participation 2. PY1 Participation	1. Program tracking data 2. Program tracking data	1. Increase 10% over PY1 baseline 2. 5 customers	1. Increase 15% over PY1 baseline 2. 20 customers	1. Increase 20% over PY1 baseline 2. 30 customers

Table 21. Commercial Sector Market Barriers & Metrics

Problem Statement	Market Barriers	Desired Market Effects/ 10–year Vision	Intervention Strategies	Sector Metric	Baseline	Metric Source	Short Term Target (1–3 years)	Mid Term Target (4–7 years)	Long Term Target (8–10 years)
Misalignment between typical payback requirements and commercial building turnover rates (disincentive to pay for upgrades that they may not benefit from)	Financial barrier	Improve the energy efficiency penetration in the untapped property management market	1. Leverage SPOC 2. Sophisticated CRM 3. Partnerships to engage and get buy–in from property managers	Percentage of commercial customers that participate in the program	Current percentage of commercial customers that participate in the program	MCE Program database	Increase to 2% of market	Increase to 4% of market	Increase to 6+% of market
"Split incentive" issue in which the tenant pays for electricity, but does not own the equipment. This arrangement is very common in the commercial sector, and can make it challenging to get buy–in and financial backing for efficiency upgrades	Split incentive	Landlords offer upgrades as business–as–usual	1. Leverage SPOC 2. Sophisticated CRM 3. Partnerships to engage and get buy–in from property managers	Percentage of rental property owners and tenants that participate in programs	Current % of commercial customers that participate in the program	MCE Program database	Increase to 2% of market	Increase to 4% of market	Increase to 6+% of market
Potential savings are fragmented across a high diversity in business type and large geographical area	Geographic diversity and area	Projects completed with relatively similar penetration across service area	1. Diversity of campaigns and outreach to reach broad territory	Increase in participation in historically under-participating regions	2015 baseline	MCE Program database	Increase to 2% of market	Increase to 4% of market	Increase to 6+% of market
Limited number of contractors with technical knowledge of integrated and comprehensive demand–side management and a need for more contractors that also have the business, sales, and project management skills to convert lead generation to complete projects	Lack of contractor training; workforce limitations	Increase in contractor–driven projects	1. Expand contractor trainings and incentives	Number of trainings; audit to completion conversion rate	2015 baseline	MCE Program database	Increase by 30% over baseline	Increase by 50% over baseline	Increase by 70% over baseline
Uncertainty in achievable savings	Lack of data	Metered–based savings provides customers with greater certainty in savings	1. Metered–based savings pilots 2. Pay–for–performance strategies	Alignment between expected and achieved savings	2015 baseline	MCE Program database	Increase to 2% of market	Increase to 4% of market	Increase to 6+% of market
Lack of dedicated energy managers in the commercial sector	Lack of time	Majority of commercial properties have an energy manager	1. Incentives and trainings for dedicated and shared energy managers	Percentage of all commercial customers with a dedicated or shared energy manager	Program Year 1 (PY1)	MCE Program database	Increase by 10% over baseline	Increase by 15% over baseline	Increase by 20% over baseline
Need for greater sub–metering and metered energy savings approaches to gain insight into energy consumption patterns and savings over time	Lack of data	Greater reliance on metered savings	1. Promoting use of metered energy savings where applicable	Number of participants with savings tracked by metered based approaches	PY1	MCE Program database	Increase by 5% over baseline	Increase by 10% over baseline	Increase by 15% over baseline
Commercial customers' general lack of awareness of energy efficiency benefits and MCE programs	Lack of awareness	Majority of commercial customers recognize MCE's energy efficiency brand and benefits	1. Expand marketing efforts; leverage partnerships to broaden the message about EE benefits 2. Increase in standardization of savings	Percentage of all commercial customers aware of MCE's EE programs	PY1	MCE Program database	Increase by 10% over baseline	Increase by 15% over baseline	Increase by 20% over baseline
Energy efficiency improvements are not as visible as other clean energy strategies, such as rooftop solar panels. As a result, efficiency improvements may not increase property values in the way that other clean energy strategies do	Visibility of Improvements	Property owners and prospective tenants value EE improvements; greater reliance on benchmarking	1. Leverage partnerships and conduct strategic marketing efforts	EE value included in appraisal	PY1	Program administrator	Establish metric to quantify increased property value from EE (both savings and non–energy benefits)	Quantify data for newly established metric	Integrate metric into customer reports

Table 27. Workforce Market Barriers & Metrics

Problem Statement	Market Barriers	Desired Market Effects/ 10–year Vision	Intervention Strategies	Sector Metric	Baseline	Metric Source	Short Term Target (1–3 years)	Mid Term Target (4–7 years)	Long Term Target (8–10 years)
The energy efficiency workforce requires a wide variety of trainings for all skill levels	Lack of diverse trainings	Stackable certified programs that meet workforce entrants where they are at (Increase of 15% over baseline)	1. Work with partners and industry experts to design and implement trainings 2. Develop a plan for funding sector specific, stackable certifications (entry level to professional certifications)[1]	1. Increase in stackable certifications 2. Increase in number of trainees completing the pathway	Determine baseline from Program Year 1 (PY1) data	Program tracking data	Increase 5% over baseline	Increase 10% over baseline	Increase 15% over baseline
Trainings take contractors away from their core job responsibilities	Lack of time for trainings	To seamlessly integrate trainings into day–to–day operations (Increase of 15% over baseline)	1. Schedule trainings around peak work schedules[2] 2. Incorporate on–the–job training[3] 3. Bring trainings to contractors[4]	1. Number of trainings scheduled around peak work 2. Increase in grants provided for on–the–job training 3. Number of trainings at individual businesses	Determine baseline from PY1 data	Program tracking data	Increase 5% over baseline	Increase 10% over baseline	Increase 15% over baseline
Trainings, workshops and certifications can be costly	Lack of funding for trainings	Provide trainings that are accessible to all (Increase of 15% over baseline)	1. Provide subsidized trainings 2. Offer scholarships to individuals 3. Partner with workforce development organizations to provide training for hard–to–reach and at–risk populations[5]	1. Increase in participants that wouldn't have been able to participate 2. a. Number of individual scholarships given b. Amount of individual scholarships given 3. a. Number of partner organizations b. Number of hard to reach participants trained	Determine baseline from PY1 data	Program tracking data	Increase 5% over baseline	Increase 10% over baseline	Increase 15% over baseline
Codes and standards change every few years and it can be difficult for contractors to stay up to date with the changes	Changing codes and standards	Contractors that understand and can easily implement new codes (Increase of 15% over baseline)	1. Work with local planning departments to develop a mobile app 2. Facilitate a conversation between planning departments and contractors to identify gaps, provide feedback loops, and develop channels for information dissemination 3. Work with inspectors to provide on–the–job training for new codes and standards	1. Number of downloads 2. Number of MCE jurisdictions that participate in the standardized process for dissemination of and feedback loops for new codes and standards implementation 3. a. Number of on–the–job training sessions with inspectors b. Reduction in repeat inspector visits for code violations	Determine baseline from PY1 data	Program tracking data	Increase 5% over baseline	Increase 10% over baseline	Increase 15% over baseline
There are not enough comprehensive educational programs focused on energy efficiency	Discrete trainings do not contribute to a career pathway	Create meaningful career paths for participants (Increase of 15% over baseline)	1. Design an energy efficiency vocational program	1. Number of graduates	Determine baseline from PY1 data	Program tracking data	Increase 5% over baseline	Increase 10% over baseline	Increase 15% over baseline
Contractors don't know how to use, install or explain the value of new technology	Lack of training on new technologies	New technologies are valued and installed by the masses upon release (Increase of 15% over baseline)	1. Facilitate educational workshops with product manufacturers[6] 2. Provide on–the–job training for operations and maintenance staff	1. Number of product specific workshops 2. Number of product specific on–the–job training sessions for operations and maintenance staff	Determine baseline from PY1 data	Program tracking data	Increase 5% over baseline	Increase 10% over baseline	Increase 15% over baseline

1 Workforce Issues and Energy Efficiency Programs: A Plan for California's Utilities. Donald Vial Center on Employment in the Green Economy at the University of Berkeley. (2014) p. 132.

2 Workforce Issues and Energy Efficiency Programs: A Plan for California's Utilities. Donald Vial Center on Employment in the Green Economy at the University of Berkeley. (2014) p. 78.

3 2010-2012 WE&T Process Evaluation Volume I: Centergies. Opinion Dynamics and McLain ID Consulting. (2012) p. 40.

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5 2010-2012 WE&T Process Evaluation Volume I: Centergies. Opinion Dynamics and McLain ID Consulting. (2012) p. 118.

6 2010-2012 WE&T Process Evaluation Volume I: Centergies. Opinion Dynamics and McLain ID Consulting. (2012) p. 139.

Attachment B:
List of References to Studies and Research

List of References to Studies and Research in MCE EE Business Plan

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.	Rulemaking No. 12-06-013 (Filed June 21, 2012)

RESPONSE OF MARIN CLEAN ENERGY, THE CITY OF LANCASTER, AND THE CENTER FOR ACCESSIBLE TECHNOLOGY

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May 18, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.	))))))))	Rulemaking No. 12-06-013 (Filed June 21, 2012)

RESPONSE OF MARIN CLEAN ENERGY, THE CITY OF LANCASTER, AND THE CENTER FOR ACCESSIBLE TECHNOLOGY

In accordance with Rule 11.1 of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California ("Commission"), Marin Clean Energy ("MCE"), the City of Lancaster ("Lancaster") (collectively, the "CCA Parties") and the Center for Accessible Technology ("CforAT") hereby submit their response to Southern California Edison Company's ("SCE") *Motion to Remove the PCIA CARE/MB Exemption Issue to A.16-05-001; or, in the Alternative, to Set Legal Briefing Schedule in This Proceeding* ("Motion"), filed on May 3, 2017 in the instant proceeding, Rulemaking ("R.")12-06-013. As further described below, the Commission should reject SCE's request to remove the anticipated Power Charge Indifference Adjustment ("PCIA") Exemption issue from this proceeding, and the Commission should consider the issue in this proceeding, as expressly directed by the Commission.[1]

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[1] *See Assigned Commissioner and Administrative Law Judge Ruling on Motion Seeking Consolidation*, dated March 28, 2017 (Application ("A.")16-06-013) ("Exemption Ruling").

I. INTRODUCTION AND SUMMARY

Community Choice Aggregator and Direct Access customers within SCE's service territory who receive California Alternate Rates for Energy ("CARE") and/or Medical Baseline ("MB") rates are currently exempt from paying SCE's Power Charge Indifference Adjustment ("PCIA") charge. This Exemption ("PCIA CARE/MB Exemption") has been in place since 2003, when the Commission adopted Resolution E-3813, which created the CARE/MB Exemption for the PCIA's predecessor, the Cost Responsibility Surcharge ("CRS"). For SCE, this Exemption has remained in place through multiple Commission reviews of the CRS and, more recently, the PCIA.

SCE's 2016 Rate Design Window Application, A.16-09-003, included a proposal to eliminate the PCIA CARE/MB Exemption.[2] On November 2, 2016 Lancaster filed identical motions in A.16-09-003 and R.12-06-013 requesting that the PCIA CARE/MB Exemption issue be consolidated into the instant proceeding, R.12-06-013, on the grounds that the issue falls within the scope of R.12-06-013 and is most appropriately addressed in this Rulemaking.[3] SCE opposed Lancaster's motion.[4] On March 21, 2017, the Assigned Commissioner issued a Scoping Memo and Ruling for A.16-09-003 that removed the PCIA CARE/MB Exemption issue from that proceeding, stating:

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[2] *See Application of Southern California Edison Company for Approval of its 2016 Rate Design Window Proposals*, dated September 1, 2016 (A.16-09-003), at 10.

[3] *See Motion Of The City Of Lancaster for Consolidation*, dated November 2, 2016 (filed concurrently in A.16-09-003 and R.12-06-013).

[4] *See Southern California Edison Company's Response to the Motion of the City of Lancaster for Consolidation*, dated November 17, 2016 (R.12-06-013).

> This scoping memo and ruling cannot determine whether an issue should or should not be taken up in a different proceeding. However, Lancaster makes convincing arguments in its protest that SCE's PCIA proposal should not be considered in this Rate Design Window proceeding. The exemption is treated differently by PG&E (MB customers are exempt, but CARE customers are not), and no information has ben provided with respect to the treatment of the exemption by San Diego Gas and Electric Company. SCE itself agrees that the Commission should inform uniformity on this issue across IOUs. Furthermore, without commenting on the merits of Lancaster's arguments regarding potential harm to vulnerable CCA customers, this also appears to be an issue with statewide implications. For these reasons, SCE's proposal regarding its PCIA exemptions shall not be include within the scope of this proceeding.[5]

Similarly, on June 30, 2016, Pacific Gas and Electric Company ("PG&E") filed its General Rate Case Phase II Application, A.16-06-013, which included a proposal to eliminate the PCIA Exemption for CCA and DA customers on the MB program within PG&E's service territory.[6] On December 23, 2016 MCE filed motions in A.16-09-013 and the instant proceeding, R.12-06-013, seeking consolidation of the issue into R.12-06-013.[7] CforAT filed a response to MCE's motion, supporting MCE's procedural arguments and requests, while declining to take a position on MCE's substantive argument regarding the Exemption.[8] PG&E filed a response opposing MCE's motion.[9] On March 28, 2017 the Assigned Commissioner and Administrative Law Judge for A.16-06-013 issued a ruling on MCE's motion. Referencing *both* MCE's motion in A.16-06-013 and Lancaster's motion in A.16-09-003, the Assigned

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5 *See Scoping Memo and Ruling of Assigned Commissioner,* dated March 21, 2017 (A.16-09-003), at 4.

6 *See General Rate Case Phase II Application of Pacific Gas and Electric Company*, dated June 30, 2016 (A.16-06-013), at 9.

7 *See Motion of Marin Clean Energy for Consolidation,* dated December 23, 2016 (A.16-06-013).

8 *See Center for Accessible Technology's Response to Motion of Marin Clean Energy for Consolidation*, dated January 5, 2017 (A.16-06-013).

9 *See Pacific Gas and Electric Company's Response in Opposition to the Motion of Marin Clean Energy for Consolidation*, dated January 6, 2017 (A.16-06-013).

Commissioner and Administrative Law Judge ruled that "Proposals to eliminate or modify the Power Charge Indifference Amount Exemption for Medical Baseline and California Alternative Rates for Energy customers *will be handled solely in Rulemaking 12-06-013*."[10]

On May 3, 2017, SCE filed the Motion in the instant proceeding requesting that the Exemption issue be removed from this proceeding and instead handled in SCE's 2017 ERRA Forecast proceeding, A.16-05-001, or, in the alternative, that the issue remain in this proceeding but be handled in an expedited manner and limited to legal briefing, without developing an evidentiary record. As set forth in detail below, SCE's requests are unreasonable and both legally and procedurally inappropriate. Both requests should be denied. The CCA Parties and CforAT respectfully ask that, consistent with the Exemption Ruling, all issues related to the PCIA CARE/MB Exemption be handled in Phase 3 of this proceeding. The CCA Parties and CforAT further ask that these issues be handled in the same manner, and with the same evidentiary standards, as other CARE-related issues in Phase 3. IOUs seeking to eliminate or modify the PCIA CARE/MB Exemption should be required to submit their proposals and supporting testimony in the normal fashion, and parties engaged in these issues should be given full due process, including the opportunity to conduct discovery, submit testimony and explore factual issues through evidentiary hearings.

II. RESPONSE

A. The Commission Should Deny SCE's Request To Remove The PCIA CARE/MB Exemption From The Instant Proceeding

SCE's main request is for the Commission to remove the PCIA CARE/MB Exemption issue from the instant proceeding, and transfer the issue to SCE's 2016 ERRA proceeding, A.16-05-011. SCE justifies this request on three grounds. First, SCE argues that the Exemption issue

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10 *See* Exemption Ruling at 8, *emphasis added*.

is not well suited to the instant proceeding because this proceeding concerns the restructuring of the CARE rates under Assembly Bill ("AB") 327, and the PCIA CARE/MB Exemption has "nothing to do" with AB 327.[11] Second, based on the assertion that PCIA CARE/MB Exemption issue has nothing to do with the instant proceeding, SCE argues that Phase 2 of SCE's 2017 ERRA Forecast proceeding (A.16-05-011) is a better venue for the issue, since it has been scoped to include consideration of a PCIA-related policy issue.[12] Third, SCE characterizes the PCIA CARE/MB Exemption issue as "time-sensitive" and asserts that this proceeding's CARE restructuring track would take too long to resolve the issue.[13]

The Commission should deny SCE's request to remove for two principal reasons: 1) this proceeding is the most appropriate venue for considering the Exemption; and 2) SCE's request is an impermissible collateral attack on the Commission's Exemption Ruling assigning the PCIA CARE/MB Exemption issue to this proceeding. These reasons are discussed in further detail below.

1. This Proceeding Is The Most Appropriate Venue For The Issue

For the reasons cited by the Commission in its Exemption Ruling, the instant proceeding is the most appropriate venue for the consideration of the PCIA CARE/MB Exemption issue. The Exemption Ruling specifically states that:

> It is reasonable to consider the PCIA exemption proposals in conjunction with the CARE restructuring proposals in R.12-06-013 so that policy affecting rates for low income customers may be reviewed in a single proceeding.[14]

The Exemption Ruling further states that:

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11 *See* Motion at 5.

12 *See* Motion at 5-6

13 *See* Motion at 6-7.

> In AB 327 the Legislature required the Commission, in establishing rates for CARE program participants, to ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures and to adopt CARE rates in which the level of discount for low-income electricity and gas ratepayers correctly reflects their level of need. MCE offers reasonable arguments that the PCIA should be considered by the Commission for the purpose of ensuring that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures, as the PCIA is in fact reflected in the total bills paid by these ratepayers.[15]

In claiming that the PCIA CARE/MB Exemption issue is inappropriate for the instant proceeding because it "has nothing to do with AB 327," SCE fundamentally misstates the nature and scope of this proceeding. AB 327 grants the Commission significant, open-ended authority to reorganize the CARE program, subject to certain specified requirements.[16] On June 28, 2012, the Commission initiated R.12-06-013 in order to "examine current residential rate design" while "ensur[ing] for the foreseeable future that rates are both equitable and affordable while meeting the Commission's rate and policy objectives for the residential sector. This is especially true in terms of ensuring that low income customers have access to enough electricity to meet their basic needs at an affordable cost."[17] In an October 26, 2016 email ruling, the assigned Administrative Law Judge stated that:

> R1206013 has set forth a process that includes gathering and evaluating data on the effectiveness of the current discount structure. In addition, R1206013 is examining the structure of the CARE discount in the context of the entire residential structure, including the impact on non-CARE customers.[18]

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14 Exemption Ruling at 7.

15 Exemption Ruling at 7-8.

16 *See* Pub. Util. Code Section 739.1.

17 *See Order Instituting Rulemaking*, dated June 28, 2012 (R.12-06-013) at 1-2.

18 *See R.12-06-013 Email Ruling Directing IREC to File Ex Parte Notices*, dated October 26, 2016 (R.12-06-013).

As the Commission already correctly concluded in the Exemption Ruling, the PCIA CARE/MB Exemption clearly falls within this broad range of issues.

The Exemption issue is, at its core, a CARE/MB issue that is best addressed in the CARE Restructuring Phase of this proceeding. Modifying or eliminating the Exemption would unquestionably have an impact on departing load CARE and MB customers. The extent of this impact, and whether eliminating the Exemption would harm or overburden these highly vulnerable customers, are factual questions that should be resolved in a CARE-focused proceeding. In addition, rate design issues such as these are highly interconnected, and any changes to the Exemption should be considered in the context of the CARE program as a whole and include a thorough analysis of how modifying or eliminating the Exemption may impact other vulnerable customer groups. [19]

SCE asserts that Phase 2 of SCE's 2017 ERRA Forecast proceeding (A.16-05-011) is a better venue for the PCIA CARE/MB Exemption issue because it has been scoped to include consideration of a PCIA-related policy issue.[20] This assertion is without merit. Considering the PCIA CARE/MB Exemption in SCE's 2017 ERRA Forecast proceeding would defeat the Commission's purpose in ruling that the issue should be "handled solely in Rulemaking 12-06-013."[21] Reviewing the PCIA CARE/MB Exemption falls squarely within the instant proceeding's purpose, and is an appropriate and necessary element of the proceeding's holistic review of the CARE program. In contrast, Phase 2 of SCE's 2017 ERRA Forecast proceeding

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19 Additionally, the CCA Parties understand that the CARE working group in R.12-06-013 has been extended. Keeping the PCIA CARE/MB Exemption issue in this proceeding will allow the issue to be reviewed by a working group that has already been formed and is already considering closely related issues.

20 Motion at 5-6.

21 Exemption Ruling at 7.

has only the most tenuous connection to the Exemption. The scope of that proceeding is limited to a single, narrowly defined issue: "whether pre-2009 vintage direct access customers should continue to be charged a [PCIA] upon expiration of the Department of Water Resources contracts."[22] Thus, Phase 2 of SCE's 2017 ERRA Forecast proceeding has nothing to do with the CARE or MB programs, and is concerned only with one narrow aspect of the PCIA – an aspect that is entirely unrelated to the protections provided to vulnerable CARE and MB customers.

Additionally, the Exemption Ruling assigned the PCIA CARE/MB Exemption issue to this proceeding, in part, on the grounds that arguments regarding the equity of the Exemption "are best reviewed in a single proceeding, especially one that can consider the perspective of [the IOUs] and their ratepayers as well."[23] The instant proceeding is the appropriate venue for such a broad review, as it is an umbrella proceeding covering the structure of the CARE program as a whole (for all IOUs) and already has the participation of a large number of interested parties. In contrast, SCE's request would remove the issue to a narrow, SCE-specific proceeding that is likely, *but not certain*, to be consolidated with the other IOU's proceedings at some point in the future.[24] SCE's request would impose an unnecessary burden on groups who represent the interests of customers with an interest in the CARE program, as these groups, most of whom are already participating in this proceeding, would have to intervene in and monitor an additional proceeding.

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22 See *Assigned Commissioner's Ruling Amending Scope By Creating A Second Phase*, dated November 10, 2016 (A.16-05-011) at 4.

23 Exemption Ruling at 8.

24 See *Assigned Commissioner's Ruling Amending Scope By Creating A Second Phase*, dated November 10, 2016 (A.16-05-011) at 11, note 23.

Finally, SCE's request ignores the fact that the Commission has already found that an ERRA forecast proceeding is not an appropriate venue for considering revisions to the PCIA CARE/MB Exemption. In PG&E's 2015 ERRA proceeding, A.14-05-024, MCE and Communities for a Better Environment ("CBE") filed a motion seeking to amend the proceeding's scope to include consideration of the Exemption issue. Although the motion was rejected by the docket office on other grounds, in a May 7, 2015 email ruling the assigned ALJ stated:

> Had the motion been accepted by the docket office it would have been denied, and the scope of the proceeding would not have been amended. Application 14-11-010 provides a more appropriate forum for the issue being raised by MCE and CBE. In that proceeding, the Commission will consider Energy Assistance programs on an industrywide basis [in] California.[25]

Thus, the Commission has already considered a request to consider the PCIA CARE/MB Exemption issue in an ERRA proceeding, and concluded that ERRA did not provide an appropriate venue for the issue. Instead, the Commission ruled that a more appropriate "home" for the issue was A.14-11-010,[26] a proceeding that, like this proceeding, covered all IOUs, had broad participation from low-income ratepayer advocates, and dealt with low-income ratepayer issues. SCE's request to remove the issue to an ERRA proceeding that currently covers only SCE, does not have broad participation from low-income ratepayer advocates, and is entirely unrelated to low-income ratepayer issues runs directly contrary to this precedent.

2. SCE's Request Is An Impermissible Collateral Attack

As a procedural matter, SCE's request to remove the PCIA CARE/MB Exemption issue should be rejected because the request is an impermissible collateral attack on the Exemption

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25 *See E-Mail Ruling Denying Status To Communities For A Better Environment*, dated May 7, 2015 (A.14-05-024, A.14-08-023).

Ruling. The dispute over the appropriate procedural "home" for the PCIA CARE/MB Exemption issue was fully addressed by the parties in that proceeding, and the procedural issue was fully and finally resolved by the Commission in the Exemption Ruling. The Commission considered the arguments presented by MCE, CforAT, and Pacific Gas & Electric ("PG&E"), and ruled that:

> After reviewing the arguments on both sides of the consolidation question, we conclude that the issue of whether all Departing Load customers served on CARE an MB rates should pay the PCIA should be reviewed in R.12-06-013.[27]

SCE has been a party to A.16-06-013 since the proceeding's start, and as such had both notice of MCE's motion and the opportunity to oppose it at the time. If SCE believes that the Exemption Ruling is in error, the appropriate forum to raise this concern is A.16-06-013, not the instant proceeding. The Commission should not allow SCE to circumvent the Commission's conclusive ruling in A.16-06-013 through a collateral attack filed in this proceeding.

The inappropriateness of SCE's request is reinforced by the fact that SCE's primary argument in support of its request to remove the issue from the instant proceeding – that the PCIA CARE/MB Exemption issue has nothing to do with AB 327 and thus does not fall within the issues under consideration – was raised by PG&E in A.16-06-013,[28] and was rejected by the Commission in the Ruling assigning the issue to this proceeding.

B. The Commission Should Deny SCE's Request To Resolve The Exemption Issue Through Legal Briefing

If the Commission declines to move the PCIA CARE/MB Exemption issue from this proceeding, SCE requests as an alternative that the Commission set a legal briefing schedule

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26 A.14-11-010 was consolidated under proceeding number A.14-11-007.

27 Exemption Ruling at 2-3, 7-9.

28 *See* PG&E Response to MCE Motion to Consolidate (A.16-06-013) at 1-2.

solely to address this issue..[29] SCE justifies this request on two grounds. First, SCE asserts that the Commission has "already decided the issue" and found the PCIA CARE/MB exemption unreasonable, and thus legal briefing alone is sufficient to resolve this "important but straightforward" issue.[30] Second, SCE asserts that "expedient resolution of this issue... is necessary" because the PCIA CARE/MB Exemption inequitably shifts costs to bundled service customers, and the impact of this cost shifting is growing with the expansion of CCA.[31]

The Commission should reject both of SCE's arguments and deny SCE's request to address the Exemption issue through expedited legal briefing for four reasons: 1) in this proceeding there is no evidentiary record on IOU proposals to modify or eliminate the PCIA CARE/MB Exemption – or the reasonableness of the Exemption generally – that would provide any factual basis for briefing; 2) SCE's assertion that the Commission "has already decided" that the PCIA CARE/MB Exemption is unreasonable on substantive grounds is clearly incorrect; 3) any consideration of proposals to modify or eliminate the PCIA CARE/MB Exemption raises important factual and policy questions that must be fully vetted and resolved; and 4) SCE has not established that expedited consideration of the Exemption issue is necessary or reasonable. These issues are discussed in detail below.

1. *This Proceeding Lacks An Evidentiary Record To Support Briefing Of The PCIA CARE/MB Exemption Issue*

As a practical matter, the Commission should deny SCE's request because the record for the instant proceeding provides no evidentiary basis for any kind of legal briefing on the PCIA CARE/MB Exemption issue, and no data on the Exemption's impact on the bills of departing

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29 *See* Motion at 6-7.

30 *See* Motion at 6-7.

31 *See* Motion at 7.

load CARE/MB customers or on any other group of customers, including bundled CARE/MB customers. While an evidentiary record on the issue has been partially developed in other proceedings, in the instant proceeding the record does not include *any* proposals to eliminate or modify the Exemption, nor does the record include any evidence that would support any change to the Exemption. Moreover, the CCA Parties and CforAT have not had an opportunity to challenge the factual basis for the Exemption or provide alternative proposals. Put simply, without significant development of the record, there is nothing for the parties to brief. At a minimum, any review of the Exemption issue will require specific IOU proposals with supporting data, and parties will need to vet and address the impacts of the IOU proposals and alternative scenarios on both departing load and bundled CARE/MB customers.

2. *SCE's Claim That The Commission Has Previously Found The PCIA CARE/MB Exemption To Be Unreasonable Is Incorrect*

SCE's claim that the Commission "has already decided the issue" and found that the PCIA CARE/MB Exemption is inequitable is incorrect. In making this claim, SCE has attempted to to characterize the reasonableness of the Exemption as an issue that has already been resolved by the Commission on substantive grounds, thus leaving only the legal question of interpreting and applying this prior Commission Decision, a matter appropriate for briefing. SCE bases this claim on the following language from Decision ("D.") 05-12-041, a 2005 Commission decision that was part of a series of Commission decisions implementing the CCA Program:

> The CPUC has had a long standing commitment to support low income programs such as the CARE program. As such, we believe that it is good public policy that all of California's qualifying electric customers reap the benefits of this program by receiving the CARE discount. Thus, we order the Utilities to continue to provide CARE discounts to all qualifying CCA customers as the utilities propose. The discount would apply to all elements of a customer's bill, including the CCA portion, but the discount would be applied only to the distribution rate. The utilities would calculate the generation portion of their CARE discount using their

> own generation rates. Bundled customers would not be subsidizing CCA customers because all customers pay for the CARE discount through either the public purpose program charge or their distribution rates (or, in the case of SDG&E, a separate line item that applies to all customers). We adopt the utility proposals for ratemaking treatment of these proposals, whether as part of distribution rates for PG&E and SCE or as a separate line-item in SDG&E's case. We agree with the utilities that the discount should not be reflected in the [PCIA]. CCAs may design rates which provide additional discounts to low income customers, a ratemaking matter that would be at the discretion of the CCA.[32]

SCE's interpretation of this language is entirely incorrect. Nothing in the quoted passage relates in any way to the PCIA CARE/MB Exemption, much less "decides" the reasonableness of the Exemption. The passage addresses how the CARE discount is to be reflected in CCA CARE customers' rates. Thus, the statement "we agree with the utilities that the discount should not be reflected in the CRS [the predecessor of the PCIA]" merely establishes that the CARE discount is not to be applied to the CRS/PCIA rate component, which makes sense, as CARE customers were exempt from paying CRS/PCIA, and thus applying the discount to that rate component would result in part of their CARE discount being applied to a rate component that they were already exempt from.

In addition, SCE's interpretation of the quoted language from D.05-12-041 is clearly contradicted by the fact that the Commission, which presumably was fully aware of this language, reviewed and approved SCE's Power Charge Indifference Adjustment (including the PCIA CARE/MB Exemption) on many occasions from 2005 to the present date without rejecting the Exemption as in violation of D.05-12-041.

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32 Motion at 3 (quoting D.05-12-041 at 52-53).

3. The PCIA CARE/MB Exemption Issue Requires Consideration Of Important Factual And Policy Questions

The PCIA CARE/MB Exemption issue is not a narrow legal issue that can be resolved through a round of legal briefing. Rather, the Exemption raises complex factual, legal, and policy issues including, but not limited to: whether the Exemption remains necessary today to protect CCA CARE/MB customers from the impact of market failures; the practical impact of eliminating the Exemption on vulnerable CCA CARE/MB customers; the impact of the various scenarios (maintaining, modifying, or eliminating the Exemption) on bundled CARE and MB customers; and how/if changes to the Exemption impact other areas of the CARE and MB programs and the Commission's efforts to protect vulnerable ratepayers as a whole. As the Exemption Ruling recognizes, these complex issues must be considered "in conjunction with the other CARE restructuring proposals in R.12-06-013," and as such must include a factual and policy analysis on how either eliminating or maintaining the Exemption would financially jeopardize CCA CARE/MB Customers and/or bundled CARE/MB customers.

4. SCE Has Not Established That Expedited Consideration Of The Exemption Issue Is Necessary Or Reasonable

SCE's claim that there is an urgent need for "expedient resolution of this issue," is entirely unsupported by fact, especially in light of the fact that the PCIA CARE/MB Exemption has applied to SCE and its departing load customers for over a decade. SCE bases its newfound concern on the assumption that CCA growth may lead to more customers within its territory becoming eligible for the PCIA CARE/MB Exemption in the future. Even if that were the case, which SCE has yet to establish, CCA growth is a gradual process, and it can take years for a

CCA program to form and become operational.[33] Given the gradual and highly foreseeable nature of CCA growth, there is no new or sudden need to resolve this issue immediately. SCE has not identified any urgent harm that would come from addressing the PCIA CARE/MB Exemption issue in conjunction with the other CARE proposals in Phase 3 of this proceeding, particularly because all aspects of CARE are under review in this proceeding.

On the other hand, there are clear harms that would result from SCE's proposed rush-consideration of the issue through legal briefing. SCE's request would carve out one component of the CARE program for separate consideration and resolution prior to the Commission's holistic review of the CARE program. This would create a situation where one component of the CARE program is "fixed" while all other aspects of CARE are under review. In addition, SCE's approach would deny interested parties their due process right to raise important factual and policy issues, conduct discovery, and submit testimony in relation to the Exemption. SCE originally proposed to eliminate the Exemption in its 2016 Rate Design Window proceeding, A.16-09-003, and PG&E originally proposed to eliminate the PCIA MB Exemption in A.16-06-013. Had the PCIA CARE/MB issue remained in these proceeding, parties would have had the opportunity to fully litigate the issue by submitting testimony, conducting discovery, and participating in evidentiary hearings. There is no reason why Parties should be denied the same due process rights in this proceeding.

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33 Interestingly, while SCE would have the Commission believe through its Motion that CCA growth is greatly accelerating, SCE has not included in its 2018 ERRA application (in which departing load forecasts are an issue) a load forecast estimate for any future CCA program. (*See* SCE-01 in A.17-05-006 at 17.)

C. The Commission Should Disregard SCE's Unsupported Factual Assertions

SCE's Motion relies on two significant factual assertions that are supported by neither the record for this proceeding nor any valid citation or reference. Specifically, SCE claims that:

- SCE calculates the CARE discount for both bundled and departing load customers by applying the full discount to the customers' distribution rates.[34]
- Exempting departing load CARE customers from the PCIA generation rate results in an additional, or "double" discount that bundled service CARE customers do not receive.[35]

In considering the Motion, the Commission should disregard these unsupported factual assertions, except to the extent that these assertions demonstrate that the Commission's evaluation of the Exemption will require review of factual issues.

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34 *See* Motion at 2, 6.

35 *See* Motion at 2, 6-7.

III. CONCLUSION

The CCA Parties and CforAT appreciate the Commission's consideration of the matters addressed herein.

Dated: May 18, 2017

Respectfully submitted,

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U338E) for Approval of Energy Efficiency Rolling Portfolio Business Plan.	Application 17-01-013 (Filed January 17, 2017)
Application of San Diego Gas & Electric Company (U902M) to adopt Energy Efficiency Rolling Portfolio Business Plan Pursuant to Decision 16-08-019.	Application 17-01-014 (Filed January 17, 2017)
Application of Pacific Gas and Electric Company for Approval of 2018-2025 Rolling Portfolio Energy Efficiency Business Plan and Budget (U39M).	Application 17-01-015 (Filed January 17, 2017)
Application of SOUTHERN CALIFORNIA GAS COMPANY (U904G) for adoption of its Energy Efficiency Rolling Portfolio Business Plan and related relief.	Application 17-01-016 (Filed January 17, 2017)
In the Matter of the Application of Marin Clean Energy for Approval of its Energy Efficiency Business Plan.	Application 17-01-017 (Filed January 17, 2017)

**COMMENTS OF MARIN CLEAN ENERGY ON
ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON
ENERGY EFFICIENCY BUSINESS PLAN METRICS**

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May 22, 2017

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**COMMENTS OF MARIN CLEAN ENERGY ON
ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON
ENERGY EFFICIENCY BUSINESS PLAN METRICS**

I. INTRODUCTION

Marin Clean Energy ("MCE") submits the following comments in response to the *Administrative Law Judge's Ruling Seeking Comment on Energy Efficiency Business Plan Metrics* ("Metrics Ruling") filed May 10, 2017. MCE provides answers to the questions directed to all prospective program administrators ("PAs").

II. BACKGROUND

MCE is the only Community Choice Aggregator ("CCA") energy efficiency ("EE") PA authorized by the California Public Utilities Commission ("Commission"). MCE filed an application with a business plan on January 17, 2017. The Metrics Ruling calls for each PA to provide comments by May 22, 2017.

III. QUESTIONS APPLICABLE TO ALL PROSPECTIVE PROGRAM ADMINISTRATORS

A. Business Plans Overall

1. Demonstrate in a quantitative way, via table or graphic, how the proposed metrics cumulatively are useful and effective indicators of each PA's likely achievement of targeted energy efficiency program uptake and overall savings goals.

MCE provided logic models and metrics tables for each sector in the business plan application. The logic models (Attachment A to these comments) are a qualitative description of the portfolio structure and provide context for the intervention strategies and associated metrics. The metrics tables (Attachment B to these comments) include proposed intervention strategies and associated metrics. These intervention strategies are designed to address specific market barriers to program uptake and increase sector level participation and savings.

Each intervention strategy has at least one metric and each metric has quantitative targets for short, mid, and long term success. These metric targets demonstrate the planned achievements in program uptake for each intervention strategy. MCE has also proposed sector and portfolio targets for energy savings located in Appendix A of the business plan[1] (Attachment

[1] MCE EE Business Plan, Appendix A: Placemats, at p. 135-136. Available at https://www.mcecleanenergy.org/2017-EE-Business-Plan.

C to these comments). Together the logic models, intervention strategies tables, and energy savings targets qualitatively demonstrate the likely achievements in program uptake and energy savings.

Each proposed metric is intended to provide insight to one aspect of the portfolio and no single metric can speak to overall success. Progress toward metric targets must be considered in concert with progress toward savings targets and cost-effectiveness achievements in order to track overall progress. The following are descriptions from a sampling of MCE's proposed sector metrics to illustrate the specificity of application for these metrics:

a. **Number of Repeat Participants in the Single Family Sector:** This metric tracks the effectiveness of the single point of contact approach to reduce customer confusion, clearly identify opportunities, and create savings from following up over time. Repeat participation will lead to deeper energy savings at each property and greater overall savings.

b. **Percentage of Market Rate Property Owners Completing Both Common Area and In-Unit Measures in the Multifamily Sector:** This metric measures the ability to address a preference of property owners to install common area measures over in-unit measures because owners do not want to disturb tenants. If MCE's efforts are successful in mitigating this tendency, for example through developing long-term turnover upgrade plans, more properties will install both in-unit and common area measures. The deeper retrofits will result in more savings per property and higher overall program savings.

c. **Number of Customers Participating in Energy Efficiency Programs in the Industrial Sector:** This metric measures the program reach to industrial customers. The industrial offerings are new to MCE's portfolio; any additional participation from customers will result in greater program enrollment and energy savings.

d. **Number of Customers Who Receive Technical Assistance in the Agricultural Sector (percent of total accounts)**: This metric is intended to measure the program penetration for agricultural customers. Increasing the proportion of customers receiving technical assistance is expected to increase the number of completed agricultural projects and result in greater savings.

e. **Increase in Participation in Historically Under-Participating Regions in the Commercial Sector (percent of market):** This metric tracks the success of enrollment campaigns and marketing to areas that have historically low participation rates. Successful enrollment and marketing campaigns will engage new participants that otherwise would have lacked awareness and not participated in the commercial offerings. These new participants will undertake new efficiency projects and increase energy savings.

2. Provide the number of multi-family units and multi-family properties in your respective geographic areas.

MCE does not have perfect insight into the proportion of multifamily customer accounts within its service area. MCE has 272,982 residential accounts within its service area. The account information does not include an identifier for whether those customers reside in single family homes or on multifamily properties. In order to approximate the proportion of multifamily customers, MCE infers the population from a statewide average. The proportion of single family customers to multifamily customers in California is approximately two-thirds to one-third.[2] Applying that ratio to the accounts within MCE's service area results in an approximation of 90,993 multifamily accounts. MCE assumes that the number of multifamily units exceeds the estimate of multifamily accounts because some multifamily accounts provide service to multiple units through a master meter.

It was infeasible for MCE to determine a reliable approximation for the number of multifamily properties within its service area. This analysis is frustrated by two significant confounding variables. First, multifamily properties vary in metering infrastructure with some properties receiving service through a single master meter and others through sub metering to each unit. Second, multifamily units on a single property may not all share the same street address. Sorting through the data would be a laborious task and is unlikely to produce an accurate estimate. The unreliable nature of an estimated multifamily property count is outweighed by the cost associated with developing such an estimate.

[2] California Energy Efficiency Strategic Plan (January 2011 Update), at p. 9. Available at http://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=5303.

IV. CONCLUSION

MCE thanks Commissioner Peterman, Administrative Law Judge Fitch, and Administrative Law Judge Kao for their thoughtful consideration of these comments.

Respectfully submitted,

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May 22, 2017

Attachment A:
Logic Models
(excerpted from MCE EE Business Plan)

Figure 16. Single Family Program Logic Model

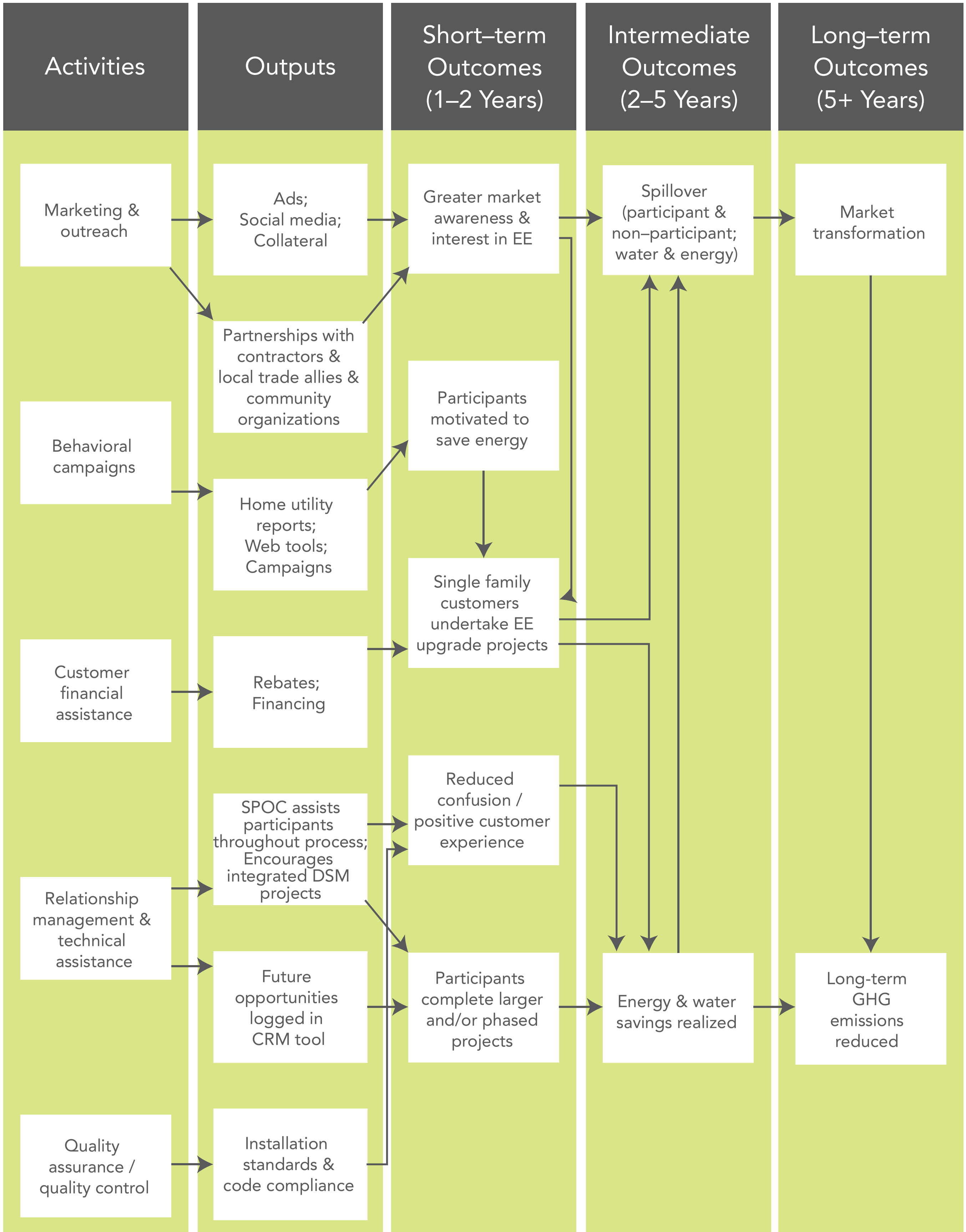
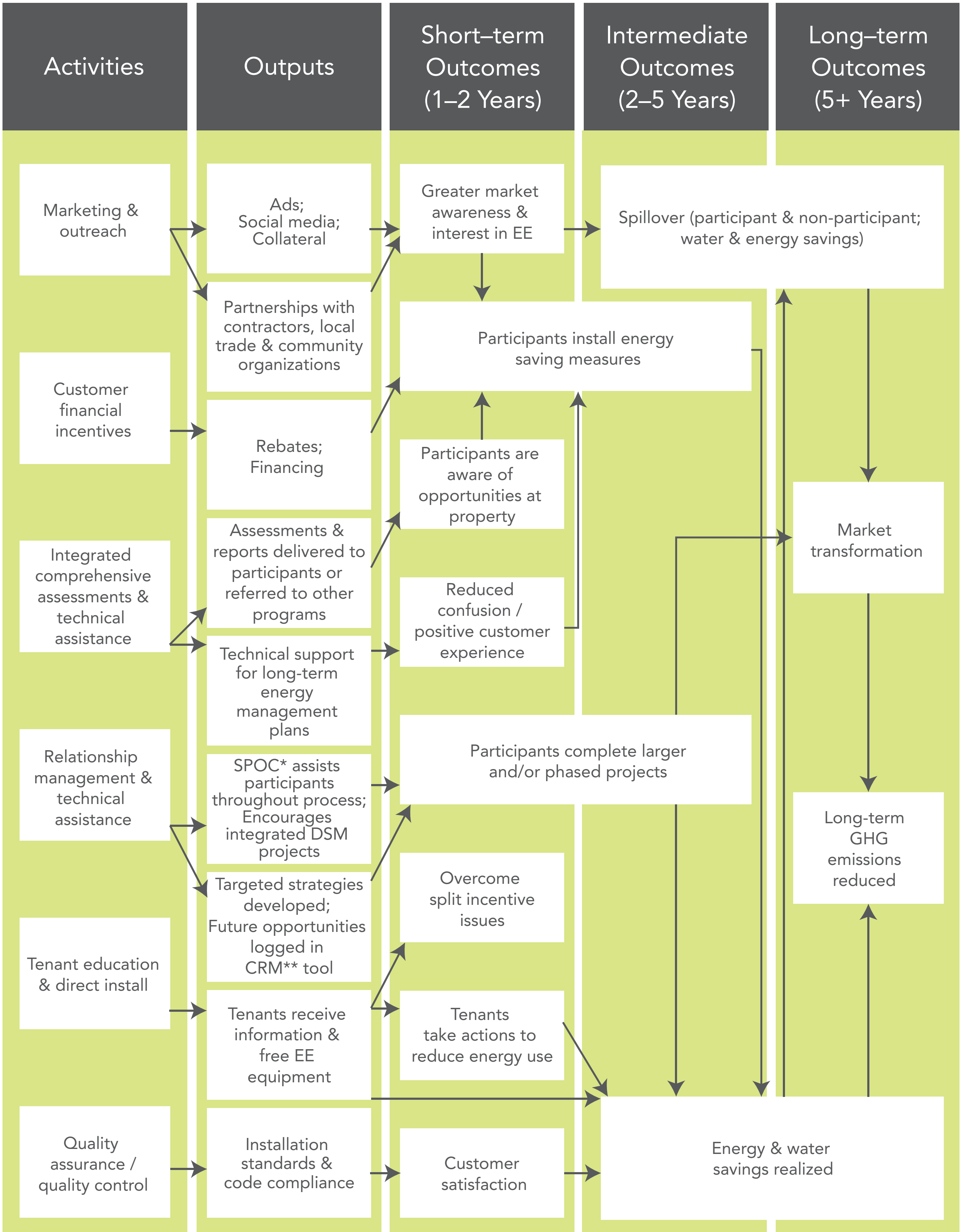


Figure 20. Multifamily Program Logic Model



* SPOC = Single Point of Contact
** CRM = customer relationship management

Figure 24. Industrial Program Logic Model

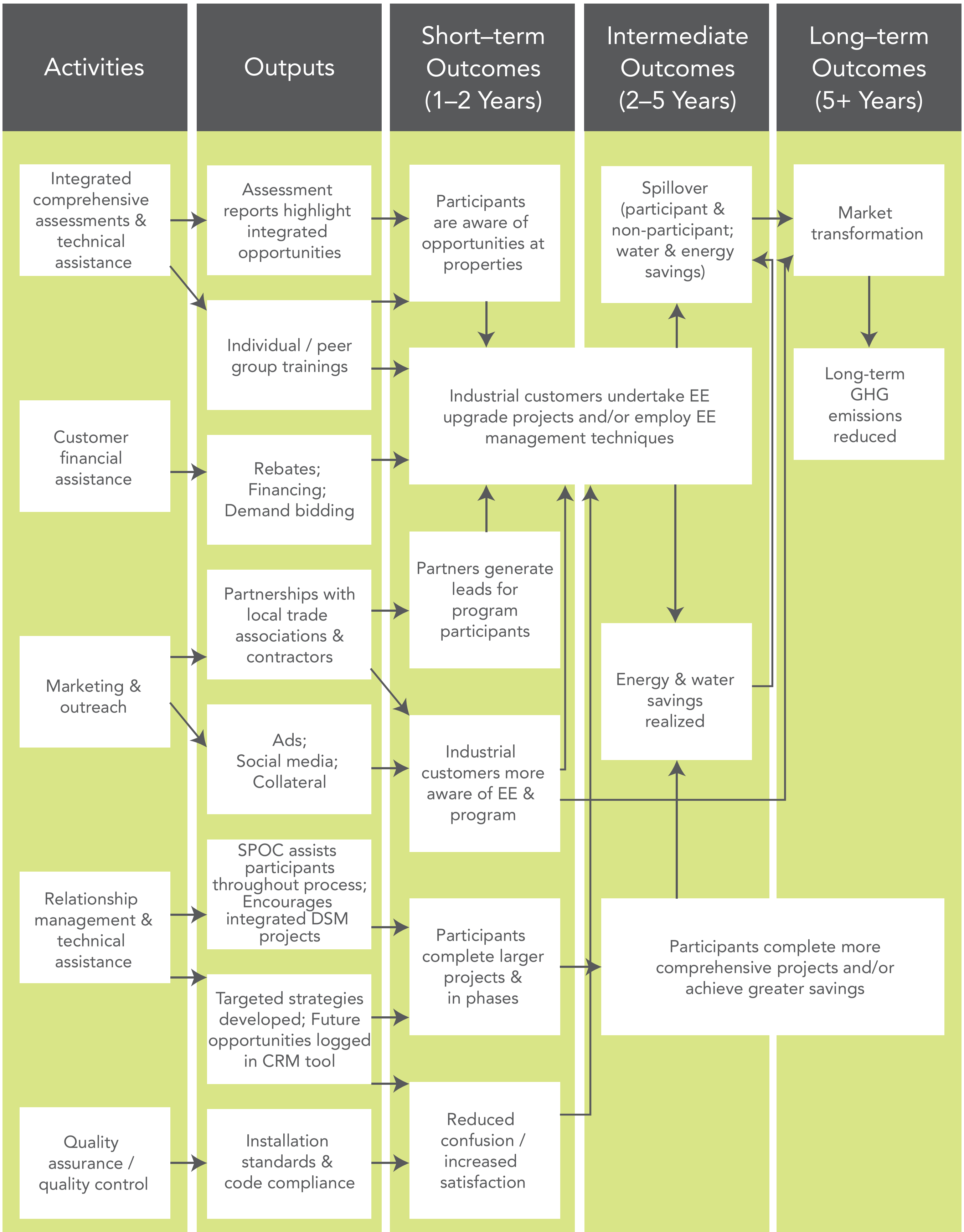


Figure 26. Agricultural Program Logic Model

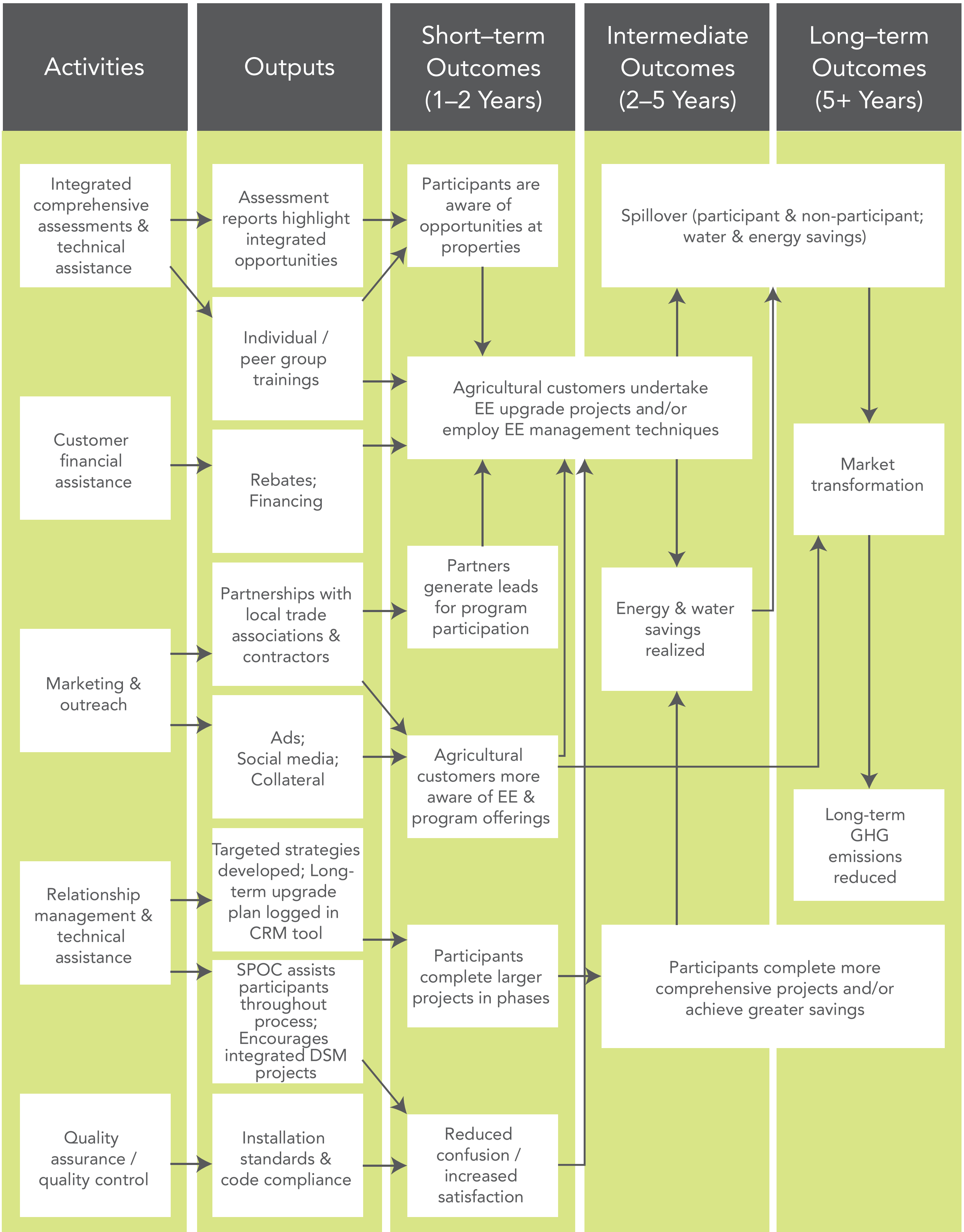


Figure 29. Commercial Program Logic Model

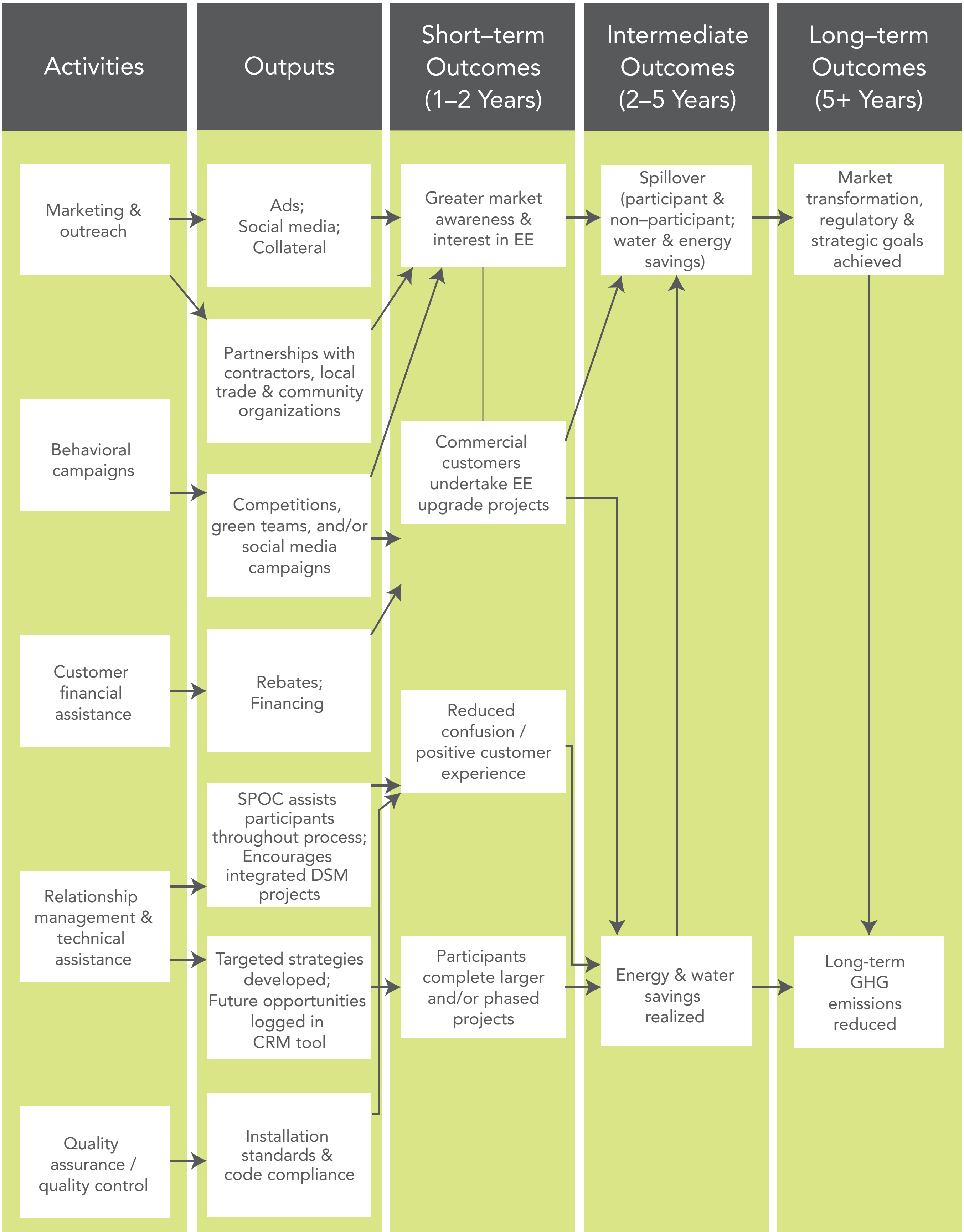
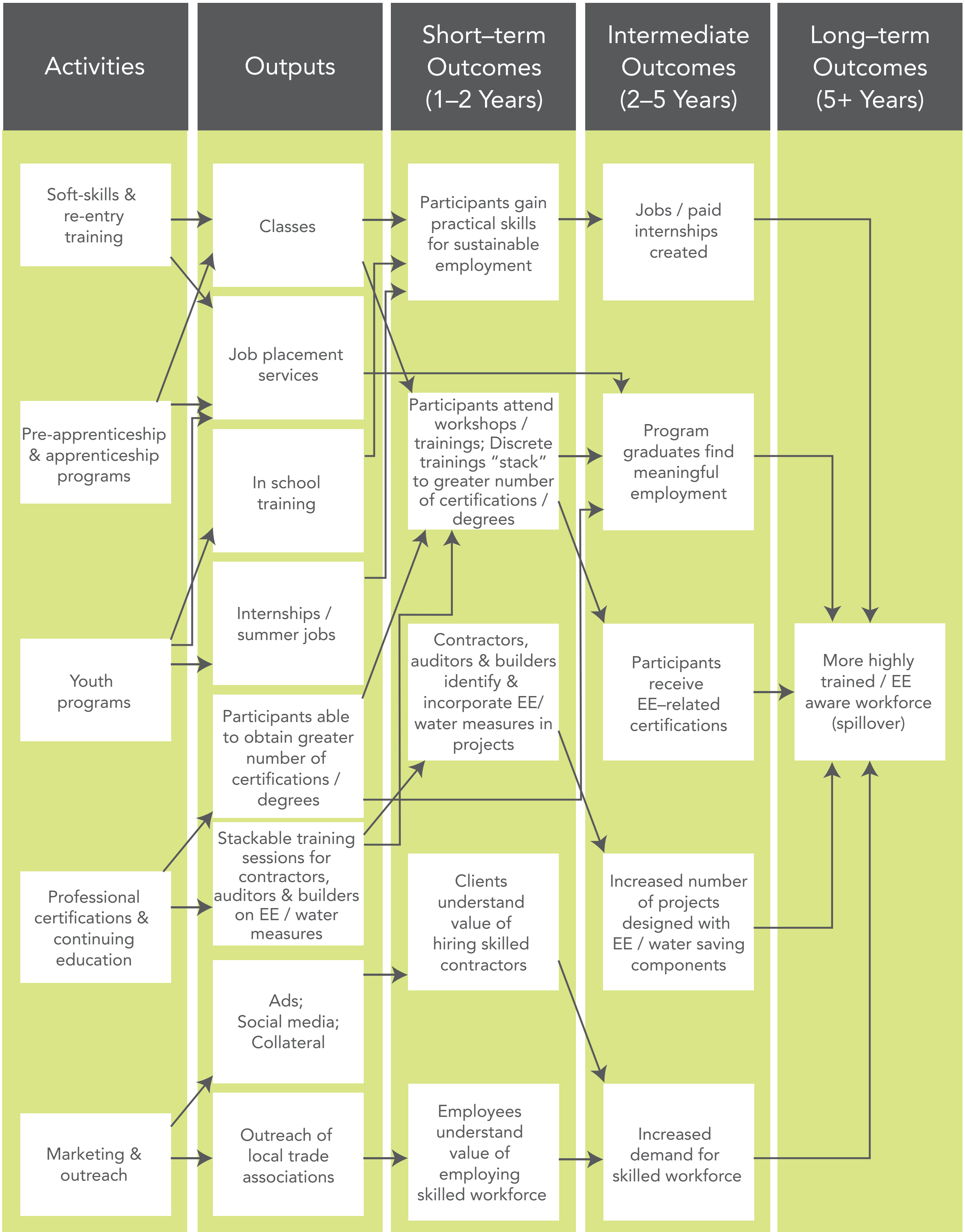


Figure 37. Workforce Program Logic Model



Attachment B:
Metrics Tables
(excerpted from MCE EE Business Plan)

Table 4. Single Family Sector Market Barriers & Metrics

Problem Statement	Market Barriers	Desired Market Effects/ 10–year Vision	Intervention Strategies	Sector Metric	Baseline	Metric Source	Short Term Target (1–3 years)	Mid Term Target (4–7 years)	Long Term Target (8–10 years)
Customers lack sufficient funds to cover the costs of upgrades. Customers are not aware of financing options or do not qualify for traditional financing tools	Financial barrier; lack of awareness	Increase in the number of homeowners who are aware of and make use of financing options to help them cover the cost of energy efficient home upgrades	1. Rebates[1] 2. Education about financing offered by other entities (i.e. PACE)	1. Number of completed projects 2. Number of referrals to PACE programs 3. Number of completed projects using PACE financing	1. Program Year 1 (PY1) 2. PY1 3. 2015 Baseline: 128 projects completed in MCE service area using PACE tax assessments	1. Program tracking data 2. Program tracking data 3. PACE providers	1. Increase 10% over PY1 baseline 2. Increase 10% over PY1 baseline 3. Increase 5% over 2015 baseline	1. Increase 20% over PY1 baseline 2. Increase 20% over PY1 baseline 3. Increase 10% over 2015 baseline	1. Increase 30% over PY1 baseline 2. Increase 30% over PY1 baseline 3. Increase 15% over 2015 baseline
In renter–occupied homes the homeowner pays for the upgrades but the renter sees the financial benefit on their utility bill resulting in fewer homeowners willing to make the investment in energy efficiency	Split incentive	Increase in the awareness of non–energy benefits of energy efficiency measures (i.e. comfort, light quality, etc.) and the value that has on the rental market	1. Door–to–door direct install provides energy efficiency measures free of cost 2. Behavioral campaigns encourage low–cost and no–cost solutions	1. Number of homes receiving direct install measures 2. Number of customers reached through behavioral campaigns	1. PY1 Participation 2. PY1 Participation	1. Program tracking data 2. Program tracking data	1. 0.1% of homes 2. 2% of residential customers	1. 0.5% of homes 2. 5% of residential customers	1. 1% of homes 2. 10% of residential customers
There are a limited number of contractors with technical knowledge of integrated and comprehensive demand–side management or above code opportunities	Lack of contractors trained in IDSM and how to meet or exceed code	Increase in the number of contractors who understand the benefits of IDSM and can use that knowledge to sell projects	1. Contractor training	1. Number of contractors that participate in training	1. 2015 Baseline: 17 contractors attended training	1. Program tracking data	1. 10% increase over 2015 baseline	1. 10% increase over 2015 baseline	1. 10% increase over 2015 baseline
There is a perception among contractors that rebate programs are time and labor intensive	Confusion among contractors about program processes, high administrative burden of participating in programs	Increase participation and decrease customer/ contractor confusion	1. SPOC guides customers through various program offerings and supports contractors in selling projects	1. Number of repeat participants 2. Number of projects provided with technical assistance 3. Percentage of projects completed with more than one demand side strategy	1. PY1 Participation 2. PY1 Participation 3. PY1 Participation	1. Program tracking data 2. Program tracking data 3. Program tracking data	1. NA 2. 2% of homes 3. 50% of projects	1. 5% of participants 2. 10% of homes 3. 60% of projects	1. 10% of participants 2. 20% of homes 3. 80% of projects
Energy Efficiency improvements are not as visible as other clean energy strategies, such as rooftop solar panels, and therefore they are not valued as highly by homeowners or prospective home buyers	Low perceived value of energy efficiency measures	Energy efficiency improvements are valued in the real estate market	1. Home information and automation devices to make energy consumption more conspicuous 2. Community engagement and gamification to motivate customers to save energy	1. Increase in value of energy efficiency retrofits in home sales 2. Participation in community outreach/ competitions	1. PY1 Participation 2. PY1 Participation	1. Market study 2. Program tracking data	1. Increase 2% over PY1 baseline 2. 2% of residential customers	1. Increase 5% over PY1 baseline 2. 5% of residential customers	1. Increase 7% over PY1 baseline 2. 10% of residential customers
Customers are not aware of the potential benefits of energy efficiency upgrades or the availability of MCE's program	Lack of awareness	Increased awareness of MCE's program offerings and financial benefit of energy efficiency upgrades	1. Door–to–door campaigns and community outreach increase awareness of MCE programs 2. SPOC approach tracks opportunities for an individual customer over time	1. Participation in door to door campaigns and community outreach activities 2. Number of repeat referrals from SPOC	1. PY1 Participation 2. PY1 Participation	1. Program tracking data 2. Program tracking data	1. 2% of residential customers 2. NA	1. 5% of residential customers 2. 5% of participants	1. 10% of residential customers 2. 10% of participants
Customers are concerned about uncertainty in achievable savings	Uncertainty in savings	Increased certainty around achievable energy savings	1. Metered energy savings increase accuracy of projected energy savings and validate savings post–installation	1. Increased alignment between projected energy saving and metered energy savings	1. PY1 Participation	1. Impact evalua- tion	1. Realization rate > 75%	1. Realization rate > 80%	1. Realization rate > 90%

Table 9. Multifamily Sector Market Barriers & Metrics

Problem Statement	Market Barriers	Desired Market Effects/10–year Vision	Intervention Strategies	Sector Metric	Baseline	Metric Source	Short Term Target (1–3 years)	Mid Term Target (4–7 years)	Long Term Target (8–10 years)
Energy efficiency upgrades can be costly	Lack of capital and willingness to incur financing	Energy efficiency becomes the norm (7% increase over 2016 baseline)	1. Educate property owners on the value of energy efficiency upgrades[1] 2. Work with properties to develop long–term scope of work that fits into capital improvement plans 3. Develop programs that address entire portfolios	1. Number of properties completing assessments 2. Number of properties that complete multiple projects over multiple years 3. Dollar amount of rebates given at the portfolio level	2016 baseline	Program tracking data	Increase 2% over baseline	Increase 5% over baseline	Increase 7% over baseline
Energy efficiency upgrades can be costly[2]	Risk adverse underwriting and high–interest loans	Financing programs that meet the needs of property owners opposed to financial institutions (5% increase over 2016 baseline)	1. Work with partners to design financing programs that meet the needs of properties[3] 2. Partner with existing financing programs to educate properties on their options	1. Number of loans disbursed 2. Increase in number of referrals to other financing programs	2016 baseline	Program tracking data	Increase 1% over baseline	Increase 3% over baseline	Increase 5% over baseline
Affordable properties and HOAs have multiple owners and complex operating structures requiring time—consuming coordination to get buy–in, consensus and sign–off for individual measures and large–scale projects	It is difficult to access decision makers	MCE is the first point of contact for property owners considering upgrades (7% increase over 2016 baseline)	1. Partner with trusted entities already working with properties[4] 2. Leverage existing relationships for introductions to other decision makers[5] 3. Targeted outreach to decision makers[6]	1. Number of properties brought in by trusted partners 2. Number of projects from referrals 3. Number of meetings/presentations to decision makers	2016 baseline	Program tracking data	Increase 2% over baseline	Increase 5% over baseline	Increase 7% over baseline
Market rate property owners are more likely to complete common area measures than resident unit upgrades[7]	Property owners are hesitant to disturb or displace residents and risk loss of income	Energy efficiency improvements are valued and desired by renters (7% increase over 2016 baseline)	1. Develop a long–term plan to upgrade units at turnover using a sliding scale incentive 2. Resident energy efficiency certificate program	1. Percentage of market rate property owners completing common and in–unit measures 2. Number residents receiving certifications	2016 baseline	Program tracking data	Increase 2% over baseline	Increase 5% over baseline	Increase 7% over baseline
Renters are typically responsible for paying their own utility bill, disincentivizing owners from paying for in–unit upgrades[8]	Split–incentive issue	Energy efficiency improvements are valued and desired by renters (7% increase over 2016 baseline)	1. Stand alone direct install program 2. Resident energy efficiency certificate program 3. Cost–share direct install program for in–unit measures 4. Higher incentives for in–unit measures paid for by owners[9]	1. Number of units served 2. Number of units receiving in–unit upgrades where resident pays utility bill 3. Number of units served 4. Number of units receiving upgrades (not including DI)	Determine baseline from PY1 data	Program tracking data	Increase 2% over baseline	Increase 5% over baseline	Increase 7% over baseline
Contractors perceive rebate programs to be time and labor intensive[10]	High transaction cost of engaging with complex rebate programs	Contractors incorporate energy efficiency measures into all proposals and MCE is their first point of contact for rebate programs (7% increase over 2016 baseline)	1. Establish a contractor advisory committee to help design and champion program offerings[11] 2. Develop feedback loops for contractor input on processes and systems 3. Work with manufacturers to train contractors on new technologies	1. Number of unique contractors on the advisory committee 2. Number of project referrals from contractors 3. Number of contractors participating in trainings	Determine baseline from PY1 data	Program tracking data	Increase 2% over baseline	Increase 5% over baseline	Increase 7% over baseline
Properties are reluctant to participate in current programs based on past experiences being negative[12]	Property owners'/managers' perception of rebate programs	MCE is the first point of contact for property owners considering upgrades (7% increase over 2016 baseline)	1. Add more resources offerings to the SPOC program 2. SPOC will build and maintain long–term relationships with property owners and managers[13] 3. Provide opportunities for properties to experience MCE's program without having to make a long–term commitment	1. Number of referrals to other resource/rebate programs 2. Number of properties completing multiple projects 3. Number of properties phasing upgrades	2016 baseline	Program tracking data	Increase 2% over baseline	Increase 5% over baseline	Increase 7% over baseline

Table 13. Industrial Sector Market Barriers & Metrics

Problem Statement	Market Barriers	Desired Market Effects/ 10–year Vision	Intervention Strategies	Sector Metric	Baseline	Metric Source	Short Term Target (1–3 years)	Mid Term Target (4–7 years)	Long Term Target (8–10 years)
Energy efficiency upgrades need to compete against other possible investments for funding and often have to pass initial screening to be considered, such as a very short payback period (under three years)	Financial barrier; prioritization barrier	Modify industrial practices to have organizations naturally consider and adopt EE solutions	1. Intelligent outreach 2. Strategic and continuous energy improvement / SEM 3. Rebates and incentives 4. Direct install 5. Financing	1. Number of industrial customer participating in EE programs	2015 SEM participation levels in Oregon Energy Trust (OET) – % of industrial customer participation	OET Program Report	50% of OET 2015 participation level	75% of OET 2015 participation level	OET 2015 participation level
Lost production time resulting from equipment being off–line for efficiency upgrades is costly to a manufacturer	Equipment downtime	Create simple, no hassle, low cost program transaction that encourages greater customer investment in EE	1. Intelligent outreach 2. Peer outreach and training cohorts	2. Amount of EE savings achieved from process–related projects	Program Year 1 (PY1)	MCE Program database	Increase in program savings by 10% over 2017 levels by Year 3	Increase in program savings by 15% over PY1 levels by Year 7	Increase in program savings by 20% over PY1 levels by Year 10
Manufacturers with unique processes may be unwilling to invite outside energy auditors to assess their facilities in the interest of protecting proprietary information	Proprietary information	Win customers' trust as a partner and advisor	1. Intelligent outreach 2. Strategic and continuous energy improvement / SEM	3. Number of industrial customer participating in EE programs	2015 SEM participation levels in Oregon Energy Trust	OET Program Report	50% of OET 2015 participation level	75% of OET 2015 participation level	OET 2015 participation level
Smaller manufacturers may not have dedicated energy professionals on staff	Lack of time and awareness	Majority of industrial facilities have an energy manager	1. Incentives and trainings for dedicated and shared energy managers	4. Percentage of industrial customers with a dedicated or shared energy manager	PY1	MCE Program database	Increase by 10% over baseline	Increase by 15% over baseline	Increase by 20% over baseline

needs over time, MCE proposes the following studies be conducted:

» **Potential Study:** The existing Navigant potential study provides little insight for MCE customers. It is not granular enough to provide insights into the potential in MCE's service area. Further, the limited industrial segmentation in the study is unlikely to provide useful insights due to the uniqueness of industrial facilities — even when producing a similar product. The forthcoming potential study, spearheaded by the Energy Division, should include more detail on the industrial sector, including more measure–level categories (currently only machine drivers and process refrigeration are included).

» **Market Assessments:** Aimed at understanding key drivers and decision making processes for industrial customers, market assessments are to be conducted by the Energy Division or MCE.

» **Impact Evaluation:** Impact evaluations, which focus on key program metrics, are to be conducted by the Energy Division.

» **Process Evaluation:** Aimed at providing insights into customer drivers for participating, and areas for program design and process improvements, process evaluations are to be conducted by the Energy Division or MCE. For the strategic and continuous energy improvement strategy, MCE proposes an independent survey of participants to gather qualitative information on program design, marketing and outreach, program implementation, participation experience, and market barriers.

In addition, MCE will conduct a cross–sector process evaluation of the SPOC offering to determine to what degree it helps alleviate customer confusion and encourages repeat participation through project phasing.

10.5 Coordination

MCE is an independent Program Administrator operating within PG&E's service territory and overlapping the Bay Area Regional Energy Network's service territory. Coordination among different programs will be important to minimize customer and contractor confusion while also achieving program objectives.

Key Partners

MCE will partner closely with other organizations promoting resource conservation, including water districts, climate coalitions, renewable and distributed generation companies and installers, and electric vehicle companies. MCE will communicate regularly with these entities to ensure that they have the latest program information. MCE will facilitate program participants' applications for rebates with these partner agencies and to the extent possible integrate those applications with the MCE application to streamline participation in multiple programs.

best practices around operations, maintenance, and behavioral energy efficiency. Additionally, MCE will work with each group to develop energy management metrics. Bringing similar operations together will foster a network for sharing best practices and benchmarking. The cohorts could also provide a valuable feedback channel for MCE on its agricultural program offerings.

Energy Efficiency Assistance for Farm Worker Housing

There are approximately 500 farm workers in Marin, many of whom are living in homes that do not meet minimum housing standards.[74] In Napa, the number is even greater. At the peak of the grape harvesting season there may be as many as 7,000 farmworkers in Napa.[75] Not all of these workers live in Napa permanently, but due to concerns about US immigration policy and a growing demand for year–round work, the trend is for an increasing number to remain in Napa year–round.[76]

Year–round residents have greater housing requirements than seasonal workers — they tend to need family housing instead of just a bed.[77] A 2013

74 Trevor Bach, "Farm Worker Housing: 200 Units Planned," Point Reyes Light, February 23, 2012. http://www.ptreyeslight.com/article/farm–worker–housing–200–units–planned

75 Bae Urban Economics, "Final Report: 2012 Napa County Farmworker Housing Needs Assessment," Napa County Housing and Intergovernmental Affairs, March 29, 2013.

76 Ibid.

77 Bae Urban Economics, "Final Report: 2012 Napa County Farmworker Housing Needs Assessment," Napa County Housing and Intergovernmental Affairs, March 29, 2013.

survey of Napa farm workers found that 34% live in apartments, 31% live in farm worker centers, 14% live in mobile homes, 12% live in single family homes and 9% live in bunk houses or dormitories. MCE will use relationships in the agriculture industry developed through this program to target farm worker housing for participation in MCE's multifamily program.

Financing

MCE will help customers navigate the landscape of financing offerings available and encourage them to participate to the extent that it facilitates energy efficiency upgrades. Financing will help reduce up–front costs and address challenges with seasonal cash flow. Financing is available either through the commercial On–Bill Repayment program offered by MCE, the Property Assessed Clean Energy (PACE) financing programs available in the MCE service area, the California Energy Commission (CEC) low interest loan program, or agricultural specific lending programs such as those offered by the United States Department of Agriculture (USDA).

The SPOC will facilitate access to financing programs that are most suitable for the applicant. The SPOC will provide assistance in completing applications, supply information about the energy impacts of the proposed project where appropriate, and provide project management and oversight of the application to keep the process moving forward.

Metrics Tables (Table 17)

Alongside the other program administrators, MCE developed metrics that connect market barriers to intervention strategies and provide near–, mid–, and long–term targets that build towards a 10–year vision.

Table 17. Agriculture Sector Market Barriers & Metrics

Problem Statement	Market Barriers	Desired Market Effects/ 10–year Vision	Intervention Strategies	Market Effect Metrics	Baseline	Metric Source	Short Term Target (1–3 years)	Mid Term Target (4–7 years)	Long Term Target (8–10 years)
Dairies operate under constrained cash flow due to regulations that set milk prices. Other agricultural operations may face capital constraints due to fluctuating production, environmental factors such as drought, and market prices of products	Financial barrier	Increase in the number of customers who are aware of and make use of financing options and rebate programs to help them achieve energy savings	1. Incentives 2. Education about available financing options	1. Number of completed projects through program	1. Program Year 1 (PY1) Participation	1. Program tracking data	1. Increase 5% over PY1 baseline	1. Increase 10% over PY1 baseline	1. Increase 15% over PY1 baseline
Agricultural operations often follow a seasonal calendar that determines high and low periods of activity and equipment use. The seasonal cycles also affect cash flow and financial planning. Energy efficiency projects need to be arranged for at the appropriate point in the planning process, and conducted at key points during the year	Financial barrier, seasonal time constraints	Increase in the number of customers that have long term energy efficiency plans to upgrade specific equipment during times of low use	1. Technical assistance 2. Increased phasing of projects through SPOC approach	1. Number of customers who receive technical assistance 2. Number of customers with long term action plan under SPOC approach 3. Number of repeat referrals through SPOC	1. PY1 Participation 2. PY1 Participation 3. PY1 Participation	1. Program tracking data 2. Program tracking data 3. Program tracking data	1. 2% of ag customers 2. 50% of program participants 3. N/A	1. 5% of ag customers 2. 75% of program participants 3. 5% of participants	1. 10% of ag customers 2. 90% of program participants 3. 10% of participants
Compared to other regions of the state, agricultural operations in MCE service area are smaller with fewer employees and fewer acres in production. These operations may not have staff with energy expertise and may not know where to seek out assistance, rebates, and financing for energy efficiency upgrades	Lack of awareness of programs and energy efficiency equipment	Increased awareness of MCE's program offerings	1. Increase awareness of MCE's program and energy efficiency opportunities through peer to peer outreach, training cohorts and leveraging existing green certification programs	1. Number of completed projects through program 2. Number of customers attending training sessions	1. PY1 Participation 2. PY1 Participation	1. Program tracking data 2. Program tracking data	1. Increase 10% over PY1 baseline 2. 5 customers	1. Increase 15% over PY1 baseline 2. 20 customers	1. Increase 20% over PY1 baseline 2. 30 customers

Table 21. Commercial Sector Market Barriers & Metrics

Problem Statement	Market Barriers	Desired Market Effects/ 10–year Vision	Intervention Strategies	Sector Metric	Baseline	Metric Source	Short Term Target (1–3 years)	Mid Term Target (4–7 years)	Long Term Target (8–10 years)
Misalignment between typical payback requirements and commercial building turnover rates (disincentive to pay for upgrades that they may not benefit from)	Financial barrier	Improve the energy efficiency penetration in the untapped property management market	1. Leverage SPOC 2. Sophisticated CRM 3. Partnerships to engage and get buy–in from property managers	Percentage of commercial customers that participate in the program	Current percentage of commercial customers that participate in the program	MCE Program database	Increase to 2% of market	Increase to 4% of market	Increase to 6+% of market
"Split incentive" issue in which the tenant pays for electricity, but does not own the equipment. This arrangement is very common in the commercial sector, and can make it challenging to get buy–in and financial backing for efficiency upgrades	Split incentive	Landlords offer upgrades as business–as–usual	1. Leverage SPOC 2. Sophisticated CRM 3. Partnerships to engage and get buy–in from property managers	Percentage of rental property owners and tenants that participate in programs	Current % of commercial customers that participate in the program	MCE Program database	Increase to 2% of market	Increase to 4% of market	Increase to 6+% of market
Potential savings are fragmented across a high diversity in business type and large geographical area	Geographic diversity and area	Projects completed with relatively similar penetration across service area	1. Diversity of campaigns and outreach to reach broad territory	Increase in participation in historically under-participating regions	2015 baseline	MCE Program database	Increase to 2% of market	Increase to 4% of market	Increase to 6+% of market
Limited number of contractors with technical knowledge of integrated and comprehensive demand–side management and a need for more contractors that also have the business, sales, and project management skills to convert lead generation to complete projects	Lack of contractor training; workforce limitations	Increase in contractor–driven projects	1. Expand contractor trainings and incentives	Number of trainings; audit to completion conversion rate	2015 baseline	MCE Program database	Increase by 30% over baseline	Increase by 50% over baseline	Increase by 70% over baseline
Uncertainty in achievable savings	Lack of data	Metered–based savings provides customers with greater certainty in savings	1. Metered–based savings pilots 2. Pay–for–performance strategies	Alignment between expected and achieved savings	2015 baseline	MCE Program database	Increase to 2% of market	Increase to 4% of market	Increase to 6+% of market
Lack of dedicated energy managers in the commercial sector	Lack of time	Majority of commercial properties have an energy manager	1. Incentives and trainings for dedicated and shared energy managers	Percentage of all commercial customers with a dedicated or shared energy manager	Program Year 1 (PY1)	MCE Program database	Increase by 10% over baseline	Increase by 15% over baseline	Increase by 20% over baseline
Need for greater sub–metering and metered energy savings approaches to gain insight into energy consumption patterns and savings over time	Lack of data	Greater reliance on metered savings	1. Promoting use of metered energy savings where applicable	Number of participants with savings tracked by metered based approaches	PY1	MCE Program database	Increase by 5% over baseline	Increase by 10% over baseline	Increase by 15% over baseline
Commercial customers' general lack of awareness of energy efficiency benefits and MCE programs	Lack of awareness	Majority of commercial customers recognize MCE's energy efficiency brand and benefits	1. Expand marketing efforts; leverage partnerships to broaden the message about EE benefits 2. Increase in standardization of savings	Percentage of all commercial customers aware of MCE's EE programs	PY1	MCE Program database	Increase by 10% over baseline	Increase by 15% over baseline	Increase by 20% over baseline
Energy efficiency improvements are not as visible as other clean energy strategies, such as rooftop solar panels. As a result, efficiency improvements may not increase property values in the way that other clean energy strategies do	Visibility of Improvements	Property owners and prospective tenants value EE improvements; greater reliance on benchmarking	1. Leverage partnerships and conduct strategic marketing efforts	EE value included in appraisal	PY1	Program administrator	Establish metric to quantify increased property value from EE (both savings and non–energy benefits)	Quantify data for newly established metric	Integrate metric into customer reports

Table 27. Workforce Market Barriers & Metrics

Problem Statement	Market Barriers	Desired Market Effects/ 10–year Vision	Intervention Strategies	Sector Metric	Baseline	Metric Source	Short Term Target (1–3 years)	Mid Term Target (4–7 years)	Long Term Target (8–10 years)
The energy efficiency workforce requires a wide variety of trainings for all skill levels	Lack of diverse trainings	Stackable certified programs that meet workforce entrants where they are at (Increase of 15% over baseline)	1. Work with partners and industry experts to design and implement trainings 2. Develop a plan for funding sector specific, stackable certifications (entry level to professional certifications)[1]	1. Increase in stackable certifications 2. Increase in number of trainees completing the pathway	Determine baseline from Program Year 1 (PY1) data	Program tracking data	Increase 5% over baseline	Increase 10% over baseline	Increase 15% over baseline
Trainings take contractors away from their core job responsibilities	Lack of time for trainings	To seamlessly integrate trainings into day–to–day operations (Increase of 15% over baseline)	1. Schedule trainings around peak work schedules[2] 2. Incorporate on–the–job training[3] 3. Bring trainings to contractors[4]	1. Number of trainings scheduled around peak work 2. Increase in grants provided for on–the–job training 3. Number of trainings at individual businesses	Determine baseline from PY1 data	Program tracking data	Increase 5% over baseline	Increase 10% over baseline	Increase 15% over baseline
Trainings, workshops and certifications can be costly	Lack of funding for trainings	Provide trainings that are accessible to all (Increase of 15% over baseline)	1. Provide subsidized trainings 2. Offer scholarships to individuals 3. Partner with workforce development organizations to provide training for hard–to–reach and at–risk populations[5]	1. Increase in participants that wouldn't have been able to participate 2. a. Number of individual scholarships given b. Amount of individual scholarships given 3. a. Number of partner organizations b. Number of hard to reach participants trained	Determine baseline from PY1 data	Program tracking data	Increase 5% over baseline	Increase 10% over baseline	Increase 15% over baseline
Codes and standards change every few years and it can be difficult for contractors to stay up to date with the changes	Changing codes and standards	Contractors that understand and can easily implement new codes (Increase of 15% over baseline)	1. Work with local planning departments to develop a mobile app 2. Facilitate a conversation between planning departments and contractors to identify gaps, provide feedback loops, and develop channels for information dissemination 3. Work with inspectors to provide on–the–job training for new codes and standards	1. Number of downloads 2. Number of MCE jurisdictions that participate in the standardized process for dissemination of and feedback loops for new codes and standards implementation 3. a. Number of on–the–job training sessions with inspectors b. Reduction in repeat inspector visits for code violations	Determine baseline from PY1 data	Program tracking data	Increase 5% over baseline	Increase 10% over baseline	Increase 15% over baseline
There are not enough comprehensive educational programs focused on energy efficiency	Discrete trainings do not contribute to a career pathway	Create meaningful career paths for participants (Increase of 15% over baseline)	1. Design an energy efficiency vocational program	1. Number of graduates	Determine baseline from PY1 data	Program tracking data	Increase 5% over baseline	Increase 10% over baseline	Increase 15% over baseline
Contractors don't know how to use, install or explain the value of new technology	Lack of training on new technologies	New technologies are valued and installed by the masses upon release (Increase of 15% over baseline)	1. Facilitate educational workshops with product manufacturers[6] 2. Provide on–the–job training for operations and maintenance staff	1. Number of product specific workshops 2. Number of product specific on–the–job training sessions for operations and maintenance staff	Determine baseline from PY1 data	Program tracking data	Increase 5% over baseline	Increase 10% over baseline	Increase 15% over baseline

1 Workforce Issues and Energy Efficiency Programs: A Plan for California's Utilities. Donald Vial Center on Employment in the Green Economy at the University of Berkeley. (2014) p. 132.

2 Workforce Issues and Energy Efficiency Programs: A Plan for California's Utilities. Donald Vial Center on Employment in the Green Economy at the University of Berkeley. (2014) p. 78.

3 2010-2012 WE&T Process Evaluation Volume I: Centergies. Opinion Dynamics and McLain ID Consulting. (2012) p. 40.

4 Workforce Issues and Energy Efficiency Programs: A Plan for California's Utilities. Donald Vial Center on Employment in the Green Economy at the University of Berkeley. (2014) p. 79.

5 2010-2012 WE&T Process Evaluation Volume I: Centergies. Opinion Dynamics and McLain ID Consulting. (2012) p. 118.

6 2010-2012 WE&T Process Evaluation Volume I: Centergies. Opinion Dynamics and McLain ID Consulting. (2012) p. 139.

Attachment C:
Sector and Portfolio Energy Savings Targets

Table 1: Electric (kWh) Savings

Program #	Sector	Years 1–2		Years 3–4		Years 5–10	
		Gross kWh Savings	% of Total Portfolio Savings Goal	Gross kWh Savings	% of Total Portfolio Savings Goal	Gross kWh Savings	% of Total Portfolio Savings Goals
MCE01	Residential Single Family	3,802,162	20%	4,320,954	19%	12,620,832	16%
MCE02	Residential Multifamily	3,458,921	18%	3,301,830	15%	9,802,518	13%
MCE03	Commercial	7,259,309	38%	9,237,506	41%	32,758,342	42%
MCE04	Industrial	1,712,578	9%	3,568,890	16%	16,938,397	22%
MCE05	Agricultural	3,086,521	16%	2,120,622	9%	5,884,606	8%
Total		19,319,492	100%	22,549,802	100%	78,004,696	100%

Table 2: Demand (kW) Savings

Program #	Sector	Years 1–2		Years 3–4		Years 5–10	
		Gross kW Savings	% of Total Portfolio Savings Estimate	Gross kW Savings	% of Total Portfolio Savings Goal	Gross kW Savings	% of Total Portfolio Savings Goals
MCE01	Residential Single Family	505	30%	544	43%	1,642	46%
MCE02	Residential Multifamily	103	6%	147	12%	346	10%
MCE03	Commercial	583	34%	323	26%	677	19%
MCE04	Industrial	125	7%	115	9%	538	15%
MCE05	Agricultural	393	23%	122	10%	394	11%
Total		1,710	100%	124,018	100%	3,595	100%

Table 3: Gas (therm) Savings

Program #	Sector	Years 1–2		Years 3–4		Years 5–10	
		Gross Therm Savings	% of Total Portfolio Savings Goal	Gross Therm Savings	% of Total Portfolio Savings Goal	Gross Therm Savings	% of Total Portfolio Savings Goals
MCE01	Residential Single Family	182,344	22%	481,414	31%	1,316,875	26%
MCE02	Residential Multifamily	317,023	39%	693,910	44%	2,535,675	50%
MCE03	Commercial	11,041	1%	13,249	1%	47,696	1%
MCE04	Industrial	294,276	36%	353,131	22%	1,271,271	25%
MCE05	Agricultural	11,134	1%	13,360	1%	48,097	1%
Total		815,817	100%	1,555,065	100%	5,219,615	100%

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering	Rulemaking 14-07-002 (Filed July 10, 2014)

COMMENTS OF MARIN CLEAN ENERGY ON UPDATED PROPOSALS FOR CUSTOMERS IN DISADVANTAGED COMMUNITIES

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May 26, 2017

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering	Rulemaking 14-07-002 (Filed July 10, 2014)

COMMENTS OF MARIN CLEAN ENERGY
ON UPDATED PROPOSALS FOR CUSTOMERS IN DISADVANTAGED COMMUNITIES

I. INTRODUCTION

Pursuant to the directions set forth in the *Administrative Law Judge's Ruling Seeking Updated Proposals and Comments on Alternatives for Disadvantaged Communities* ("Ruling") issued on March 14, 2017, Marin Clean Energy ("MCE") respectfully submits the following comments. MCE's comments respond to the proposal of Pacific Gas and Electric ("PG&E") and address Community Choice Aggregation ("CCA") customers' eligibility to participate in ratepayer funded programs based on directives provided by Assembly Bill ("AB") 693.[1]

II. BACKGROUND

MCE was the first operational CCA within California. MCE's customers receive generation services from MCE, and receive transmission, distribution, billing and other services from PG&E. MCE currently provides generation service to approximately 255,000 customer

[1] California Public Utilities Code Section 2870(i) directs the Commission to determine the eligibility of multifamily affordable housing property tenants that are customers of CCAs.

accounts throughout Marin County, Napa County, and the Cities of Richmond, San Pablo, El Cerrito, Benicia, Walnut Creek, and Lafayette. MCE's service area is made of diverse communities, some of which have high populations of disadvantage communities. For example, over 40% of customers from the City of San Pablo are enrolled in the CARE rate.

MCE's Net Energy Metering ("NEM") program is designed to support and encourage local rooftop solar installations and was launched when MCE began serving customers in 2010. Recently, MCE completed its sixth annual cash out process for rooftop solar customers, offering over $1 million in check payments to purchase its NEM customers' excess solar energy at premium retail rates. MCE also partners with Grid Alternatives to offer $800 rebates to low-income customers who install solar panels in MCE's service area. Through the partnership with Grid Alternatives, MCE has obtained valuable lessons about the barriers for rooftop solar adoption in disadvantaged communities.

Since 2013, MCE has administered Energy Efficiency ("EE") programs authorized by the Commission pursuant to Public Utilities Code Section 381.1. As a Program Administrator ("PA"), MCE currently offers energy efficiency and conservation services in the single family, multifamily, and commercial sectors.

To maximize the adoption of renewable energy in disadvantaged communities, the proposal adopted by the Commission will need to have the ability to serve CCA customers residing in disadvantaged communities in order to meet the intended goals of AB 693. Besides MCE, there are seven additional operational CCAs: Apple Valley Choice Energy, CleanPowerSF, Lancaster Choice Energy, Peninsula clean Energy, Redwood Coast Energy Authority, Silicon Valley Clean Energy, and Sonoma Clean Power. Several other municipalities are also in the process of forming their own CCAs, including the Counties of Los Angeles, Placer, Santa Barbara, San Luis Obispo, Ventura, and the Cities of Corona, Hermosa Beach, and San Jose. As more diverse communities join CCA service areas, the Commission should ensure that the final proposal does not create anti-competitive dynamics between bundled and unbundled ratepayers in these communities. Anti-competitive dynamics would harm CCA customers in disadvantaged communities by further limiting their clean energy choices.

III. COMMENTS OF MCE ON UPDATED PROPOSALS

AB 693 directs the Commission to contemplate the eligibility of CCA customers residing in qualified multifamily affordable housing properties.[2] Because the funding for the program comes from the Greenhouse Gas Reduction Fund, a state program funded by Cap-and-Trade revenues, the program should be available to all ratepayers, not just bundled ratepayers.

A. PG&E's Solar Care Plus is Not Available to CCA Customers and Should Be Rejected

PG&E's proposed Solar CARE Plus Program is only available to bundled customers, and should be rejected.[3] The proposal is duplicative of PG&E's Enhanced Community Renewables ("ECR") program under the Green Tariff Shared Renewables Program ("GTSR"), and may encourage unbundled customers to opt out of CCA services. Because California Public Utilities Code Section 707(a)(4)(A) directs the Commission to foster fair competition, the Commission should reject PG&E's proposal based on those directives.[4]

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[2] California Public Utilities Code Section 2870(i).
[3] Comments of PG&E at page 17.
[4] California Public Utilities Code Section 707(a)(4)(A) directs the Commission to "facilitate the development of community choice aggregation programs, to foster fair competition, and to protect against cross subsidization paid by ratepayers."

PG&E's Solar CARE Plus proposal requests an additional subsidization of its ECR program from the state's Cap-and-Trade program, without making the program available to all low-income customers. As PG&E demonstrated in its proposal, Solar CARE Plus Program is built on the ECR program, which is already funded by PG&E's bundled ratepayers. While additional financial assistance is needed to overcome solar adoption barriers in disadvantaged communities, a state-funded program should not favor one group of ratepayers in disadvantaged communities over another. If the Commission intends to approve PG&E's Solar CARE Plus Program, the proposal should be modified to only recover costs from PG&E's bundled rate base.

Second, restricting the access of CCA customers to this state program incentivizes potential program participants to opt-out of CCA services if they seek access to more renewable options. This is antithetical both to the purpose of CCAs and the legislative intent of AB 693. MCE was founded to reduce greenhouse gas emissions and is proud to offer universal access to 52% and 100% green energy products that are affordable and cost-competitive with PG&E. Further, the Commission has had a historical obligation to "foster fair competition" between CCAs and their corresponding Investor-Owned Utilities (IOUs).[5] To incentivize low-income customers to opt-out to bundled service in order to participate in the program is clearly anti-competitive. Therefore, PG&E's Solar Care Plus proposal should be denied, or modified to only recover the program's costs from PG&E's bundled customers.

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[5] California Public Utilities Code Section 707(a)(4)(A).

B. MCE Does Not Comment on Other Proposals

Because other proposals do not exclude CCA customers from participating in the program and therefore do not have anti-competitive impacts, MCE does not provide comments on those proposals.

IV. THE COMMISSION SHOULD RESERVE THE RIGHT FOR CCAS TO APPLY TO ADMINISTER FUNDING FOR THE PROGRAM

At this time, operational CCA programs have not put forth proposals for the program. However, the Commission should reserve the opportunity for CCAs to propose to administer, or participate the program in the future. Because NEM programs have direct impact on the procurement practice of the customers' Load Serving Entities ("LSEs"), the final proposal adopted by the Commission must recognize the local governance and policy-setting functions of a CCA's publicly elected Board of Directors.[6] Furthermore, because CCAs have the legal authority to administer EE and energy conservation programs,[7] CCAs will be able to couple NEM offerings with their EE programs to maximize GHG reduction. For these reasons, CCAs should be able to apply for Commission-approved program funding that is designated to serve customers residing in disadvantaged communities.

As the customers' default generation services provider, CCAs should be able to administer the Commission-approved program, particularly because the adoption of rooftop solar will impact CCAs' procurement practices. By providing CCAs the ability to administer the program, CCAs can tailor their procurement strategies based on projected NEM adoption to ensure that additional solar adoption does not create reliability needs. Additionally, CCAs are well positioned to target

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[6] California Public Utilities Code Section 366.2(a)(5).
[7] California Public Utilities Code, Section 381.1.

incentives toward disadvantaged communities in their service areas by utilizing their existing relationships with customers and community partners.

Furthermore, because the eligible solar energy systems need to be sited on properties that have appropriate energy efficiency improvements,[8][9] CCAs that administer EE programs can maximize GHG savings by integrating program offerings. CCAs have demonstrated their abilities to effectively administer Distributed Energy Resource ("DER") programs, including NEM and EE. Since 2013, MCE has administered multifamily EE programs by deploying cost-effective EE measures in its service area. MCE recently received approval by the CPUC to utilize the Energy Savings Assistance Program ("ESAP") funds for its Low-Income Families and Tenants ("LIFT") pilot program for multi-family properties.[10] CCAs will be able to integrate the program with other offerings, such as financial incentives, NEM tariffs, and EE measures. CCAs can also package the program with other GHG reduction measures to maximize climate change mitigation potential.

Therefore, the Commission should provide CCAs the ability to administer the approved program to recognize their Boards' governance structure, as well as CCAs' ability to play an instrumental role in achieving the policy goals of AB 693.

V. <u>CONCLUSION</u>

MCE thanks Assigned Commissioner Picker and Assigned Administrative Law Judge Anne E. Simon for the opportunity to provide these comments on the updated proposals.

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[8] California Public Utilities Code, Section 2870(f)(4).
[9] California Public Resources Code, Section 25872.
[10] Decision 16-11-022 at page 387.

Respectfully submitted,

/s/ C.C. Song

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May 26, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E), Pacific Gas and Electric Company (U 39-E), and San Diego Gas & Electric Company (U 902-E), for Approval of the Portfolio Allocation Methodology for all Customers.	Application No. 17-04-018 (Filed April 25, 2017)

PROTEST OF THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION

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May 30, 3017

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E), Pacific Gas and Electric Company (U 39-E), and San Diego Gas & Electric Company (U 902-E), for Approval of the Portfolio Allocation Methodology for all Customers.	)))))))	Application No. 17-04-018 (Filed April 25, 2017)

PROTEST OF THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION

In accordance with Rule 2.6 of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California ("Commission"), the California Community Choice Association ("CalCCA") hereby submits this protest to the application ("Joint Application") jointly filed by Pacific Gas and Electric Company ("PG&E"), San Diego Gas & Electric Company ("SDG&E") and Southern California Edison Company ("SCE") (collectively, "IOUs") to abolish the existing Power Charge Indifference Adjustment ("PCIA") methodology and replace it with a Portfolio Allocation Methodology ("IOUs' Proposal").[1]

I. EXECUTIVE SUMMARY

CalCCA respectfully requests that the Commission dismiss the Joint Application without prejudice, and instead consider opening a new rulemaking proceeding to address PCIA reform and related issues within the context of California's emerging retail choice paradigm. Summary disposition will allow the Commission to efficiently and fairly examine the panoply of issues

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[1] As further described below, CalCCA is concurrently filing a motion to dismiss the Joint Application without prejudice on the grounds that, among other things, reform of the PCIA should occur within the context of a rulemaking proceeding in which the scope of issues and timeline may be set by the Commission, not the IOUs.

implicated by PCIA reform.[2] Consideration of PCIA reform in a rulemaking proceeding, rather than an application, is also consistent with Commission precedent with regard to the PCIA and its related charges. The PCIA, Cost Responsibility Surcharge ("CRS") and Competition Transition Charge ("CTC") have all been established and revised in rulemaking proceedings.[3] Finally, consideration of the IOUs' Proposal and other related proposals in a Commission-instituted rulemaking proceeding is in accord with recent statements of intent from the Commission to open one or more rulemaking proceedings to broadly consider retail choice issues, which have been the topic of discussions at two recent *en banc* hearings.

With respect to the IOUs' Proposal, CalCCA offers the following general objections:

- The IOUs' Proposal unlawfully impinges on the statutory responsibility of Community Choice Aggregators to procure resources for their customers.
- The IOUs' Proposal unnecessarily prejudges fundamental Commission policies.
- The IOUs' claim of cost-shifting rests on a faulty view of market price benchmarks and ignores offsetting benefits.
- Many of the features touted by the IOUs could be applied to the current PCIA methodology.
- The IOUs' Proposal does nothing to remedy key deficiencies in the current PCIA methodology.
- The IOUs' proposal does not mitigate volatility and rate shock – problems that also apply to the existing PCIA structure.
- The IOUs' Proposal would result in unlawful rate discrimination.

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[2] As further described below (*see* note 57, below), the IOUs hold a tremendous advantage with respect to regulatory proceedings and it is incumbent on the Commission to counterbalance these advantages. *See also* note 5, below (describing the Commission's statutory obligations under Senate Bill ("SB") 790 (2011) to counterbalance the inherent market power advantages of the IOUs in the context of CCA programs).

[3] *See* note 9, below.

- The IOUs' Proposal has not been provided as a voluntary option instead of as a binding requirement upon Community Choice Aggregators.

II. BACKGROUND

A. Background on CalCCA

CalCCA is a nonprofit organization formed in June 2016 to represent the interests of California's Community Choice Aggregation ("CCA") programs in regulatory and legislative matters. Local communities are investigating and establishing CCA programs to customize and accelerate efforts to address climate change, renewable energy development, and for other important environmental and social issues. The operational CCA programs in California – Apple Valley Choice Energy, CleanPowerSF, Lancaster Choice Energy, Marin Clean Energy ("MCE"), Peninsula Clean Energy Authority, Redwood Coast Energy Authority, Silicon Valley Clean Energy Authority, and the Sonoma Clean Power Authority ("SCP") – comprise CalCCA's current voting members. In addition, CalCCA's affiliate members include Central Coast Power (counties of San Luis Obispo, Santa Barbara and Ventura), the cities of Corona, Hermosa Beach and San Jose, the counties of Los Angeles and Placer, Valley Clean Energy (city of Davis and Yolo County) and Western Riverside Council of Governments.[4]

CalCCA is participating in this proceeding to represent the views of CCA programs in California, and has collaborated with CCA programs in developing this protest. Given the many

[4] On February 1, 2017, the Commission held an *En Banc* Hearing on Community Choice Aggregator issues ("CCA *En Banc* Hearing"), and on May 19, 2017, the Commission held an additional *En Banc* Hearing on Retail Choice in California ("Retail Choice *En Banc* Hearing"). As described in the Staff White Paper accompanying the En Banc Hearing on Retail Choice in California ("Retail Choice White Paper"), currently 915,000 customers currently take service from Community Choice Aggregators and other communities are actively considering CCA programs. (*See* Retail Choice White Paper at 4-5.)

potential impacts of the Joint Application on CCA programs, CalCCA expects that individual CCA programs may also participate in this proceeding.

B. Principles For Fair Competition

The Legislature established the CCA option in 2002 through Assembly Bill ("AB") 117. In 2011, the Legislature affirmed and expanded protections for CCA programs in SB 790. Pursuant to these statutes and the IOUs' inherent market power, the Commission is tasked with promoting fair competition by, among other things, guarding against cross-subsidization of IOU costs.[5] The Commission is also tasked with ensuring fairness and customer indifference with respect to the departure of CCA customers.[6] These counterbalancing responsibilities should guide the Commission in its evaluation of the Joint Application.

The Commission should also evaluate the IOUs' Proposal in light of past history with nonbypassable charges,[7] beginning with the Commission's Preferred Policy Decision in 1995, followed by the Legislature's adoption of AB 1890 in 1996.[8] Importantly, all major decisions on

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5 *See, e.g.,* Decision ("D.") 04-12-046 at 3 ("The state Legislature has expressed the state's policy to permit and promote CCAs by enacting AB 117…."). *See also* D.12-12-036 at 6 (citing SB 790, § 2(h), and Pub. Util. Code § 707(a)(4)(A)) ("In SB 790, the legislature directed the Commission to develop rules and procedures that 'facilitate the development of community choice aggregation programs, … foster fair competition, and … protect against cross-subsidization paid by ratepayers.'".).

6 *See, e.g.,* Public Utilities Code sections 366.2(f) and 365.2. Unless otherwise noted, all subsequent statutory references are to the Public Utilities Code.

7 In this protest, CalCCA uses the term "nonbypassable charges" to generally describe various charges for generation-related stranded costs, as opposed to reliability-related costs, associated with customers departing bundled service and taking service from Community Choice Aggregators and other alternative service providers.

8 *See* D.95-12-063, as modified by D.96-01-009. The Legislature codified the Preferred Policy Decision in AB 1890 (1996).

nonbypassable charges have been issued in rulemaking proceedings where the Commission examined nonbypassable charges within a broader industry context.[9]

C. The PCIA Working Group

In D.16-09-044, the Commission addressed certain concerns regarding the current PCIA methodology and the potential for future PCIA reform. D.16-09-044 was issued after an initial workshop in which parties "expressed legitimate concerns and proposals" with respect to the PCIA, but which the Commission found to be outside the scope of the current Energy Resource Recovery Account ("ERRA") proceeding.[10] The Commission directed the formation of a working group, led by SCE and SCP, to review PCIA-related issues and to present proposed reform measures in the form of "petitions."[11] In two key respects, the IOUs' Proposal does not comport with D.16-09-044.

First, the IOUs did not allow the PCIA working group process to conclude before starting to aggressively advocate for the Commission's replacement of the PCIA methodology.[12] In doing so, the IOUs detracted from the working group process and undermined the cooperation intended by the Commission when it directed the formation of the PCIA working group.

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9 *See, e.g.,* D.95-12-063 (issued in R.9-04-031); D.02-11-022 (issued in R.02-01-011); D.04-12-046 (issued in R.03-10-003); D.06-07-030 (issued in R.02-01-011); D.08-09-012 (issued in R.06-02-013); D.11-12-023 (issued in R.07-05-025) and D.13-08-023 (issued in P.12-12-010).

10 *See* D.16-09-044 at 19-20.

11 *See* D.16-09-044 at 20.

12 On January 24, 2017, in the middle of the PCIA working group process, the IOUs began a series of *ex parte* meetings with Commission offices to promote their PAM proposal. *See Southern California Edison Company's Notice of Ex Parte Communication,* dated January 27, 2017, filed in A.16-05-001. Top IOU executives also conducted *ex parte* meetings February 23, 2017 and March 13, 2017.

Second, the IOUs submitted their proposal as an "application," when the Commission explicitly directed that PCIA reform measures should be brought forward as a petition. While the Commission's reasoning was not expressly stated, it is reasonable to assume that the Commission intended that any significant reform proposal should be considered in a proceeding that gives the Commission broad flexibility to consider alternative proposals. As noted previously, each of the Commission's nonbypassable charge decisions has been issued within the context of a rulemaking proceeding.[13] The IOUs' approach departs from the Commission's directive.

D. The Commission's Expressed Intent Is To Open A Rulemaking Proceeding

Within the last three months, the Commission has conducted two *en banc* hearings on retail choice in California's energy market.[14] The Commission is focusing much attention on retail choice options and the role of the IOUs in the future. The Commission's Retail Choice White Paper aptly describes many of the challenges facing the electric services industry and the need for coordinated examination of policies. In response, the Commission indicated that it "intends to open a Rulemaking to examine, and coordinate among other open proceedings, an examination of the future role(s), structure(s), fiscal and other functions of the three large California electric IOUs."[15]

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13 *See* note 9, above.

14 *See* note 4, above (referencing the CCA *En Banc* Hearing and the Retail Choice *En Banc* Hearing).

15 Retail Choice White Paper at 13. The Retail Choice White Paper goes on to state "This, in turn, requires a discussion of the scope and scale of the current framework for regulation of competition – including customer centered technologies - and the structure of the retail electric market, and the transition from IOUs' responsibilities today and their responsibilities in the future. As part of this process, the CPUC will likely examine a variety of different retail market and customer choice constructs to assess what best practices and lessons learned can be applied in California given our unique set of public policy goals. *** Finally (and as a fundamental

It is premature to consider major cost allocation and related issues in the context of the Joint Application. Doing so would undermine the Commission's efforts to arrive at its own determination of market structure and to enact a cost allocation methodology that supports the Commission's vision.

III. PROTEST

For reasons stated above, the Commission should dismiss the Joint Application without prejudice. In further support of this request, CalCCA provides the following initial objections to the IOUs' Proposal.

A. The IOUs' Proposal Unlawfully Impinges On The Statutory Responsibility Of Community Choice Aggregators To Procure Renewable Resources For Their Customers

The Public Utilities Code provides that Community Choice Aggregators "shall be solely responsible for all generation procurement activities on behalf of the community choice aggregator's customers, except where other generation procurement arrangements are expressly authorized by statute."[16] This responsibility is consistent with other statutory provisions.[17] The IOUs' Proposal unlawfully impinges on this responsibility.

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framing consideration), it is critical to recognize that whatever the specific outcomes of this proceeding, it is very difficult to conceive of a scenario where the CPUC and CEC will not find that significant changes to the regulatory model and the utility structure are required." (Retail Choice White Paper at 13-14.)

[16] Section 366.2(a)(5).

[17] *See, e.g.,* Section 380(a)(5) (defining the following as a legislative objective with respect to the resource adequacy program: "[m]aximize the ability of community choice aggregators to determine the generation resources used to serve their customers."). *See also* Section 454.51(d) (expressly providing a self-procurement option for Community Choice Aggregators with respect to renewable integration requirements).

The IOUs' Proposal provides for mandatory transfer of renewable energy credits ("RECs") and Resource Adequacy ("RA") attributes to CCA programs.[18] Community Choice Aggregators are given no choice in the matter, and little advance information about the resources or ability to manage the resources. By design, the IOUs' approach "optimizes the existing [IOU] resources,"[19] with no regard to the resulting displacement of CCA procurement autonomy. The IOUs do not address this significant problem.

For existing Community Choice Aggregators, which have already procured renewable resources on behalf of their customers, the forced transfer of RECs would result in being over-procured, and the need to sell or otherwise dispose of excess RECs. For new Community Choice Aggregators, the IOUs' Proposal could unduly interfere with procurement-related decisions and CCA program goals.

Community Choice Aggregators' procurement decisions incorporate a range of goals and values in addition to environmental compliance, including enhanced local generation and job creation, a diverse technology mix, and better matching supply to demand. The forced receipt of RECs from the IOUs would impair the ability of CCAs to pursue these goals.

B. The IOUs' Proposal Would Place An Unreasonable Administrative Burden On Community Choice Aggregators, And Would Degrade The Value Of Long-Term Resources

The IOUs' Proposal relies on a bifurcated means of determining bundled customer indifference. The IOUs propose to value *energy* with reference to spot market energy prices and to offset that value from the IOUs' costs (a process similar in certain respects to today's PCIA process); the IOUs do *not* propose to transfer *energy* to Community Choice Aggregators. As

18 *See, e.g.,* Joint IOUs-01 at 37.

19 *See* Joint IOUs-01 at 25.

described above, the IOUs propose a different approach for RECs and RA attributes; the IOUs propose to transfer RECs and RA attributes to Community Choice Aggregators.

The forced transfer of RECs and RA attributes to Community Choice Aggregators would create a significant burden for Community Choice Aggregators. The IOUs have offered no justifiable reason why Community Choice Aggregators should be forced to receive and dispose of the IOUs' unwanted REC and RA attributes. Absent agreement from a Community Choice Aggregator, placing an additional burden on a Community Choice Aggregator is unfair and contrary to their legal responsibility to undertake their own procurement.

Additionally, the IOUs' Proposal would result in a substantial portion of the value of the IOUs' long-term renewables portfolio standard ("RPS") resources being lost. Under the IOUs' Proposal, Community Choice Aggregators merely get the short-term value of transferred RECs. The transfer of RECs alone eliminates the ability for a Community Choice Aggregator or third-party purchaser to prudently manage the resource, including terminating the agreement or otherwise making use of contractual rights to maximize the value. If the RPS agreements were assigned to Community Choice Aggregators, bid into Community Choice Aggregator Requests for Offers ("RFOs"), or sold in the market, the full value of the resource could be more fully realized. Several Community Choice Aggregators have observed that the IOUs either do not participate in CCA RFOs, or impose undue contract requirements in the context of participating in CCA RFOs.

CalCCA is *not* proposing the involuntary assignment of RPS agreements to Community Choice Aggregators. Nonetheless, in reviewing nonbypassable charges and alternative arrangements, the Commission should explore avenues to maximize, or at least not degrade, the value of the IOUs' RPS resources.

C. The PAM Proposal Prejudges Fundamental Commission Policies, While Remaining Noticeably Silent On Other Corollary Policies

The Commission has signaled its intent to institute a rulemaking proceeding to assess the regulatory model and IOU structure, and potentially put into place fundamental changes.[20] The Joint Application is therefore premature. CalCCA objects to the IOUs' disjointed proposal in which selective, IOU-centric change would be accomplished without considering and adopting broader, corollary changes. The Commission should not countenance these prejudicial actions.

1. The IOUs' PAM Proposal Implicates Key RPS Decisions

The Joint Application proposes that the IOUs be allowed to sever RECs from underlying energy, but that the RECs transferred to Community Choice Aggregators should nevertheless be counted as Portfolio Content Category ("PCC") 1 products, not PCC 3.[21] Likewise, the IOUs' Proposal requires that the Commission accelerate a decision on whether or not the IOUs' existing RPS contracts satisfy the requirement under SB 350 with respect to being "long-term."[22] These matters are prerequisites of the IOUs' Proposal, even as envisioned by the IOUs,[23] but highly uncertain. Preserving PCC1 status for RECs that are separated from the underlying energy has been contested in the past,[24] and may require legislative action. Moreover, determination of the long-term contract requirement under SB 350 should be undertaken in a comprehensive manner with other SB 350 implementation issues.

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20 *See* note 15, above.

21 *See* Joint IOUs-01 at 37-38.

22 *See* Joint IOUs-01 at 38.

23 *See* Joint IOUs-01 at 37-38 (seeking Commission "findings" and "clarifications").

24 *See, e.g.,* D.11-12-052.

2. The IOUs' Proposal Improperly Seeks Rehearing Of Cost-Recovery Decisions and Eliminates Basic Incentives for Prudent Procurement

As part of the IOUs' Proposal, the IOUs attack several of the Commission's recent cost-recovery decisions and propose that such decisions be reversed. Specifically, the IOUs request that the Commission reverse various nonbypassable charge decisions that limit cost-recovery to ten years for IOU-owned generation and energy storage resources.[25] In addition, the IOUs seek a true-up for any sales of excess resources they undertake, rather than being held to any form of objective benchmark.[26] These requests fail to follow the procedural requirements for modifying or rehearing Commission decisions. In addition, the IOUs' requests fail to explain and justify the nexus between these decisions and the IOUs' Proposal, and why the IOUs' Proposal is unworkable without reversing these decisions.

The Commission adopted a ten-year limit on cost recovery in part as an incentive for the IOUs to prudently manage their procurement and to make appropriate adjustments to their portfolio. For example, the Commission reasoned that ten years should be sufficient time for the IOUs to adjust their portfolio in response to departure of load: "[t]he utilities can, over time, adjust their load forecasts and resource portfolios to mitigate the effects of [departing load] on bundled service customer indifference. By the end of a 10-year period, we assume the IOUs would be able to make substantial progress in eliminating such effects for customers who cease taking bundled service during that period."[27] Eliminating the ten-year requirement harms both bundled and CCA customers because it reduces the incentive for IOUs to prudently plan and then adjust their portfolios as CCA programs develop.

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25 *See* Joint IOUs-01 at 59-61.

26 *See* Joint IOUs-01 at 27, note 44.

27 D.08-09-012 at 54.

Further, in the PCIA methodology the Commission adopted a benchmark as a proxy for market value based on IOU transactions and other market information. The Commission adopted a benchmark that reflected a combination of positions and outcomes.[28] By developing a market benchmark that reflects the three IOUs' recent transactions and and other market indicators, the Commission sought to hold the IOUs to moored to certain objective, external standards. Although CalCCA leaves open whether the existing benchmark is the appropriate benchmark, eliminating the existing benchmark, as proposed by the IOUs, would remove the few aspects of the PCIA that addressed the issue of prudent contract management.

3. The IOUs' Proposal Seeks To Prejudge Nonbypassable charge Treatment For Pre-2009 Vintages

The IOUs acknowledge that the Commission is, in the context of the recently consolidated ERRA proceedings, considering the issue of *negative* PCIA amounts and whether pre-2009 vintage customers should continue to pay the PCIA.[29] This issue has not been examined by the Commission, yet the IOUs seek to foreclose review and instead propose that this issue be categorically resolved in this proceeding.[30] Once again, this approach is procedurally improper and inappropriate.

D. The IOUs' Proposal Is Premised On Inaccurate Cost-Shifting Claims

In the Joint Application, the IOUs rely on purported "cost-shifting" as their reason for seeking changes to the PCIA methodology. For example, the IOUs proclaim that "the current Commission-approved method of recovering costs from departing load customers is *broken*, and

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28 *See* D.11-12-023 at 22-23.

29 *See* Joint IOUs-01 at 33, note 60.

30 *See id.*

that the cost shift from departing load customers to remaining bundled service customers is increasing."[31] Moreover, the IOUs state that "[a]ttempting to *'fix'* the inputs to the Current Methodology is not the answer…*any* cost-allocation mechanism that relies on administratively-set benchmarks ultimately will result in cost shifting to or from remaining bundled service customers depending on actual market outcomes."[32]

The IOUs' cost-shifting claims are flawed and misleading. CalCCA is not opposed to openly and comprehensively examining the current nonbypassable charge framework to explore cost-shifting issues. But as described below, the IOUs' cost-shifting claims suffer from a number of important flaws. Additionally, any serious examination of cost-shifting must be premised on all parties, not just the IOUs, having transparent access to information that forms the basis for nonbypassable charges.

First, the IOUs' assertion of a purported cost-shift relies on the IOUs' flawed "benchmarks." Although the IOUs denounce the current market price benchmarks, the IOUs fail to expressly state which market price benchmarks they rely upon in their cost-shifting claims, choosing instead to generically state that the information is "derived from *a blend of RECs index* numbers as well as [private] *broker* quotes."[33] With respect to RECs, in particular, index-based "numbers" suffer from a principal deficiency: the numbers are derived from indices that are short-term-based, and therefore should not be used in determining REC value for the IOUs' renewable energy portfolio. The IOUs' renewable energy portfolios are principally comprised of

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31 Joint IOUs-01 at 4; emphasis added.

32 Joint IOUs-01 at 13; emphasis added. *See also id.* at 15 ("Proxies – by their nature – do not reflect actual market conditions and therefore shift costs in one direction or the other.")

33 *See* Joint IOUs-01 at 19, note 30.

long-term resources. An index based on short-term transactions is incongruent with this underlying product.

Second, noticeably absent from the Joint Application is any discussion about mutuality and the benefits that inure to the IOUs and their bundled service customers as a result of the departure of CCA customers. With respect to mutuality, the Commission is charged with ensuring that all customers – bundled and departing – are protected.[34] The Commission must also ensure that benefits, as well as costs, are factored into nonbypassable charges.[35] In any future consideration of a successor nonbypassable charge methodology, the following benefits should be considered and offset against costs:

- The IOUs' portfolio provides a long-term hedge against market price volatility.
- Departure of customers to CCA service results in an increase to the IOU's RPS percentage, thereby minimizing or eliminating additional transactional costs.
- Departure of customers to CCA service also results in a decreased need by the IOUs to procure additional resources, thereby minimizing or eliminating additional transactional costs.
- Departure of customers allows the IOUs to dispatch more economically efficient generators in their stack, resulting in a lower average cost to serve remaining bundled load.
- The IOUs' existing "negative" PCIA balance has not been addressed by the IOUs in the Joint Application, and it is unclear how the IOUs plan to address situations in which "negative" charges arise in the future.

E. The IOUs' Proposal Does Nothing To Remedy Deficiencies In The Current Nonbypassable charge Methodology

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[35] *See, e.g.,* Section 366.2(g) ("Estimated net unavoidable electricity costs paid by the customers of a community choice aggregator shall be reduced by the value of any benefits that remain with bundled service customers…."). *See also* D.08-09-012 at 10 ("[B]undled customers should be no worse off, nor should they be any better off as a result of customers choosing alternative energy suppliers (ESP, CCA, POU or customer generation).").

CalCCA is open to the idea of modifying the current nonbypassable charge methodology, however, such consideration should occur in a rulemaking proceeding under timelines and scoping plans that are set by the Commission, not the IOUs. If the Commission were to consider modifying the current nonbypassable charge methodology, the following deficiencies should be addressed – deficiencies that are not addressed in the IOUs' Proposal.

1. Poor Resource Planning Should Be Curbed

As a purported basis for the IOUs' Proposal, the IOUs claim that departing load from CCA programs is expanding at unprecedented levels.[36] Yet, despite this, the IOUs are still unnecessarily and imprudently procuring on behalf of these departing customers. For example, in Draft Resolution E-4851, the Energy Division is proposing to accept SCE's request to purchase output from a 125 megawatt solar facility ("Maverick Solar Project"). The proposed power purchase agreement for the Maverick Solar Project resulted from a 2015 solicitation process, and presumably reflects 2015 prices, not 2017 prices. SCE submitted its advice letter request a few months ago – *after* SCE began communicating with the Commission about the significant departure of CCA customer load.[37] While CalCCA at present takes no position on the merits of the Maverick Solar Project, SCE's request is an example of how the IOUs are engaging in imprudent resource planning – claiming significant expected departure of CCA customer load, yet continuing to procure as though the departure will not occur.

"Stranded" or "unavoidable" costs must be understood within a proper context. A cost should not be considered "stranded" or "unavoidable" if the IOU fails to make reasonable adjustments to its resource portfolio. Proper determination of nonbypassable charges is

36 *See* Joint IOUs-01 at 15.

inextricably tied to proper resource planning. This is clearly seen in the Commission's conclusions with respect to AB 117 and its language regarding the CRS: "The objective of AB 117 in requiring CCAs to pay a CRS is to protect the utilities and their bundled utility customers from paying for the liabilities incurred on behalf of CCA customers. Our complementary objective is to minimize the CRS (and all utilities liabilities that are not required) and promote good resource planning by the utilities."[38]

To avoid inefficient and anticompetitive outcomes, the IOUs should bear the burden in showing that additional purchases are "unavoidable." This is particularly appropriate in the current environment, which the IOUs describe as "greater levels of customers depart [IOU] procurement service, which is happening now and accelerating."[39] The IOUs should not have it both ways: raising concerns about CCA customer departure, while at the same time making significant, additional purchases.

2. The Long-Term Hedge Value Of Resources Is Not Reflected

Under the current nonbypassable charge framework, energy is valued on a single, year-ahead basis, which does not reflect any long-term hedge value associated with the energy. While this approach is less than ideal as part of the current compromise, it is at least better than the IOUs' Proposal where energy is valued at the even shorter-term *spot market price*. Neither of these approaches reflect the long-term hedge associated with the IOUs' existing resources – a value that benefits bundled customers. As noted previously, the indifference standard requires that benefits be accounted for and offset against costs in determining the nonbypassable charge.

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37 The IOUs began aggressively communicating with the Commission about CCA load departure in January 2017 and SCE submitted its advice letter for the Maverick Solar Project in February 2017.

38 D.04-12-046 at 29.

39 *See* Joint IOUs-01 at 3.

As such, the Commission should remedy this defect with the current methodology, and should reject efforts by the IOUs to further disregard this defect.

3. Year-of-Departure Valuation Should Be Considered

Under the current nonbypassable charge framework, there is no opportunity given to value the IOUs' portfolio on a net present value basis using expected prices as of the year of departure. Instead, each year the IOUs' portfolio is subjected to an annual, ongoing valuation. For example, if PG&E's portfolio had been valued in 2010, when the first wave of MCE's customers departed, the overall "unavoidable costs" would have been significantly less than what has occurred by operation of the annual valuation process. In other words, once PG&E knew it no longer had to serve load in MCE's service area, PG&E could have liquidated or reallocated a relative share of its portfolio. By failing to dispose of the relative share of its portfolio, and instead holding onto all resources, especially as the market value of those resources declined, PG&E has caused the nonbypassable charge paid by CCA customers to artificially increase. CCA customers should not have to pay avoidable costs caused by an IOU's failure to mitigate losses by promptly disposing of unneeded parts of its portfolio.

4. An Eventual End To Nonbypassable charges Should Be Pursued

The Commission and Legislature have long held that cost-recovery associated with market structure changes should be transitional and should eventually end.[40] In the Commission's first CCA-related decision the Commission set forth its expectations with respect to an eventual end to nonbypassable charges: "[w]e also anticipate that each CCA's CRS liability

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40 For example, in describing the "competition *transition* charge," the Commission cited AB 1890 for the view that cost-recovery should be limited and lead to an accelerated and eventual end. (*See* D.97-06-060 at 60-61 (citing AB 1890; Sec. 1(b) ["(b)... It is the...intent of the Legislature that during a limited transition period ending March 31, 2002, to provide for all of the following: (1) Accelerated, equitable, nonbypassable recovery of transition costs associated with uneconomic utility investments and contractual obligations."]).)

would terminate at some point."[41] This view is also consistent with the Commission's long-term procurement plan decisions, which reflect an expectation that the IOUs will no longer be procuring for CCA customers.[42]

In light of the emergence of CCA programs, it is reasonable and appropriate for the Commission to set forth a plan by which nonbypassable charges are eventually eliminated. One option that has been advanced by CCA parties is making available to Community Choice Aggregators the option of a lump-sum buyout comparable to that which was accomplished for various publicly owned utilities.[43]

5. Mechanisms Are Required To Reduce Volatility And Avoid Rate Shock

One particularly troubling aspect of the PCIA has been its volatility and abrupt changes. The IOUs' Proposal similarly does not provide for reduced volatility and does not protect against rate shock. Standard ratemaking practices provide for smoothing to avoid these effects, particularly where the rate mechanism in question relates to conditions with a long-term price. Nonbypassable charges are intended to protect bundled customers from paying an undue share of the above-market costs of long-term utility contracts and resources. Given that nonbypassable charges relate to long-term resources, there is no reason to address them in a manner that results in frequent fluctuations and steep changes in rates. Doing so is very detrimental to CCA programs that must consider the overall rates for electricity paid by their customers.

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[41] *See, e.g.,* D.04-12-046 at 27.

[42] *See, e.g.* D.04-12-048; Conclusion of Law 16. *See also* D.08-09-012 at 54-55.

[43] *See, e.g.,* D.09-08-015 and D.10-11-011 (describing and approving lump-sum buyout arrangements for publicly owned utilities).

6. Reasonable Access Must Be Provided To Underlying Data

In D.16-09-044, the Commission directed the formation of the PCIA working group to focus specifically "on the issues of improved transparency and certainty related to PCIA."[44] As part of the PCIA working group process, the CCA parties advanced a proposal to remove data access restrictions for certain employees of Community Choice Aggregators, subject to various non-disclosure provisions. The IOUs did not accept this reform. As part of the IOUs' Proposal, the IOUs advanced their own proposal for improving transparency, claiming that "[the IOUs' Proposal] will also be more transparent, so that LSEs and their customers can thoroughly review the costs and benefits that are allocated as part of each vintaged portfolio."[45]

Community Choice Aggregators have been unable to fully review the calculation of the PCIA because the calculation relies on confidential information. With the IOUs' Proposal, the IOUs now recognize that transparency is critical, but suggest that it should be addressed in a second phase.[46] Postponing this critical issue is inappropriate. Transparency should be an integral component of any nonbypassable charge mechanism discussion up-front, and CalCCA looks forward to having this matter addressed by the Commission with respect to the existing nonbypassable charge methodology.

F. The IOUs' Proposal Would Result In Unlawful Rate Discrimination

As the Commission has previously stated, a particular rate treatment is considered unlawful discrimination if the treatment draws "an unfair line" or strikes "an unfair balance"

44 D.16-09-044 at 20.

45 Joint IOUs-01 at 6.

46 *See* Joint IOUs-01 at 45.

between similarly situated entities and there is no rational basis for the different treatment.[47] As briefly described below, the Joint Application presents numerous instances that rise to the level of unlawful discrimination.

1. Other Forms of Departing Load Are Not Subject To The IOUs' Proposal

The IOUs draw an arbitrary line between CCA customers and other forms of departing load. With respect to CCA customers, the IOUs propose to apply the full effects of the IOUs' Proposal, including the requirement that Community Choice Aggregators accept transfers of RECs and RA attributes. With respect to other forms of departing load, like customer generation departing load and load served under the IOUs' Green Tariff Shared Renewables program, the IOUs do *not* propose forced transfers of RECs and RA attributes.[48] Rather, for these other forms of departing load, the IOUs propose a methodology similar to the current methodology, namely, financial valuation of above-market costs.[49]

On this basis, the IOUs' Proposal is discriminatory on its face. If there is to be any line drawn between different forms of departing load, it should be the Commission, not the IOUs, that draw this line.

2. Pre-2009 Vintages Are Not Subject To The IOUs' Proposal

The IOUs propose that pre-2009 PCIA vintages would not be subject to any charges. In this regard, the IOUs state, subject to a reservation of rights with respect to utility-owned

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47 *See, e.g.,* D.11-03-031 at 2 (citing D.06-04-041 at 5-6).

48 *See, e.g.,* Joint IOUs-01 at 57.

49 For presumably strategic reasons, the IOUs do not disclose the facts of this valuation process, but rather defer this pivotal issue until after "a final decision resolving this Application is issued." (*See, e.g.,* Joint IOUs-01 at 57 ["[T]he Joint Utilities propose that the consideration of how to set the appropriate 'purchase price' for the RECs and RA be deferred to a Tier 3 advice letter, to be filed upon receiving a final decision resolving this Application."]).

generation, that pre-2009 vintages would not be subject to the IOUs' Proposal.[50] As noted above, this key issue is currently before the Commission.[51] The IOUs offer no rationale for why pre-2009 vintage customers should be excluded from the IOUs' Proposal.

3. The IOUs' Proposal Results In An Unfair Balance Between Existing Community Choice Aggregators And New Community Choice Aggregators

Under the Joint Application, the IOUs require that RECs and RA attributes be transferred to *all* Community Choice Aggregators – without regard to whether a Community Choice Aggregator is fully resourced or not. While this proposal has many problems, it is particularly problematic with respect to *existing* Community Choice Aggregators. Existing Community Choice Aggregators are expected to be fully resourced. Indeed, to avoid additional cost allocation, under the process being considered by the Commission in the Integrated Resource Plan docket Community Choice Aggregators must show they are fully resourced.[52] In light of this, the impact of the IOUs' Proposal is unlawfully discriminatory. To implement the IOUs' Proposal, existing Community Choice Aggregators would need to either sell their own resources to make room for the transferred IOU attributes or dispose of the transferred IOU attributes. In either case, the administrative and financial burden on existing Community Choice Aggregators is unlawfully discriminatory.

G. The IOUs Fail To Explain Why The PAM Proposal Has Not Been Provided As A Voluntary Arrangement Instead Of As A Binding Requirement

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50 *See, e.g.,* Joint IOUs-01 at 33, note 60.

51 *See* note 29, above.

52 *See, e.g., Proposal for Implementing Integrated Resource Planning at the CPUC,* dated May 17, 2017, at 75.

The IOUs propose that, with respect to Community Choice Aggregators, the approach in the Joint Application would be mandatory.[53] The IOUs offer no justification for this approach. The IOUs appear to recognize some value in voluntary arrangements:

> The Joint Utilities also contemplate that separate settlements may be negotiated with individual CCAs, ESPs, or other providers to resolve the departing load obligations of their customers, should there be interest in doing so. PG&E has engaged in ongoing settlement discussions with SCP as a means for resolving its customers' departing load obligations, or an alternative to the PAM proposal, and intends to continue those discussions after the filing of this Application.[54]

In D.16-09-044 the Commission spoke about the IOUs "providing a menu of options in paying off the PCIA."[55] A voluntary approach (or some other negotiated nonbypassable charge arrangement) is consistent with this menu of options; a mandatory approach is not.

IV. PROCEDURAL MATTERS

Pursuant to Rule 2.6(d), CalCCA provides the following procedural comments:

A. Proposed Category

The proceeding is appropriately categorized as "ratesetting."

B. Need for Hearing

CalCCA believes that evidentiary hearings will be necessary.

C. Issues to be Considered

CalCCA is still evaluating the Joint Application and issues associated with the IOUs' Proposal. Therefore, CalCCA reserves the right to identify additional issues that should be

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53 *See, e.g.,* Joint IOUs-01 at 5 (stating that the IOUs' Proposal will "completely replace" the current methodology).

54 Joint Application at 25-25.

55 *See* D.16-09-044 at 19.

addressed in this proceeding. However, on initial review, the issues presented above provide a list of key issues that the Commission should address in this proceeding.

D. Proposed Schedule

The IOUs' proposed procedural schedule illustrates the unreasonable process embedded in the Joint Application. Not only does the proposed procedural schedule unjustifiably defer major policy and rate issues to subsequent phases, but it suggests an unreasonable view of next steps. For example, the IOUs propose to defer consideration of transparency issues (which are critical to Community Choice Aggregators and their customers) to a second phase of this proceeding. The IOUs make no commitments that they will agree to provide any further transparency regarding the procurement processes as part of the negotiation that would supposedly occur during this later phase of the proceeding. Likewise, the IOUs propose that any alternative proposal to the IOUs' Proposal *must* be offered by July 14, 2017.[56] This deadline is artificial and unworkable, and would prevent parties from setting forth robust, alternative proposals.

V. PARTY STATUS

Pursuant to Rule 1.4(a)(2), CalCCA hereby requests party status in this proceeding. As described herein, CalCCA has a material interest in the matters being addressed in this proceeding. CalCCA designates the following person as the "interested party" in this proceeding:

Barbara Hale
President
CALIFORNIA COMMUNITY CHOICE ASSOCIATION
1125 Tamalpais Avenue
San Rafael, CA 94901

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56 *See* Joint Application at 29.

E-mail: info@cal-cca.org

VI. CONCLUSION

As a concluding thought, CalCCA wishes to remind the Commission of an observation provided ninety years ago, which the Commission recently confirmed is relevant today. In considering the Joint Application and other IOU-initiated "reforms," the Commission must recognize and counterbalance the extensive advantage IOUs have in regulatory litigation. One way that the Commission can do this is to define the rules of the road pursuant to a Commission-instituted rulemaking proceeding.

> The relative advantage of utilities in ratemaking litigation has long been recognized. One writer observed the following [in 1926]:
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> > 'Successful regulation of great public utility corporations, with their properties and their services ramifying in every direction, with vast revenues flowing in continuously, with nationwide alliances, and clearing-houses of technical information and expert service, is no simple and easy matter. ***'If the Commission depends upon the consumers or the municipalities to present the public side of the controversy, the evidence in most cases will be heavily one-sided. A group of consumers, or an individual municipality — perhaps a small one — or a loosely associated group of municipalities, working from the outside with no funds except what 'they dig out of their jeans' with no hope of ever getting it back, are pitted against the companies having all the inside experience and knowledge, and able to tap the consumers' till with confidence that whatever they spend to defeat the consumers will be added to the cost of service and taxed back in the rates which the consumers themselves will have to pay. If the municipalities or the consumers spend a dollar of their own money, the utility will spend two and make them pay in the bargain. Financial resources, experience, inside knowledge, expert affiliations, great things at stake and continuity of interest, combine to give the utilities an overwhelming advantage in the presentation of their cases before Commission and Courts.'[57]

CalCCA appreciates the Commission's consideration of the matters addressed herein.

Dated: May 30, 2017 Respectfully submitted,

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57 D.00-02-046 at 20.

/s/ Barbara Hale

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U 338-E), Pacific Gas and Electric Company (U 39-E), and San Diego Gas & Electric Company (U 902-E), for Approval of the Portfolio Allocation Methodology for all Customers.	)))))))	Application No. 17-04-018 (Filed April 25, 2017)

MOTION OF THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION TO DISMISS APPLICATION WITHOUT PREJUDICE

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May 30, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION
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Application of Southern California Edison Company (U 338-E), Pacific Gas and Electric Company (U 39-E), and San Diego Gas & Electric Company (U 902-E), for Approval of the Portfolio Allocation Methodology for all Customers.	Application No. 17-04-018 (Filed April 25, 2017)

MOTION OF THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION TO DISMISS APPLICATION WITHOUT PREJUDICE

In accordance with Rules 11.1 and 11.2 of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California ("Commission"), the California Community Choice Association ("CalCCA") hereby submits this motion to dismiss without prejudice the application ("Joint Application") jointly filed by Pacific Gas and Electric Company ("PG&E"), San Diego Gas & Electric Company and Southern California Edison Company ("SCE") (collectively, "IOUs"). Under Rule 2.6, CalCCA is concurrently filing a protest to the Joint Application ("CalCCA Protest").[1]

I. INTRODUCTION AND SUMMARY

A. Description Of CalCCA

CalCCA is a nonprofit organization formed in June 2016 to represent the interests of California's Community Choice Aggregation ("CCA") programs in regulatory and legislative matters. The operational CCA programs in California – Apple Valley Choice Energy, CleanPowerSF, Lancaster Choice Energy, Marin Clean Energy ("MCE"), Peninsula Clean Energy Authority, Redwood Coast Energy Authority, Silicon Valley Clean Energy Authority, and Sonoma Clean Power Authority ("SCP")

[1] A copy of the CalCCA Protest is attached and by this reference CalCCA incorporates the CalCCA Protest.

– comprise CalCCA's current voting members. In addition, CalCCA's affiliate members include Central Coast Power (counties of San Luis Obispo, Santa Barbara and Ventura), the cities of Corona, Hermosa Beach and San Jose, the counties of Los Angeles and Placer, Valley Clean Energy (city of Davis and Yolo County) and Western Riverside Council of Governments.

B. General Description Of Nonbypassable Charges

Nonbypassable charges have been a topic of much debate since the Commission's Preferred Policy Decision was issued in 1995, followed by the Legislature's adoption of Assembly Bill ("AB") 1890 in 1996.[2] In D.11-12-018 the Commission last considered and adopted major reforms to nonbypassable charges.[3] This decision followed an extensive working group process, which, although it failed to arrive at a consensus outcome, nevertheless aided development of the record. D.11-12-018 chronicled key nonbypassable charge decisions.[4] Of particular relevance to this motion, each of the key nonbypassable charge decisions was issued in a rulemaking proceeding or in response to a petition for rulemaking.[5]

C. Description Of The PCIA Working Group Process

In D.16-09-044, the Commission addressed certain concerns with respect to the current PCIA methodology and also the potential for future PCIA reform. D.16-09-044 was issued after an initial

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2 *See* Decision ("D.")95-12-063, as modified by D.96-01-009 (1995) 64 Cal. PUC 2d 1, 24 ("Preferred Policy Decision"). The Legislature codified the Preferred Policy Decision in AB 1890 (1996).

3 In this motion, CalCCA uses the term "nonbypassable charges" to generally describe various charges for generation-related stranded costs, as opposed to reliability-related costs, associated with customers departing bundled service and taking service from Community Choice Aggregators and other alternative service providers.

4 *See, e.g.,* D.11-12-018 at 8, 40.

5 *See, e.g.,* D.95-12-063 (issued in R.9-04-031); D.02-11-022 (issued in R.02-01-011); D.04-12-046 (issued in R.03-10-003); D.06-07-030 (issued in R.02-01-011); D.08-09-012 (issued in R.06-02-013); D.11-12-023 (issued in R.07-05-025) and D.13-08-023 (issued in P.12-12-010).

workshop in which parties "expressed legitimate concerns and proposals" with respect to the PCIA, but which the Commission found to be outside the scope of the proceeding.[6] As such, the Commission directed the formation of a working group, led by SCE and SCP, to review PCIA-related issues. Of particular relevance to this motion, the Commission expressly directed that any PCIA-reforms should be brought forward in the form of a "petition" – either a petition for modification or a petition for rulemaking.[7]

D. Description Of The Joint Application

The Joint Application was filed on April 25, 2017, but advocacy of the IOUs' replacement proposal for the PCIA ("IOUs' Proposal") began much earlier. While the PCIA working group process was actively in progress, the IOUs began advocating at the Commission for the IOUs' Proposal.[8] In the Joint Application, the IOUs propose to "completely replace" the current PCIA methodology.[9] As a key aspect of the IOUs' Proposal, the IOUs propose that the IOUs' renewable energy and Resource Adequacy ("RA") resources would no longer be valued against market price benchmarks. Instead, renewable energy credits ("RECs") and RA attributes associated with these resources would be transferred to Community Choice Aggregators, irrespective of whether or not the Community Choice Aggregators need or want the RECs and RA attributes.[10] In addition to the forced transfer of RECs, CalCCA has numerous objections to and concerns about the IOUs' Proposal.[11]

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6 *See* D.16-09-044 at 19-20.

7 *See* D.16-09-044 at 20.

8 *See Southern California Edison Company's Notice of Ex Parte Communication,* dated January 27, 2017, filed in A.16-05-001. Top IOU executives also conducted *ex parte* meetings February 23, 2017 and March 13, 2017.

9 *See* Joint IOUs-01 at 5.

10 *See., e.g.,* Joint IOUs-01 at 37.

11 *See* CalCCA Protest at 7-23.

E. Description Of A Likely Commission-Instituted Rulemaking Proceeding

On February 1, 2017, the Commission held an *En Banc* Hearing on CCA issues. This was followed on May 19, 2017 by an additional *En Banc* Hearing on Retail Choice in California ("Retail Choice *En Banc* Hearing"). As described in the Staff White Paper accompanying the Retail Choice En Banc Hearing ("Retail Choice White Paper"), 915,000 customers currently take service from Community Choice Aggregators and other communities are actively considering CCA programs. As part of the Retail Choice White Paper, the Commission expressed its intent to open a rulemaking proceeding to further address CCA and retail choice issues:

> The CPUC intends to open a Rulemaking to examine, and coordinate among other open proceedings, an examination of the future role(s), structure(s), fiscal and other functions of the three large California electric IOUs. This, in turn, requires a discussion of the scope and scale of the current framework for regulation of competition – including customer centered technologies - and the structure of the retail electric market, and the transition from IOUs' responsibilities today and their responsibilities in the future. ***
>
> [T]his Rulemaking will seek to identify opportunities to harmonize market rules between retail and wholesale market and planning efforts between distribution and transmission infrastructure. Finally (and as a fundamental framing consideration), it is critical to recognize that whatever the specific outcomes of this proceeding, it is very difficult to conceive of a scenario where the CPUC and CEC will not find that significant changes to the regulatory model and the utility structure are required."[12]

F. The Commission Should Dismiss The Joint Application Without Prejudice

CalCCA requests that the Commission dismiss the Joint Application without prejudice, and instead consider opening a new rulemaking proceeding to address PCIA reform and related issues within the context of California's emerging retail choice paradigm. Summary disposition will allow the Commission to more efficiently and fairly examine the panoply of issues implicated by PCIA reform and to consider a broad range of alternative possibilities. Consideration of PCIA reform in a rulemaking

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[12] Retail Choice White Paper at 13-14.

proceeding is consistent with Commission precedent and the Commission's expressed intent to institute a rulemaking proceeding to broadly consider retail choice issues.

II. MOTION

A. General Description Of The Legal Standard

A summary statement with respect to the Commission's general standard for dismissing IOU applications is set forth in D.99-11-023. In D.99-11-023, the Commission described the standard as generally a two-step process. First, the Commission assumes that the facts as alleged in the application are true. The Commission accepts as true "the ultimate facts, or conclusions, that Applicant alleges."[13] Second, "[a]fter accepting the facts as stated, the Commission then merely looks to its own law and policy. The question becomes whether the Commission and the parties would be squandering their resources…."[14] While changes to policy may be made in an application, it is up to the Commission, not the applicant, if it wishes to do so, and this determination can be made at the outset of the proceeding in response to a motion to dismiss.[15]

Commission decisions granting motions to dismiss applications and complaints have established what constitutes grounds for dismissal under the "law and policy of the Commission." Three grounds for dismissal are relevant here. First, the Commission may dismiss a complaint or application if the subject matter of the complaint or application is "more appropriately addressed in the confines of a Commission investigation or rulemaking."[16] In D.11-12-029, the Commission granted a motion to dismiss a complaint. The Commission found that the complaint, which alleged inadequate rural service

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13 D.99-11-023 [1999 WL 1957792 at 3].

14 *Id.*

15 *Id.*

16 D.11-12-029 at 6-7.

quality, is generally a matter more appropriately addressed in an investigation or rulemaking, and more specifically should be addressed in an ongoing rulemaking focused on reviewing carrier performance.[17]

Second, the Commission *must* dismiss a complaint or application if allowing it to proceed would be contrary to the rules that the Commission has articulated for the filing and resolution of IOU requests regarding the matter in question.[18] Relevant here, this rule has been applied in instances where the complaint raises issues that the Commission has already directed should be addressed in another forum. For instance, in D.14-03-027 the Commission granted a motion to dismiss a complaint on the grounds that the complaint challenged rates, and thus would involve legal and factual issues within the scope of the IOU's general rate case. Similarly, in D.91-08-027, the Commission dismissed a complaint alleging violations of the Commission's Women/Minority Business Enterprise ("WMBE") rules, partially on the grounds that the allegations fell within the scope a Commission Order Instituting Rulemaking concerning the WMBE program.[19]

Third, the Commission may dismiss a complaint or application in order to avoid inefficiency or the waste of limited resources. In D.91-08-027, the Commission stated as follows:

> ...we will not duplicate our work by examining the validity of a utility's WMBE submissions in any other context than a WMBE investigation or WMBE rulemaking proceeding. To hold otherwise would encourage disappointed or disgruntled WMBE vendors... to file individual complaints instead of participating in WMBE investigations or rulemaking proceedings. The result would be increased cost to the Commission and the utilities by diversion of assets away from positive WMBE efforts to defense against attack.[20]

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17 *See Id.*

18 *See* D.14-03-027 at 6-8.

19 *See* D.91-08-027 [1991 WL 521128 at 2.].

20 *Id.*

The Commission reached similar conclusions in D.99-04-046 (granting motion to dismiss in order to prevent waste of limited resources) and D.98-10-047 (granting motion to dismiss to avoid inefficiency.

B. The IOUs' Proposal Is Better Addressed In A Rulemaking Proceeding

As stated above, the Commission may dismiss an application if the matters raised in the application are more appropriately addressed in the context of a Commission rulemaking proceeding. Here, there can be little question that the matters raised in the Joint Application are more appropriate for a Commission rulemaking proceeding than an application. Both the California Constitution and the California Public Utilities Code explicitly differentiate between the Commission's rulemaking authority and its authority to set and regulate utility rates.[21] The purpose of the Commission's rulemaking proceedings is set forth in Rule 6.1 of the Commission's Rules of Practice and Procedure, which states:

> [T]he Commission may at any time institute rulemaking proceedings on its own motion (a) to adopt, repeal, or amend rules, regulations, and guidelines for a class of public utilities or of other regulated entities; (b) to amend the Commission's Rules of Practice and Procedure; or (c) to modify prior Commission decisions which were adopted by rulemaking.

The issues raised in and relief requested by the Joint Application fall squarely within the scope of Rule 6.1. The Joint Application seeks to completely replace existing PCIA construct. The PCIA construct is a set of rules, regulations and rates that apply to a class of public utilities (the investor owned utilities) and regulated entities (Community Choice Aggregators and Electric Service Providers). Thus, the Joint Application seeks to "adopt, repeal, or amend rules, regulations, and guidelines for a class of public utilities or regulated entities." In addition, the PCIA construct was originally adopted in a Commission rulemaking, and all subsequent modifications to the PCIA construct, including the most recent iteration of the PCIA construct approved in D.11-12-023, have been made in Commission

[21] *See* Cal. Const. Article XII, Section 6; Pub. Util. Code Section 454(a), (c).

decisions in rulemaking proceedings.[22] Thus, under Rule 6.1, the IOUs' Proposal, seeking to replace the PCIA construct, would modify a prior decision adopted by rulemaking proceeding and as such should likewise be considered in a rulemaking proceeding.

In addition, there are several practical reasons why the IOUs' Proposal is best considered in a rulemaking proceeding. When considering utility applications, the Commission's scope of review is generally limited to the reasonableness of the specific program, rate or project proposed by the applicant. Commission rulemaking proceedings, in contrast, provide a forum that allows the Commission to explore and evaluate a range of proposals and perspectives, and to adopt rules, policies and programs with broad application. Here, the IOUs have proposed to significantly modify a program with wide-reaching implications for multiple classes of regulated entities. The Commission, interested parties, and the public at large would be ill-served by Commission consideration of these important issues in the comparatively narrow procedural confines of an application proceeding. This is especially true given the significant statewide impact, large number of affected parties, and wide range of issues raised by a proposal to "completely replace" the PCIA.

C. Allowing The Joint Application To Proceed Would Be Contrary To The Commission's Rules

As stated above, the Commission *must* dismiss a complaint or application if allowing it to proceed would violate the Commission's rules by raising issues that the Commission has already directed should be addressed in another proceeding.[23] The Joint Application violates the Commission's express direction on how proposals to modify the PCIA program should be handled. In D.16-09-044, the Commission directed that a new working group be formed to examine potential modifications to

22 *See* note 5, above.

23 *See* D.14-03-027 at 6-8.

PCIA. In D.16-09-044, the Commission defined the scope of the working group's review and resulting recommendations as including "issues raised in the 2016 workshop and discussed in the workshop report."[24] In D.16-09-044, the Commission specifically ordered that recommendations from the working group should be submitted "as petitions to modify existing Commission decisions or petitions for a new rulemaking" that "should be filed in R.02-01-011, R.03-10-003, R.06-02-013, or R.07-05-025)."[25]

The purpose of the PCIA working group was to examine modifications to the PCIA. The Commission did not create any alternative forum for this activity, and clearly intended that all activity related to developing modifications to PCIA was to initially occur through the PCIA working group process and then be process via a petition in a rulemaking proceeding. The IOUs' Proposal falls within the scope of the PCIA working group's review. Indeed, the Joint Application's PCIA modifications were discussed by the IOUs in the PCIA workshop process. Because the IOUs' Proposal falls within the PCIA working group's scope of work, the IOUs' Proposal is subject to the directive in D.16-09-044 that PCIA working group recommendations and proposals be submitted as a petition in the context of a rulemaking proceeding. Allowing the Joint Application to proceed would directly contradict D.16-06-044.

D. Allowing The Joint Application To Proceed Would Risk Inefficiency And The Waste Of Limited Resources

As discussed above, the Commission may grant a motion to dismiss an application when allowing the application to proceed would risk inefficiency or the waste of limited resources. Handling the Joint Application's request through an application proceeding, rather than through a new or existing rulemaking, would be both inefficient and wasteful. For instance, the relatively narrow nature of the

24 D.16-09-044 at 20.

25 *Id.*

Commission's scope of review in an application proceeding, as opposed to a rulemaking, significantly increases the likelihood that one proceeding will be insufficient to resolve all essential issues related to the IOUs' Proposal. These issues would likely need to be addressed in the context of a rulemaking proceeding, leading to unnecessary duplication of effort, additional delays, and avoidable procedural complexity.

III. CONCLUSION

For the reasons set forth above, CalCCA respectfully requests that the Commission dismiss the Joint Application without prejudice. CalCCA appreciates the Commission's consideration of the matters addressed herein.

Dated: May 30, 2017

Respectfully submitted,

/s/ Scott Blaising

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<u>Attachment</u>

PROTEST OF THE
CALIFORNIA COMMUNITY CHOICE ASSOCIATION
(Application 17-04-018)

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U 338-E), Pacific Gas and Electric Company (U 39-E), and San Diego Gas & Electric Company (U 902-E), for Approval of the Portfolio Allocation Methodology for all Customers.	Application No. 17-04-018 (Filed April 25, 2017)

**PROTEST OF THE
CALIFORNIA COMMUNITY CHOICE ASSOCIATION**

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May 30, 3017

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BEFORE THE PUBLIC UTILITIES COMMISSION
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PROTEST OF THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION

In accordance with Rule 2.6 of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California ("Commission"), the California Community Choice Association ("CalCCA") hereby submits this protest to the application ("Joint Application") jointly filed by Pacific Gas and Electric Company ("PG&E"), San Diego Gas & Electric Company ("SDG&E") and Southern California Edison Company ("SCE") (collectively, "IOUs") to abolish the existing Power Charge Indifference Adjustment ("PCIA") methodology and replace it with a Portfolio Allocation Methodology ("IOUs' Proposal").[1]

I. EXECUTIVE SUMMARY

CalCCA respectfully requests that the Commission dismiss the Joint Application without prejudice, and instead consider opening a new rulemaking proceeding to address PCIA reform and related issues within the context of California's emerging retail choice paradigm. Summary disposition will allow the Commission to efficiently and fairly examine the panoply of issues

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[1] As further described below, CalCCA is concurrently filing a motion to dismiss the Joint Application without prejudice on the grounds that, among other things, reform of the PCIA should occur within the context of a rulemaking proceeding in which the scope of issues and timeline may be set by the Commission, not the IOUs.

implicated by PCIA reform.[2] Consideration of PCIA reform in a rulemaking proceeding, rather than an application, is also consistent with Commission precedent with regard to the PCIA and its related charges. The PCIA, Cost Responsibility Surcharge ("CRS") and Competition Transition Charge ("CTC") have all been established and revised in rulemaking proceedings.[3] Finally, consideration of the IOUs' Proposal and other related proposals in a Commission-instituted rulemaking proceeding is in accord with recent statements of intent from the Commission to open one or more rulemaking proceedings to broadly consider retail choice issues, which have been the topic of discussions at two recent *en banc* hearings.

With respect to the IOUs' Proposal, CalCCA offers the following general objections:

- The IOUs' Proposal unlawfully impinges on the statutory responsibility of Community Choice Aggregators to procure resources for their customers.
- The IOUs' Proposal unnecessarily prejudges fundamental Commission policies.
- The IOUs' claim of cost-shifting rests on a faulty view of market price benchmarks and ignores offsetting benefits.
- Many of the features touted by the IOUs could be applied to the current PCIA methodology.
- The IOUs' Proposal does nothing to remedy key deficiencies in the current PCIA methodology.
- The IOUs' proposal does not mitigate volatility and rate shock – problems that also apply to the existing PCIA structure.
- The IOUs' Proposal would result in unlawful rate discrimination.

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[2] As further described below (*see* note 57, below), the IOUs hold a tremendous advantage with respect to regulatory proceedings and it is incumbent on the Commission to counterbalance these advantages. *See also* note 5, below (describing the Commission's statutory obligations under Senate Bill ("SB") 790 (2011) to counterbalance the inherent market power advantages of the IOUs in the context of CCA programs).

[3] *See* note 9, below.

- The IOUs' Proposal has not been provided as a voluntary option instead of as a binding requirement upon Community Choice Aggregators.

II. BACKGROUND

A. Background on CalCCA

CalCCA is a nonprofit organization formed in June 2016 to represent the interests of California's Community Choice Aggregation ("CCA") programs in regulatory and legislative matters. Local communities are investigating and establishing CCA programs to customize and accelerate efforts to address climate change, renewable energy development, and for other important environmental and social issues. The operational CCA programs in California – Apple Valley Choice Energy, CleanPowerSF, Lancaster Choice Energy, Marin Clean Energy ("MCE"), Peninsula Clean Energy Authority, Redwood Coast Energy Authority, Silicon Valley Clean Energy Authority, and the Sonoma Clean Power Authority ("SCP") – comprise CalCCA's current voting members. In addition, CalCCA's affiliate members include Central Coast Power (counties of San Luis Obispo, Santa Barbara and Ventura), the cities of Corona, Hermosa Beach and San Jose, the counties of Los Angeles and Placer, Valley Clean Energy (city of Davis and Yolo County) and Western Riverside Council of Governments.[4]

CalCCA is participating in this proceeding to represent the views of CCA programs in California, and has collaborated with CCA programs in developing this protest. Given the many

[4] On February 1, 2017, the Commission held an *En Banc* Hearing on Community Choice Aggregator issues ("CCA *En Banc* Hearing"), and on May 19, 2017, the Commission held an additional *En Banc* Hearing on Retail Choice in California ("Retail Choice *En Banc* Hearing"). As described in the Staff White Paper accompanying the En Banc Hearing on Retail Choice in California ("Retail Choice White Paper"), currently 915,000 customers currently take service from Community Choice Aggregators and other communities are actively considering CCA programs. (*See* Retail Choice White Paper at 4-5.)

potential impacts of the Joint Application on CCA programs, CalCCA expects that individual CCA programs may also participate in this proceeding.

B. Principles For Fair Competition

The Legislature established the CCA option in 2002 through Assembly Bill ("AB") 117. In 2011, the Legislature affirmed and expanded protections for CCA programs in SB 790. Pursuant to these statutes and the IOUs' inherent market power, the Commission is tasked with promoting fair competition by, among other things, guarding against cross-subsidization of IOU costs.[5] The Commission is also tasked with ensuring fairness and customer indifference with respect to the departure of CCA customers.[6] These counterbalancing responsibilities should guide the Commission in its evaluation of the Joint Application.

The Commission should also evaluate the IOUs' Proposal in light of past history with nonbypassable charges,[7] beginning with the Commission's Preferred Policy Decision in 1995, followed by the Legislature's adoption of AB 1890 in 1996.[8] Importantly, all major decisions on

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5 *See, e.g.,* Decision ("D.") 04-12-046 at 3 ("The state Legislature has expressed the state's policy to permit and promote CCAs by enacting AB 117…."). *See also* D.12-12-036 at 6 (citing SB 790, § 2(h), and Pub. Util. Code § 707(a)(4)(A)) ("In SB 790, the legislature directed the Commission to develop rules and procedures that 'facilitate the development of community choice aggregation programs, … foster fair competition, and … protect against cross-subsidization paid by ratepayers.'".).

6 *See, e.g.,* Public Utilities Code sections 366.2(f) and 365.2. Unless otherwise noted, all subsequent statutory references are to the Public Utilities Code.

7 In this protest, CalCCA uses the term "nonbypassable charges" to generally describe various charges for generation-related stranded costs, as opposed to reliability-related costs, associated with customers departing bundled service and taking service from Community Choice Aggregators and other alternative service providers.

8 *See* D.95-12-063, as modified by D.96-01-009. The Legislature codified the Preferred Policy Decision in AB 1890 (1996).

nonbypassable charges have been issued in rulemaking proceedings where the Commission examined nonbypassable charges within a broader industry context.[9]

C. The PCIA Working Group

In D.16-09-044, the Commission addressed certain concerns regarding the current PCIA methodology and the potential for future PCIA reform. D.16-09-044 was issued after an initial workshop in which parties "expressed legitimate concerns and proposals" with respect to the PCIA, but which the Commission found to be outside the scope of the current Energy Resource Recovery Account ("ERRA") proceeding.[10] The Commission directed the formation of a working group, led by SCE and SCP, to review PCIA-related issues and to present proposed reform measures in the form of "petitions."[11] In two key respects, the IOUs' Proposal does not comport with D.16-09-044.

First, the IOUs did not allow the PCIA working group process to conclude before starting to aggressively advocate for the Commission's replacement of the PCIA methodology.[12] In doing so, the IOUs detracted from the working group process and undermined the cooperation intended by the Commission when it directed the formation of the PCIA working group.

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9 *See, e.g.,* D.95-12-063 (issued in R.9-04-031); D.02-11-022 (issued in R.02-01-011); D.04-12-046 (issued in R.03-10-003); D.06-07-030 (issued in R.02-01-011); D.08-09-012 (issued in R.06-02-013); D.11-12-023 (issued in R.07-05-025) and D.13-08-023 (issued in P.12-12-010).

10 *See* D.16-09-044 at 19-20.

11 *See* D.16-09-044 at 20.

12 On January 24, 2017, in the middle of the PCIA working group process, the IOUs began a series of *ex parte* meetings with Commission offices to promote their PAM proposal. *See Southern California Edison Company's Notice of Ex Parte Communication,* dated January 27, 2017, filed in A.16-05-001. Top IOU executives also conducted *ex parte* meetings February 23, 2017 and March 13, 2017.

Second, the IOUs submitted their proposal as an "application," when the Commission explicitly directed that PCIA reform measures should be brought forward as a petition. While the Commission's reasoning was not expressly stated, it is reasonable to assume that the Commission intended that any significant reform proposal should be considered in a proceeding that gives the Commission broad flexibility to consider alternative proposals. As noted previously, each of the Commission's nonbypassable charge decisions has been issued within the context of a rulemaking proceeding.[13] The IOUs' approach departs from the Commission's directive.

D. The Commission's Expressed Intent Is To Open A Rulemaking Proceeding

Within the last three months, the Commission has conducted two *en banc* hearings on retail choice in California's energy market.[14] The Commission is focusing much attention on retail choice options and the role of the IOUs in the future. The Commission's Retail Choice White Paper aptly describes many of the challenges facing the electric services industry and the need for coordinated examination of policies. In response, the Commission indicated that it "intends to open a Rulemaking to examine, and coordinate among other open proceedings, an examination of the future role(s), structure(s), fiscal and other functions of the three large California electric IOUs."[15]

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13 *See* note 9, above.

14 *See* note 4, above (referencing the CCA *En Banc* Hearing and the Retail Choice *En Banc* Hearing).

15 Retail Choice White Paper at 13. The Retail Choice White Paper goes on to state "This, in turn, requires a discussion of the scope and scale of the current framework for regulation of competition – including customer centered technologies - and the structure of the retail electric market, and the transition from IOUs' responsibilities today and their responsibilities in the future. As part of this process, the CPUC will likely examine a variety of different retail market and customer choice constructs to assess what best practices and lessons learned can be applied in California given our unique set of public policy goals. *** Finally (and as a fundamental

It is premature to consider major cost allocation and related issues in the context of the Joint Application. Doing so would undermine the Commission's efforts to arrive at its own determination of market structure and to enact a cost allocation methodology that supports the Commission's vision.

III. PROTEST

For reasons stated above, the Commission should dismiss the Joint Application without prejudice. In further support of this request, CalCCA provides the following initial objections to the IOUs' Proposal.

A. The IOUs' Proposal Unlawfully Impinges On The Statutory Responsibility Of Community Choice Aggregators To Procure Renewable Resources For Their Customers

The Public Utilities Code provides that Community Choice Aggregators "shall be solely responsible for all generation procurement activities on behalf of the community choice aggregator's customers, except where other generation procurement arrangements are expressly authorized by statute."[16] This responsibility is consistent with other statutory provisions.[17] The IOUs' Proposal unlawfully impinges on this responsibility.

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framing consideration), it is critical to recognize that whatever the specific outcomes of this proceeding, it is very difficult to conceive of a scenario where the CPUC and CEC will not find that significant changes to the regulatory model and the utility structure are required." (Retail Choice White Paper at 13-14.)

16 Section 366.2(a)(5).

17 *See, e.g.,* Section 380(a)(5) (defining the following as a legislative objective with respect to the resource adequacy program: "[m]aximize the ability of community choice aggregators to determine the generation resources used to serve their customers."). *See also* Section 454.51(d) (expressly providing a self-procurement option for Community Choice Aggregators with respect to renewable integration requirements).

The IOUs' Proposal provides for mandatory transfer of renewable energy credits ("RECs") and Resource Adequacy ("RA") attributes to CCA programs.[18] Community Choice Aggregators are given no choice in the matter, and little advance information about the resources or ability to manage the resources. By design, the IOUs' approach "optimizes the existing [IOU] resources,"[19] with no regard to the resulting displacement of CCA procurement autonomy. The IOUs do not address this significant problem.

For existing Community Choice Aggregators, which have already procured renewable resources on behalf of their customers, the forced transfer of RECs would result in being over-procured, and the need to sell or otherwise dispose of excess RECs. For new Community Choice Aggregators, the IOUs' Proposal could unduly interfere with procurement-related decisions and CCA program goals.

Community Choice Aggregators' procurement decisions incorporate a range of goals and values in addition to environmental compliance, including enhanced local generation and job creation, a diverse technology mix, and better matching supply to demand. The forced receipt of RECs from the IOUs would impair the ability of CCAs to pursue these goals.

B. The IOUs' Proposal Would Place An Unreasonable Administrative Burden On Community Choice Aggregators, And Would Degrade The Value Of Long-Term Resources

The IOUs' Proposal relies on a bifurcated means of determining bundled customer indifference. The IOUs propose to value *energy* with reference to spot market energy prices and to offset that value from the IOUs' costs (a process similar in certain respects to today's PCIA process); the IOUs do *not* propose to transfer *energy* to Community Choice Aggregators. As

18 *See, e.g.,* Joint IOUs-01 at 37.

19 *See* Joint IOUs-01 at 25.

described above, the IOUs propose a different approach for RECs and RA attributes; the IOUs propose to transfer RECs and RA attributes to Community Choice Aggregators.

The forced transfer of RECs and RA attributes to Community Choice Aggregators would create a significant burden for Community Choice Aggregators. The IOUs have offered no justifiable reason why Community Choice Aggregators should be forced to receive and dispose of the IOUs' unwanted REC and RA attributes. Absent agreement from a Community Choice Aggregator, placing an additional burden on a Community Choice Aggregator is unfair and contrary to their legal responsibility to undertake their own procurement.

Additionally, the IOUs' Proposal would result in a substantial portion of the value of the IOUs' long-term renewables portfolio standard ("RPS") resources being lost. Under the IOUs' Proposal, Community Choice Aggregators merely get the short-term value of transferred RECs. The transfer of RECs alone eliminates the ability for a Community Choice Aggregator or third-party purchaser to prudently manage the resource, including terminating the agreement or otherwise making use of contractual rights to maximize the value. If the RPS agreements were assigned to Community Choice Aggregators, bid into Community Choice Aggregator Requests for Offers ("RFOs"), or sold in the market, the full value of the resource could be more fully realized. Several Community Choice Aggregators have observed that the IOUs either do not participate in CCA RFOs, or impose undue contract requirements in the context of participating in CCA RFOs.

CalCCA is *not* proposing the involuntary assignment of RPS agreements to Community Choice Aggregators. Nonetheless, in reviewing nonbypassable charges and alternative arrangements, the Commission should explore avenues to maximize, or at least not degrade, the value of the IOUs' RPS resources.

C. The PAM Proposal Prejudges Fundamental Commission Policies, While Remaining Noticeably Silent On Other Corollary Policies

The Commission has signaled its intent to institute a rulemaking proceeding to assess the regulatory model and IOU structure, and potentially put into place fundamental changes.[20] The Joint Application is therefore premature. CalCCA objects to the IOUs' disjointed proposal in which selective, IOU-centric change would be accomplished without considering and adopting broader, corollary changes. The Commission should not countenance these prejudicial actions.

1. The IOUs' PAM Proposal Implicates Key RPS Decisions

The Joint Application proposes that the IOUs be allowed to sever RECs from underlying energy, but that the RECs transferred to Community Choice Aggregators should nevertheless be counted as Portfolio Content Category ("PCC") 1 products, not PCC 3.[21] Likewise, the IOUs' Proposal requires that the Commission accelerate a decision on whether or not the IOUs' existing RPS contracts satisfy the requirement under SB 350 with respect to being "long-term."[22] These matters are prerequisites of the IOUs' Proposal, even as envisioned by the IOUs,[23] but highly uncertain. Preserving PCC1 status for RECs that are separated from the underlying energy has been contested in the past,[24] and may require legislative action. Moreover, determination of the long-term contract requirement under SB 350 should be undertaken in a comprehensive manner with other SB 350 implementation issues.

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20 *See* note 15, above.

21 *See* Joint IOUs-01 at 37-38.

22 *See* Joint IOUs-01 at 38.

23 *See* Joint IOUs-01 at 37-38 (seeking Commission "findings" and "clarifications").

24 *See, e.g.,* D.11-12-052.

2. The IOUs' Proposal Improperly Seeks Rehearing Of Cost-Recovery Decisions and Eliminates Basic Incentives for Prudent Procurement

As part of the IOUs' Proposal, the IOUs attack several of the Commission's recent cost-recovery decisions and propose that such decisions be reversed. Specifically, the IOUs request that the Commission reverse various nonbypassable charge decisions that limit cost-recovery to ten years for IOU-owned generation and energy storage resources.[25] In addition, the IOUs seek a true-up for any sales of excess resources they undertake, rather than being held to any form of objective benchmark.[26] These requests fail to follow the procedural requirements for modifying or rehearing Commission decisions. In addition, the IOUs' requests fail to explain and justify the nexus between these decisions and the IOUs' Proposal, and why the IOUs' Proposal is unworkable without reversing these decisions.

The Commission adopted a ten-year limit on cost recovery in part as an incentive for the IOUs to prudently manage their procurement and to make appropriate adjustments to their portfolio. For example, the Commission reasoned that ten years should be sufficient time for the IOUs to adjust their portfolio in response to departure of load: "[t]he utilities can, over time, adjust their load forecasts and resource portfolios to mitigate the effects of [departing load] on bundled service customer indifference. By the end of a 10-year period, we assume the IOUs would be able to make substantial progress in eliminating such effects for customers who cease taking bundled service during that period."[27] Eliminating the ten-year requirement harms both bundled and CCA customers because it reduces the incentive for IOUs to prudently plan and then adjust their portfolios as CCA programs develop.

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25 *See* Joint IOUs-01 at 59-61.

26 *See* Joint IOUs-01 at 27, note 44.

27 D.08-09-012 at 54.

Further, in the PCIA methodology the Commission adopted a benchmark as a proxy for market value based on IOU transactions and other market information. The Commission adopted a benchmark that reflected a combination of positions and outcomes.[28] By developing a market benchmark that reflects the three IOUs' recent transactions and and other market indicators, the Commission sought to hold the IOUs to moored to certain objective, external standards. Although CalCCA leaves open whether the existing benchmark is the appropriate benchmark, eliminating the existing benchmark, as proposed by the IOUs, would remove the few aspects of the PCIA that addressed the issue of prudent contract management.

3. The IOUs' Proposal Seeks To Prejudge Nonbypassable charge Treatment For Pre-2009 Vintages

The IOUs acknowledge that the Commission is, in the context of the recently consolidated ERRA proceedings, considering the issue of *negative* PCIA amounts and whether pre-2009 vintage customers should continue to pay the PCIA.[29] This issue has not been examined by the Commission, yet the IOUs seek to foreclose review and instead propose that this issue be categorically resolved in this proceeding.[30] Once again, this approach is procedurally improper and inappropriate.

D. The IOUs' Proposal Is Premised On Inaccurate Cost-Shifting Claims

In the Joint Application, the IOUs rely on purported "cost-shifting" as their reason for seeking changes to the PCIA methodology. For example, the IOUs proclaim that "the current Commission-approved method of recovering costs from departing load customers is *broken*, and

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28 *See* D.11-12-023 at 22-23.

29 *See* Joint IOUs-01 at 33, note 60.

30 *See id.*

that the cost shift from departing load customers to remaining bundled service customers is increasing."[31] Moreover, the IOUs state that "[a]ttempting to *'fix'* the inputs to the Current Methodology is not the answer…*any* cost-allocation mechanism that relies on administratively-set benchmarks ultimately will result in cost shifting to or from remaining bundled service customers depending on actual market outcomes."[32]

The IOUs' cost-shifting claims are flawed and misleading. CalCCA is not opposed to openly and comprehensively examining the current nonbypassable charge framework to explore cost-shifting issues. But as described below, the IOUs' cost-shifting claims suffer from a number of important flaws. Additionally, any serious examination of cost-shifting must be premised on all parties, not just the IOUs, having transparent access to information that forms the basis for nonbypassable charges.

First, the IOUs' assertion of a purported cost-shift relies on the IOUs' flawed "benchmarks." Although the IOUs denounce the current market price benchmarks, the IOUs fail to expressly state which market price benchmarks they rely upon in their cost-shifting claims, choosing instead to generically state that the information is "derived from *a blend of RECs index* numbers as well as [private] *broker* quotes."[33] With respect to RECs, in particular, index-based "numbers" suffer from a principal deficiency: the numbers are derived from indices that are short-term-based, and therefore should not be used in determining REC value for the IOUs' renewable energy portfolio. The IOUs' renewable energy portfolios are principally comprised of

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[31] Joint IOUs-01 at 4; emphasis added.

[32] Joint IOUs-01 at 13; emphasis added. *See also id.* at 15 ("Proxies – by their nature – do not reflect actual market conditions and therefore shift costs in one direction or the other.")

[33] *See* Joint IOUs-01 at 19, note 30.

long-term resources. An index based on short-term transactions is incongruent with this underlying product.

Second, noticeably absent from the Joint Application is any discussion about mutuality and the benefits that inure to the IOUs and their bundled service customers as a result of the departure of CCA customers. With respect to mutuality, the Commission is charged with ensuring that all customers – bundled and departing – are protected.[34] The Commission must also ensure that benefits, as well as costs, are factored into nonbypassable charges.[35] In any future consideration of a successor nonbypassable charge methodology, the following benefits should be considered and offset against costs:

- The IOUs' portfolio provides a long-term hedge against market price volatility.
- Departure of customers to CCA service results in an increase to the IOU's RPS percentage, thereby minimizing or eliminating additional transactional costs.
- Departure of customers to CCA service also results in a decreased need by the IOUs to procure additional resources, thereby minimizing or eliminating additional transactional costs.
- Departure of customers allows the IOUs to dispatch more economically efficient generators in their stack, resulting in a lower average cost to serve remaining bundled load.
- The IOUs' existing "negative" PCIA balance has not been addressed by the IOUs in the Joint Application, and it is unclear how the IOUs plan to address situations in which "negative" charges arise in the future.

E. The IOUs' Proposal Does Nothing To Remedy Deficiencies In The Current Nonbypassable charge Methodology

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[35] *See, e.g.,* Section 366.2(g) ("Estimated net unavoidable electricity costs paid by the customers of a community choice aggregator shall be reduced by the value of any benefits that remain with bundled service customers…."). *See also* D.08-09-012 at 10 ("[B]undled customers should be no worse off, nor should they be any better off as a result of customers choosing alternative energy suppliers (ESP, CCA, POU or customer generation).").

CalCCA is open to the idea of modifying the current nonbypassable charge methodology, however, such consideration should occur in a rulemaking proceeding under timelines and scoping plans that are set by the Commission, not the IOUs. If the Commission were to consider modifying the current nonbypassable charge methodology, the following deficiencies should be addressed – deficiencies that are not addressed in the IOUs' Proposal.

1. Poor Resource Planning Should Be Curbed

As a purported basis for the IOUs' Proposal, the IOUs claim that departing load from CCA programs is expanding at unprecedented levels.[36] Yet, despite this, the IOUs are still unnecessarily and imprudently procuring on behalf of these departing customers. For example, in Draft Resolution E-4851, the Energy Division is proposing to accept SCE's request to purchase output from a 125 megawatt solar facility ("Maverick Solar Project"). The proposed power purchase agreement for the Maverick Solar Project resulted from a 2015 solicitation process, and presumably reflects 2015 prices, not 2017 prices. SCE submitted its advice letter request a few months ago – *after* SCE began communicating with the Commission about the significant departure of CCA customer load.[37] While CalCCA at present takes no position on the merits of the Maverick Solar Project, SCE's request is an example of how the IOUs are engaging in imprudent resource planning – claiming significant expected departure of CCA customer load, yet continuing to procure as though the departure will not occur.

"Stranded" or "unavoidable" costs must be understood within a proper context. A cost should not be considered "stranded" or "unavoidable" if the IOU fails to make reasonable adjustments to its resource portfolio. Proper determination of nonbypassable charges is

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36 *See* Joint IOUs-01 at 15.

inextricably tied to proper resource planning. This is clearly seen in the Commission's conclusions with respect to AB 117 and its language regarding the CRS: "The objective of AB 117 in requiring CCAs to pay a CRS is to protect the utilities and their bundled utility customers from paying for the liabilities incurred on behalf of CCA customers. Our complementary objective is to minimize the CRS (and all utilities liabilities that are not required) and promote good resource planning by the utilities."[38]

To avoid inefficient and anticompetitive outcomes, the IOUs should bear the burden in showing that additional purchases are "unavoidable." This is particularly appropriate in the current environment, which the IOUs describe as "greater levels of customers depart [IOU] procurement service, which is happening now and accelerating."[39] The IOUs should not have it both ways: raising concerns about CCA customer departure, while at the same time making significant, additional purchases.

2. The Long-Term Hedge Value Of Resources Is Not Reflected

Under the current nonbypassable charge framework, energy is valued on a single, year-ahead basis, which does not reflect any long-term hedge value associated with the energy. While this approach is less than ideal as part of the current compromise, it is at least better than the IOUs' Proposal where energy is valued at the even shorter-term *spot market price*. Neither of these approaches reflect the long-term hedge associated with the IOUs' existing resources – a value that benefits bundled customers. As noted previously, the indifference standard requires that benefits be accounted for and offset against costs in determining the nonbypassable charge.

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37 The IOUs began aggressively communicating with the Commission about CCA load departure in January 2017 and SCE submitted its advice letter for the Maverick Solar Project in February 2017.

38 D.04-12-046 at 29.

39 *See* Joint IOUs-01 at 3.

As such, the Commission should remedy this defect with the current methodology, and should reject efforts by the IOUs to further disregard this defect.

3. Year-of-Departure Valuation Should Be Considered

Under the current nonbypassable charge framework, there is no opportunity given to value the IOUs' portfolio on a net present value basis using expected prices as of the year of departure. Instead, each year the IOUs' portfolio is subjected to an annual, ongoing valuation. For example, if PG&E's portfolio had been valued in 2010, when the first wave of MCE's customers departed, the overall "unavoidable costs" would have been significantly less than what has occurred by operation of the annual valuation process. In other words, once PG&E knew it no longer had to serve load in MCE's service area, PG&E could have liquidated or reallocated a relative share of its portfolio. By failing to dispose of the relative share of its portfolio, and instead holding onto all resources, especially as the market value of those resources declined, PG&E has caused the nonbypassable charge paid by CCA customers to artificially increase. CCA customers should not have to pay avoidable costs caused by an IOU's failure to mitigate losses by promptly disposing of unneeded parts of its portfolio.

4. An Eventual End To Nonbypassable charges Should Be Pursued

The Commission and Legislature have long held that cost-recovery associated with market structure changes should be transitional and should eventually end.[40] In the Commission's first CCA-related decision the Commission set forth its expectations with respect to an eventual end to nonbypassable charges: "[w]e also anticipate that each CCA's CRS liability

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[40] For example, in describing the "competition *transition* charge," the Commission cited AB 1890 for the view that cost-recovery should be limited and lead to an accelerated and eventual end. (*See* D.97-06-060 at 60-61 (citing AB 1890; Sec. 1(b) ["(b)... It is the...intent of the Legislature that during a limited transition period ending March 31, 2002, to provide for all of the following: (1) Accelerated, equitable, nonbypassable recovery of transition costs associated with uneconomic utility investments and contractual obligations."]).)

would terminate at some point."[41] This view is also consistent with the Commission's long-term procurement plan decisions, which reflect an expectation that the IOUs will no longer be procuring for CCA customers.[42]

In light of the emergence of CCA programs, it is reasonable and appropriate for the Commission to set forth a plan by which nonbypassable charges are eventually eliminated. One option that has been advanced by CCA parties is making available to Community Choice Aggregators the option of a lump-sum buyout comparable to that which was accomplished for various publicly owned utilities.[43]

5. Mechanisms Are Required To Reduce Volatility And Avoid Rate Shock

One particularly troubling aspect of the PCIA has been its volatility and abrupt changes. The IOUs' Proposal similarly does not provide for reduced volatility and does not protect against rate shock. Standard ratemaking practices provide for smoothing to avoid these effects, particularly where the rate mechanism in question relates to conditions with a long-term price. Nonbypassable charges are intended to protect bundled customers from paying an undue share of the above-market costs of long-term utility contracts and resources. Given that nonbypassable charges relate to long-term resources, there is no reason to address them in a manner that results in frequent fluctuations and steep changes in rates. Doing so is very detrimental to CCA programs that must consider the overall rates for electricity paid by their customers.

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41 *See, e.g.,* D.04-12-046 at 27.

42 *See, e.g.* D.04-12-048; Conclusion of Law 16. *See also* D.08-09-012 at 54-55.

43 *See, e.g.,* D.09-08-015 and D.10-11-011 (describing and approving lump-sum buyout arrangements for publicly owned utilities).

6. Reasonable Access Must Be Provided To Underlying Data

In D.16-09-044, the Commission directed the formation of the PCIA working group to focus specifically "on the issues of improved transparency and certainty related to PCIA."[44] As part of the PCIA working group process, the CCA parties advanced a proposal to remove data access restrictions for certain employees of Community Choice Aggregators, subject to various non-disclosure provisions. The IOUs did not accept this reform. As part of the IOUs' Proposal, the IOUs advanced their own proposal for improving transparency, claiming that "[the IOUs' Proposal] will also be more transparent, so that LSEs and their customers can thoroughly review the costs and benefits that are allocated as part of each vintaged portfolio."[45]

Community Choice Aggregators have been unable to fully review the calculation of the PCIA because the calculation relies on confidential information. With the IOUs' Proposal, the IOUs now recognize that transparency is critical, but suggest that it should be addressed in a second phase.[46] Postponing this critical issue is inappropriate. Transparency should be an integral component of any nonbypassable charge mechanism discussion up-front, and CalCCA looks forward to having this matter addressed by the Commission with respect to the existing nonbypassable charge methodology.

F. The IOUs' Proposal Would Result In Unlawful Rate Discrimination

As the Commission has previously stated, a particular rate treatment is considered unlawful discrimination if the treatment draws "an unfair line" or strikes "an unfair balance"

44 D.16-09-044 at 20.

45 Joint IOUs-01 at 6.

46 *See* Joint IOUs-01 at 45.

between similarly situated entities and there is no rational basis for the different treatment.[47] As briefly described below, the Joint Application presents numerous instances that rise to the level of unlawful discrimination.

1. Other Forms of Departing Load Are Not Subject To The IOUs' Proposal

The IOUs draw an arbitrary line between CCA customers and other forms of departing load. With respect to CCA customers, the IOUs propose to apply the full effects of the IOUs' Proposal, including the requirement that Community Choice Aggregators accept transfers of RECs and RA attributes. With respect to other forms of departing load, like customer generation departing load and load served under the IOUs' Green Tariff Shared Renewables program, the IOUs do *not* propose forced transfers of RECs and RA attributes.[48] Rather, for these other forms of departing load, the IOUs propose a methodology similar to the current methodology, namely, financial valuation of above-market costs.[49]

On this basis, the IOUs' Proposal is discriminatory on its face. If there is to be any line drawn between different forms of departing load, it should be the Commission, not the IOUs, that draw this line.

2. Pre-2009 Vintages Are Not Subject To The IOUs' Proposal

The IOUs propose that pre-2009 PCIA vintages would not be subject to any charges. In this regard, the IOUs state, subject to a reservation of rights with respect to utility-owned

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[47] *See, e.g.,* D.11-03-031 at 2 (citing D.06-04-041 at 5-6).

[48] *See, e.g.,* Joint IOUs-01 at 57.

[49] For presumably strategic reasons, the IOUs do not disclose the facts of this valuation process, but rather defer this pivotal issue until after "a final decision resolving this Application is issued." (*See, e.g.,* Joint IOUs-01 at 57 ["[T]he Joint Utilities propose that the consideration of how to set the appropriate 'purchase price' for the RECs and RA be deferred to a Tier 3 advice letter, to be filed upon receiving a final decision resolving this Application."]).

generation, that pre-2009 vintages would not be subject to the IOUs' Proposal.[50] As noted above, this key issue is currently before the Commission.[51] The IOUs offer no rationale for why pre-2009 vintage customers should be excluded from the IOUs' Proposal.

3. The IOUs' Proposal Results In An Unfair Balance Between Existing Community Choice Aggregators And New Community Choice Aggregators

Under the Joint Application, the IOUs require that RECs and RA attributes be transferred to *all* Community Choice Aggregators – without regard to whether a Community Choice Aggregator is fully resourced or not. While this proposal has many problems, it is particularly problematic with respect to *existing* Community Choice Aggregators. Existing Community Choice Aggregators are expected to be fully resourced. Indeed, to avoid additional cost allocation, under the process being considered by the Commission in the Integrated Resource Plan docket Community Choice Aggregators must show they are fully resourced.[52] In light of this, the impact of the IOUs' Proposal is unlawfully discriminatory. To implement the IOUs' Proposal, existing Community Choice Aggregators would need to either sell their own resources to make room for the transferred IOU attributes or dispose of the transferred IOU attributes. In either case, the administrative and financial burden on existing Community Choice Aggregators is unlawfully discriminatory.

G. The IOUs Fail To Explain Why The PAM Proposal Has Not Been Provided As A Voluntary Arrangement Instead Of As A Binding Requirement

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[50] *See, e.g.,* Joint IOUs-01 at 33, note 60.

[51] *See* note 29, above.

[52] *See, e.g., Proposal for Implementing Integrated Resource Planning at the CPUC,* dated May 17, 2017, at 75.

The IOUs propose that, with respect to Community Choice Aggregators, the approach in the Joint Application would be mandatory.[53] The IOUs offer no justification for this approach. The IOUs appear to recognize some value in voluntary arrangements:

> The Joint Utilities also contemplate that separate settlements may be negotiated with individual CCAs, ESPs, or other providers to resolve the departing load obligations of their customers, should there be interest in doing so. PG&E has engaged in ongoing settlement discussions with SCP as a means for resolving its customers' departing load obligations, or an alternative to the PAM proposal, and intends to continue those discussions after the filing of this Application.[54]

In D.16-09-044 the Commission spoke about the IOUs "providing a menu of options in paying off the PCIA."[55] A voluntary approach (or some other negotiated nonbypassable charge arrangement) is consistent with this menu of options; a mandatory approach is not.

IV. PROCEDURAL MATTERS

Pursuant to Rule 2.6(d), CalCCA provides the following procedural comments:

A. Proposed Category

The proceeding is appropriately categorized as "ratesetting."

B. Need for Hearing

CalCCA believes that evidentiary hearings will be necessary.

C. Issues to be Considered

CalCCA is still evaluating the Joint Application and issues associated with the IOUs' Proposal. Therefore, CalCCA reserves the right to identify additional issues that should be

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53 *See, e.g.,* Joint IOUs-01 at 5 (stating that the IOUs' Proposal will "completely replace" the current methodology).

54 Joint Application at 25-25.

55 *See* D.16-09-044 at 19.

addressed in this proceeding. However, on initial review, the issues presented above provide a list of key issues that the Commission should address in this proceeding.

D. Proposed Schedule

The IOUs' proposed procedural schedule illustrates the unreasonable process embedded in the Joint Application. Not only does the proposed procedural schedule unjustifiably defer major policy and rate issues to subsequent phases, but it suggests an unreasonable view of next steps. For example, the IOUs propose to defer consideration of transparency issues (which are critical to Community Choice Aggregators and their customers) to a second phase of this proceeding. The IOUs make no commitments that they will agree to provide any further transparency regarding the procurement processes as part of the negotiation that would supposedly occur during this later phase of the proceeding. Likewise, the IOUs propose that any alternative proposal to the IOUs' Proposal *must* be offered by July 14, 2017.[56] This deadline is artificial and unworkable, and would prevent parties from setting forth robust, alternative proposals.

V. PARTY STATUS

Pursuant to Rule 1.4(a)(2), CalCCA hereby requests party status in this proceeding. As described herein, CalCCA has a material interest in the matters being addressed in this proceeding. CalCCA designates the following person as the "interested party" in this proceeding:

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56 *See* Joint Application at 29.

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VI. CONCLUSION

As a concluding thought, CalCCA wishes to remind the Commission of an observation provided ninety years ago, which the Commission recently confirmed is relevant today. In considering the Joint Application and other IOU-initiated "reforms," the Commission must recognize and counterbalance the extensive advantage IOUs have in regulatory litigation. One way that the Commission can do this is to define the rules of the road pursuant to a Commission-instituted rulemaking proceeding.

> The relative advantage of utilities in ratemaking litigation has long been recognized. One writer observed the following [in 1926]:
>
> > 'Successful regulation of great public utility corporations, with their properties and their services ramifying in every direction, with vast revenues flowing in continuously, with nationwide alliances, and clearing-houses of technical information and expert service, is no simple and easy matter. ***'If the Commission depends upon the consumers or the municipalities to present the public side of the controversy, the evidence in most cases will be heavily one-sided. A group of consumers, or an individual municipality — perhaps a small one — or a loosely associated group of municipalities, working from the outside with no funds except what 'they dig out of their jeans' with no hope of ever getting it back, are pitted against the companies having all the inside experience and knowledge, and able to tap the consumers' till with confidence that whatever they spend to defeat the consumers will be added to the cost of service and taxed back in the rates which the consumers themselves will have to pay. If the municipalities or the consumers spend a dollar of their own money, the utility will spend two and make them pay in the bargain. Financial resources, experience, inside knowledge, expert affiliations, great things at stake and continuity of interest, combine to give the utilities an overwhelming advantage in the presentation of their cases before Commission and Courts.'[57]

CalCCA appreciates the Commission's consideration of the matters addressed herein.

Dated: May 30, 2017 Respectfully submitted,

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57 D.00-02-046 at 20.

/s/ Barbara Hale

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of Energy Efficiency Rolling Portfolio Business Plan.	Application 17-01-013 (Filed January 17, 2017)
Application of San Diego Gas & Electric Company (U902M) to adopt Energy Efficiency Rolling Portfolio Business Plan Pursuant to Decision 16-08-019.	Application 17-01-014 (Filed January 17, 2017)
Application of Pacific Gas and Electric Company for Approval of 2018-2025 Rolling Portfolio Energy Efficiency Business Plan and Budget (U39M).	Application 17-01-015 (Filed January 17, 2017)
Application of SOUTHERN CALIFORNIA GAS COMPANY (U904G) for adoption of its Energy Efficiency Rolling Portfolio Business Plan and related relief.	Application 17-01-016 (Filed January 17, 2017)
In the Matter of the Application of Marin Clean Energy for Approval of its Energy Efficiency Business Plan.	Application 17-01-017 (Filed January 17, 2017)

COMMENTS OF MARIN CLEAN ENERGY ON SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES

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June 12, 2017

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of Energy Efficiency Rolling Portfolio Business Plan.	Application 17-01-013 (Filed January 17, 2017)
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In the Matter of the Application of Marin Clean Energy for Approval of its Energy Efficiency Business Plan.	Application 17-01-017 (Filed January 17, 2017)

COMMENTS OF MARIN CLEAN ENERGY ON SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES

I. INTRODUCTION

Marin Clean Energy ("MCE") submits the following comments in response to the *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judges* ("Scoping Ruling") filed April 14, 2017. On May 15, 2017, Administrative Law Judge Kao granted a motion extending the deadline several questions in the Scoping Ruling. The deadline for these questions was extended to June 12, 2017. This extension only affected MCE's answer to

Question 9 in Attachment A of the Scoping Ruling. MCE now provides an answer to Question 9 and supplemental budget information in a common template.

II. BACKGROUND

MCE is the only Community Choice Aggregator ("CCA") energy efficiency ("EE") Program Administrator ("PA") authorized by the California Public Utilities Commission ("Commission"). MCE filed an application with a business plan on January 17, 2017. The Scoping Ruling calls for each PA to respond to specific questions by May 15, 2017. The Scoping Ruling also directed business plan proponents to engage in a meet and confer with interested parties to develop a standardized template to provide supplemental budget information.[1]

III. SUPPLEMENTAL BUDGET INFORMATION

MCE participated in the meet and confer process with ORA, TURN, and the other PAs to develop Attachment A and Attachment B to these comments as a common template for supplemental information. Attachment C provides organizational charts for departments that support MCE's EE programs. Together, the three attachments to these comments provide the supplemental budget information in a common template.

IV. QUESTIONS APPLICABLE TO ALL PROSPECTIVE PROGRAM ADMINISTRATORS

Question 9. Using a common budget template developed in consultation with interested stakeholders (hopefully agreed upon at a "meet and confer" session), display how much of each year's budget each PA anticipates spending "inhouse"

[1] Scoping Ruling at 10.

(e.g., for administration, non-outsourced direct implementation, other non-incentive costs, marketing), by sector and by cross-cutting program.[2]

The "inhouse" budget is displayed in Attachment B to these comments within each sector-specific section including: (1) Residential Budget Detail; (2) Commercial Budget Detail; (3) Industrial Budget Detail; (4) Agricultural Budget Detail; (5) and Cross-Cutting Budget Detail. The "in-house" spending in those sections is classified in each sector table as "labor."

The sector tables do not provide information for each year's budget because the common budget template agreed to during the meet and confer process only includes years 2016 and 2018.

V. CONCLUSION

MCE thanks Commissioner Peterman, Administrative Law Judge Fitch, and Administrative Law Judge Kao for their thoughtful consideration of these comments.

Respectfully submitted,

/s/ Michael Callahan

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June 12, 2017

[2] Scoping Ruling, Attachment A at p. 2.

Attachment A:
Supplemental Budget Showing

SUPPLEMENTAL BUDGET SHOWING

I. DESCRIPTION OF IN-HOUSE ENERGY EFFICIENCY (“EE”) ORGANIZATIONAL STRUCTURE & ASSOCIATED COSTS

A. Narrative description of in-house departments/organizations supporting the Program Administrator’s (“PA’s”) EE portfolio

- *Functions conducted by each department/organization*

MCE provides the following table to summarize the functions conducted by each in-house department based on the functional groups defined in the “Function Definitions” section of Attachment B to these comments.

Functions Conducted by Departments Supporting MCE’s EE Portfolio				
	Customer Programs Team	Public Affairs Team	Regulatory Team*	Internal Operations Team*
Policy, Strategy, and Regulatory Reporting Compliance	x		x	x
Program Management	x			
Engineering Services				
Customer Application/Rebate/Incentive Processing	x			x
Customer Project Inspections				
Portfolio Analytics	x			
Evaluation, Measurement, and Verification (“EM&V”)	x			
Marketing, Education, and Outreach (“ME&O”)	x	x		
Account Management / Sales				
Information Technology (“IT”)				
Call Center				

*These departments do not recover costs from the energy efficiency program budget.

- *Management structure and org chart*

MCE provides organizational charts for each department supporting the energy efficiency portfolio (Attachment C to these comments). These charts include the entire staff within each department even though only a subset of each team provides support to the energy efficiency portfolio. The management structure is represented on these organizational charts. There are two organizational charts for the Customer Programs department to illustrate the current composition for the short term and the projected future composition over the long term pending approval of MCE's Business Plan.

- *Staffing needs by department/organization, including current and forecast for 2018, as well as a description of what changes are expected in the near term (2019-2020) or why it's impossible to predict beyond 2018, if that's the PA's position.*

The long term organizational chart for the Customer Programs team (*see* Attachment C) shows expected growth in 2018. MCE anticipates adding two program managers and a program specialist to the Customer Programs team to oversee and support MCE's EE programs. MCE does not presently anticipate hiring additional Customer Programs staff beyond what is provided in the long term organizational chart.

The staffing needs for other departments at MCE (*i.e.* Regulatory, Internal Operations, and Public Affairs) may change in the future. However, those changes are unlikely to be driven by the need to support energy efficiency functions. As a result, MCE does not project long term growth in those departments related to supporting the energy efficiency portfolio.

- *Non-program functions currently performed by contractors (e.g. advisory consultants), as well as a description of what changes are expected in the near term (2019-2020) or why it's impossible to predict beyond 2018, if that's the PA's position.*

At this point, MCE does not expect to work with any contractors for non-program related functions in years 2018-2020.

- *Anticipated drivers of in-house cost changes by department/organization*

The in-house costs for the Customer Programs team are likely to increase based on additional long-term staffing needs described above, pursuant to approval of MCE's Business Plan.

- *Explanation of method for forecasting costs*

MCE's Customer Program team developed a bottom-up budget using MCE's portfolio costs from 2013-2015 as a guide to extrapolate to new sectors, program delivery types, and an expanded service area. This analysis also incorporated the need for additional MCE staff to support new programmatic functions (*e.g.* serving as the SPOC).

B. <u>Table showing PA EE "Full Time Equivalent" headcount by department/organization</u>

- *TURN and ORA like this example, taken from testimony PG&E's 2017 GRC addressing its Energy Procurement department. We would be looking for 2016 or 2017 "recorded" positions, depending on what's most appropriate for the PA, or both, if that provides the most clarity. For forecast years, we'd want at least 2018.*
  - *Note, if PAs' FTE needs change, these changes can be made without reporting or seeking CPUC approval*

TABLE 6-3(a)
EP HEADCOUNT
NUMBER OF PLANNED POSITIONS

Line No.	Description	2014 Positions	2015 Forecast	2016 Forecast	2017 Forecast
1	EP Administrative Office	4	4	4	4
2	Energy Supply Management (ESM)	126	131	131	134
3	Renewable Energy (RE)	38	40	40	41
4	Energy Policy, Planning and Analysis (EPPA)	46	46	46	46
5	Value Based Reliability (VBR)	10	12	12	12
6	Energy Contract Management and Settlements (ECMS)	79	80	80	80
7	Energy Compliance and Reporting (ECR)	18	18	18	18
8	Total	321	331	331	335

(a) See WP Table 6-7, Exhibit (PG&E-5).

MCE provides this table in the "Portfolio Staffing" section of Appendix B to these comments.

C. <u>Table showing costs by functional area of management structure</u>

- *Expenses broken out into labor, non-labor O&M (with contract labor identified) (* Note, in case of conflict, excel budget template will control.)*
- *Identify any capital costs*

MCE provides this table in the: (1) Residential Budget Detail; (2) Commercial Budget Detail; (3) Industrial Budget Detail; (4) Agricultural Budget Detail; (5) and Cross-Cutting Budget Detail sections of Appendix B to these comments.

D. Table showing cost drivers across the EE organization

- *TURN and ORA like this example, taken from testimony PG&E's 2017 GRC addressing its Energy Procurement department.*
- *While this example pertains to departmental cost increases, in our case, cost increases or decreases would be attributed to major cost drivers.*

TABLE 6-2(a)
EP COST INCREASE
2015-2017 EXPENSE BY COST DRIVER

Line No.	Description	Increase in Thousands of $	Percent of Total Increase
1	Escalation	3,597	57
2	Portfolio Complexity	1,136	18
3	Regulatory Mandates	1,192	19
4	Process Improvements	400	6
5	Total	6,324	100

(a) See WP Table 6-6, Exhibit (PG&E-5).

Cost Drivers Across MCE EE Portfolio in 2018		
Description	**Increase in $**	**Percent of Total increase**
New sectors[1]	$ 2,091,179.00	29%
Expansion of offerings in sectors MCE currently serves	$ 2,584,865.88	36%
Inclusion of new communities into service area in sectors MCE currently serves[2]	$ 2,459,480.13	34%
Total	**$7,135,525**	**100%**

E. Explanation of allocation of labor and O&M costs between EE-functions and GRC-functions or other non-EE functions

- *When an employee spends less than 100% of her/his time on EE, how are costs tracked and recovered (e.g., on a pro rata basis between EE rates and GRC rates; when time exceeds a certain threshold, all to EE; etc.).*

MCE staff complete timesheets on which they designate the number of hours spent on EE activities. The costs for the time spent are reimbursed from the EE Programs Account. This

[1] MCE proposes to start providing programs to the Industrial Sector and Agricultural Sector.
[2] New communities included in this expansion are: Lafayette, Walnut Creek, and the cities within Napa County.

account draws on the awarded energy efficiency budget. Regulatory and Internal Operations staff costs are not reimbursed from the EE Programs Account. Those departments are fully supported from the General Operating Account (funded by generation service revenues).

- *Describe the method used to determine the proportion charged to EE balancing accounts for all employees who also do non-EE work.*

The proportion charged is determined from the time recorded on staff timesheets.

- *Identify the EE functions that are most likely to be performed by employees who also do non-EE work (e.g. Customer Account Representatives?)*

These functions include: (1) Policy, Strategy, and Regulatory Reporting Compliance; (2) Customer Application/Rebate/Incentive Processing; and (3) ME&O.

- *Are labor costs charged to EE fully loaded?*

Yes, labor costs charged to EE are fully loaded.

- *How are burden benefit-related administrative and general (A&G) expenses for employees who work on EE programs recovered (EE rates or GRC rates)? **PG&E allocates these costs to EE pursuant to a settlement agreement with MCE and TURN, which was adopted in D.14-08-032.*

Benefit-related expenses for MCE employees who bill time to the EE Programs are paid from the EE Programs Account proportionate to the amount of time they spend on EE Programs. These costs are incorporated into the "fully burdened" cost MCE charges to the EE reimbursable account (as detailed in the responses above).

- *When EE and non-EE activities are supported by the same non-labor resources, how are the costs of those resources or systems allocated to EE and non-EE activities?*

Non-labor resources that support EE and non-EE activities are paid for entirely using non-EE funds from the General Operating Account (funded by generation service revenues). The only non-labor resources that are paid for with EE funds are those that exclusively support EE.

- *Identify the EE O&M costs that are most likely to be spread to non-EE functions as well as EE, if any*

All O&M costs are paid for with non-EE funds from the General Operating Account (funded by generation service revenues), unless they exclusively support EE, in which case they are paid for using EE funds.

II. BUDGET TABLES INCLUDING INFORMATION IDENTIFIED IN THE SCOPING MEMO

A. <u>Attachment-A, Question C.8</u>

"Present a single table summarizing energy savings targets, and expenditures by sector (for the six specified sectors). This table should enable / facilitate assessment of relative contributions of the sectors to savings targets, and relative cost-effectiveness."

- *TURN and ORA invite the PAs to propose a common table format for this information. We don't have anything specific in mind.*
- *Additionally, include a brief description of the method used by the PA to estimate the costs presented in the C.8 Table.*

MCE provided tables summarizing electric and gas energy savings targets and expenditures for all resource sectors in its business plan.[3] MCE also provided a short-term Total Resource Costs ("TRC") cost-effectiveness assessment for each resource sector within the sector chapter including: Single Family (1.13 TRC);[4] Multifamily (1.33 TRC);[5] Industrial (1.24 TRC);[6] Agricultural (1.27 TRC);[7] and Commercial (1.17 TRC).[8]

MCE cannot provide information on the market potential within its service area that would be consistent with Pacific Gas and Electric Company's ("PG&E's") market potential

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[3] MCE Business Plan, Appendix A at p. 135-136. Available at https://www.mcecleanenergy.org/2017-EE-Business-Plan.
[4] MCE EE Business Plan at p. 36.
[5] MCE EE Business Plan at p. 53.
[6] MCE EE Business Plan at p. 69.
[7] MCE EE Business Plan at p. 82.
[8] MCE EE Business Plan at p. 95.

because the Goals and Potential Study[9] is not granular enough to discern the market potential for MCE's service area. The Commission has acknowledged this challenge when developing goals and has declined to establish goals for CCAs.[10] MCE utilized other data sources and strategies, as discussed in the business plan, to conduct an overarching market analysis[11] and an analysis for each resource sector including: Single Family;[12] Multifamily;[13] Industrial;[14] Agricultural;[15] and Commercial.[16]

MCE determined the costs (*i.e.* the budget) following the development of savings targets. Rather than relying on the E3 calculator to create savings targets that are cost effective, MCE first modeled likely participation rates to identify achievable savings targets within its service area. MCE then developed a set of measures for inclusion into the portfolio based on the DEER database, the Commercial End–Use Survey ("CEUS") and Residential Appliance Saturation Survey ("RASS") data on appliances and energy use, the age and types of buildings in the service area, and past program data on the most common measures. MCE then developed cost-effectiveness forecasts utilizing the cost-effectiveness tool embedded in the California Energy Data and Reporting System ("CEDARS"). This process enabled MCE to determine the total budget to achieve the savings targets while satisfying cost-effectiveness requirements.

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[9] EE Potential and Goals Studies Webpage, Commission. Available at http://www.cpuc.ca.gov/General.aspx?id=2013.

[10] "Data limitations continue to require us to develop goals by IOU service territories, rather than by PAs. This means that we have not established separate goals for regional energy networks (RENs) or Community Choice Aggregators (CCAs). Their expected savings are embedded within the savings for the service territories of the IOUs." D.15-10-028 at p. 8.

[11] MCE Business Plan at p. 21-28

[12] MCE EE Business Plan at p. 39-44.

[13] MCE EE Business Plan at p. 56-60.

[14] MCE EE Business Plan at p. 72-74.

[15] MCE EE Business Plan at p. 85-89.

[16] MCE EE Business Plan at p. 98-104.

B. <u>Attachment-A, Question C.9</u>

"Using a common budget template developed in consultation with interested stakeholders (hopefully agreed upon at a "meet and confer" session), display how much of each year's budget each PA anticipates spending "in-house" (e.g., for administration, non-outsourced direct implementation, other non-incentive costs, marketing), by sector and by cross-cutting program."

The "in-house" budget is displayed in Attachment B in each sector-specific section including: (1) Residential Budget Detail; (2) Commercial Budget Detail; (3) Industrial Budget Detail; (4) Agricultural Budget Detail; (5) and Cross-Cutting Budget Detail sections of Appendix B to these comments. The "in-house" spending in those sections is classified as "labor."

- *TURN and ORA invite the PAs to propose a common table format for this information. We don't have anything specific in mind.*
- *Additionally, include a brief description of the method used by the PA to estimate the costs presented in the C.9 Table.*

MCE developed a staffing budget based on our projected staffing needs. The distribution of staffing costs across budget categories for 2018 is based on the allocation in 2016 with some adjustments for areas in which we expect staff involvement to increase (*e.g.* EM&V). The allocation of staffing costs for 2016 is based on staff estimations for the requested budget categories.

C. Attachment-A, Question C.10

"Present a table akin to PG&E's Figure 1.9 (Portfolio Overview, p 37) or SDG&E's Figure 1.10 (p. 23) that not only shows anticipated solicitation schedule of "statewide programs" by calendar year and quarter, but also expected solicitation schedule of local third-party solicitations, by sector, and program area (latter to extent known, and/or by intervention strategy if that is more applicable). For both tables, and for each program entry on the calendar, give an approximate size of budget likely to be available for each solicitation (can be a range)."

- *TURN and ORA invite the PAs to propose a common table format for this information. We don't have anything specific in mind.*
- *Additionally, include a brief description of the method used by the PA to estimate the costs presented in the C.10 Table.*

This question does not apply to the MCE Business Plan. Third Party Program requirements do not apply to non-IOU PAs[17] and MCE is not proposing to administer any statewide programs.

[17] D.16-08-019, Conclusion of Law 57 and 58 at p. 105.

Attachment B:
Supplemental Budget Tables

List of Tables

MCE
SUPPLEMENTAL 2018 EE BUDGET INFORMATION
PORTFOLIO SUMMARY

	2016 EE Portfolio Expenditures ($Million)				2018 EE Portfolio Budget ($Million)				2016 EE Portfolio Savings			2018 EE Portfolio Forecasted Savings		
Sector	Labor	Non-Labor (excl. Incentives)	Incentives	Total	Labor	Non-Labor (excl. Incentives)	Incentives	Total	KWH	KW	MTHERMS	KWH	KW	MTHERMS
Residential	0.185	0.465	0.099	0.749	3.203		1.396	4.599	283,100	27	0	7,261,084	609	0.50
Commercial	0.102	0.202	0.087	0.391	1.306		0.726	2.031	447,970	91	(0)	7,259,309	583	0.01
Agricultural					0.667		0.312	0.979				3,086,521	393	0.01
Industrial					0.708		0.404	1.112				1,712,578	125	0.29
Public (GP)								-						
Cross Cutting*	0.022	0.004	-	0.025				-						
Total Sector Budget	0.308	0.671	0.186	1.165	5.885	-	2.837	8.722	731,070.000	118.000	0.009	19,319,491.512	1,710.442	0.816
EM&V-PA								0.097						
EM&V-ED								0.255						
OBF - Loan Pool**														
REN														
CCA														
EE Total	0.308	0.671	0.186	1.165	5.885	-	2.837	9.074	731,070.000	118.000	0.009	19,319,491.512	1,710.442	0.816

* Cross Cutting Sector includes Codes & Standards, Emerging Technologies, Workforce Education & Training, Financing.

** For SDG&E and SCG the loan pool is not part of the authorized EE portoflio budget and is collected and tracked trhough a separate balancing account.

A. Attachment A, Question C.8

"Present a single table summarizing energy savings targets, and expenditures by sector (for the six specified sectors). This table should enable / facilitate assessment of relative contributions of the sectors to savings targets, and relative cost-effectiveness."

- TURN and ORA invite the PAs to propose a common table format for this information. We don't have anything specific in mind.
- Additionally, include a brief description of the method used by the PA to estimate the costs presented in the C.8 Table.

MCE
SUPPLEMENTAL 2018 EE BUDGET INFORMATION
FUNCTION DEFINITIONS

Aggregated Category	**Definition**	**Functional Category**	**Detailed Definition**
Policy, Strategy, and Regulatory Reporting Compliance	Includes **p**olicy, strategy, compliance, audits and regulatory support	Planning & Compliance	DSM Goal Planning; lead legislative review/positioning; policy support on reg proceedings; portfolio optimization; end use-market strategy; DSM lead for PRP, DRP, ES; locational targeting; audit support; SOX certifications; developing control plans; developing action plans; continuous monitoring; inspections; program/product QA/QC; decision compliance oversight/tracking; data requests; policies & procedures
		Company Regulatory Support	Case management for EE proceedings
Program management	Includes labor, contracts, admin costs for program design, program implementation, product and channel management for all sectors	Program Management & Delivery	Market Segment & Locational Resource programs; Business Core & Finance Programs; Large Power DR Programs; Non-Res HVAC & Technical Services; Program Integration & Optimization; Residential EE & DR Programs (incl. Res HVAC QI); IQP & Economic Assistance Programs; Mass Market DR Programs; Education & Information Products & Services; Energy Leader Partnerships; Institutional & Federal Partnerships; REN Coordination; Strategic Plan Support; Energy/Water Program Mgt; Service Level Agreement Tracking
		Product Management	Manage end-to-end new products and services (P&S) intake, evaluation, and launch process; develop and facilitate P&S governance teams, coordination of all sub-process owners, stakeholders, and technical resources required to evaluate and launch new products; evaluate and launch new services and OOR opportunities; develop external partnerships & strategic alliances; work with various companies and associations to help advance standards, products, and tech.; work with external experts to help reduce SCE costs to deliver new prog. and products; develop and launch new customer technologies, products, services for residential and business customers; conduct customer pilots of new technologies and programs; lead customer field demonstrations of new technologies and products; align new P&S to savings programs/incentives; develop new programs/incentives in support of savings goals
		Channel Management	
		Contract Management	Budget forecasting, spend tracking, invoice processing, and contract management with vendors and suppliers; Regulatory support for ME&O activities
Engineering Services	Includes engineering, project management, and contracts associated with workpaper development and pre/post sales project technical reviews and design assistance	Custom project support	Management of Emerging Products projects; Customized reviews; LCR/RFO support; Ex-ante review management; Technical policy support; Technical assessments; Workpapers; Tool development; End use subject matter expertise
		Deemed workpapers	
		Project management	
Customer Application/Rebate and Incentive Processing	Costs associated with application management and rebate and incentive processing (deemed and custom)	Rebate & Application Processing	
Inspections	Costs associated with project inspections	Inspections	
Portfolio Analytics	Includes analytics support, including internal performance reporting and external reporting	Data analytics	Data development for programs, products and services; Standard and ad hoc data extracts for internal and external clients ; Database management; CPUC, CAISO reporting; Data reconciliation; E3 support ; Compliance filing support; Funding Oversight; ESPI support; Program Results Data & Performance
EM&V	EM&V expenditures	EM&V Studies	Program and product review; manage evaluation studies
		EM&V Forecasting	EE lead for LTPP and IEPR; market potential study; integration w/ procurement planning; CPUC Demand Analysis Working Group
ME&O	Costs associated with utility EE marketing; no statewide; focus on outsourced portion	Marketing	Customer Programs, Products, and Services Marketing; Digital Product Development; Digital Content & Optimization
		Customer insights	Voice of the Customer; Customer satisfaction study measurement and analysis (JD Power, SDS); Customer testing/research
Account Management / Sales	Costs associated with account rep energy efficiency sales functions	Account Management	
IT	IT project specific costs and regular O&M	IT - project specific	Projects and minor enhancements. Includes project management/business integration ("PMO/BID"). Excluded: maintenance (which SCE defines as when something goes down, normal batch processing, verifying interfaces, etc.).
		IT - regular O&M	

Call Center	Costs associated with call center staff fielding EE program questions	Call Center	
Incentives	Costs of rebate and incentive payments to customers	Incentives	

MCE
SUPPLEMENTAL 2018 EE BUDGET INFORMATION
PORTFOLIO STAFFING

Functional Group	2016 EE Portfolio FTE	2018 EE Portfolio FTE
Policy, Strategy, and Regulatory Reporting Compliance	0.90	1.35
Program Management	1.21	1.91
Engineering Services	0.00	0.00
Customer Application/Rebate/Incentive Processing	0.40	0.66
Customer Project Inspections	0.00	0.00
Portfolio Analytics	0.43	0.72
EM&V	0.00	0.25
ME&O	0.42	0.69
Account Management / Sales	0.00	0.00
IT	0.00	0.00
Call Center	0.00	0.00
Total	3.37	5.58

A. Narrative description of in-house departments/organizations supporting the PA's EE portfolio

- Functions conducted by each department/organization
- Management structure and org chart
- Staffing needs by department/organization, including current and forecast for 2018, as well as a description of what changes are expected in the near term (2019-2020) or why it's impossible to predict beyond 2018, if that's the PA's position.
- Non-program functions currently performed by contractors (e.g. advisory consultants), as well as a description of what changes are expected in the near term (2019-2020) or why it's impossible to predict beyond 2018, if that's the PA's position.
- Anticipated drivers of in-house cost changes by department/organization
- Explanation of method for forecasting costs

B. Table showing PA EE headcount by department/organization

- TURN and ORA like this example, taken from testimony PG&E's 2017 GRC addressing its Energy Procurement department. We would be looking for 2016 or 2017 "recorded" positions, depending on what's most appropriate for the PA, or both, if that provides the most clarity. For forecast years, we'd want at least 2018.

MCE
SUPPLEMENTAL 2018 EE BUDGET INFORMATION
RESIDENTIAL BUDGET DETAIL

Sector	Cost Element	Functional Group	2016 EE Portfolio Expenditures ($Million)	2018 EE Portfolio Budget ($Million)
Residential	Labor(1)	Policy, Strategy, and Regulatory Reporting Compliance	$ 0.044	$ 0.182
		Program Management	$ 0.089	$ 0.364
		Engineering services		
		Customer Application/Rebate/Incentive Processing	$ 0.037	$ 0.152
		Customer Project Inspections		
		Portfolio Analytics	$ 0.015	$ 0.061
		ME&O (Local)		
		Account Management / Sales		
		IT		
		Call Center		
	Labor Total		$ 0.185	$ 0.759
	Non-Labor	Third-Party Implementers Contracts		
		Local/Government Partnerships Contracts (3)		
		Other Contracts		
		Policy, Strategy, and Regulatory Reporting Compliance	$ 0.010	
		Program Management	$ 0.445	$ 1.613
		Engineering services		
		Customer Application/Rebate/Incentive Processing	$ 0.010	
		Customer Project Inspections		
		Portfolio Analytics		$ 0.253
		ME&O (Local)	$ 0.002	$ 0.578
		Account Management / Sales		
		IT		
		Call Center		
		Facilities		
		Incentives--Core Programs	$ 0.099	$ 1.396
		Incentives--Third Party Program		
	Non-Labor Total		$ 0.564	$ 3.840
Residential Total			$ 0.749	$ 4.599
	Other (collected through GRC) (2)	Labor Overheads		

Notes:
(1) Labor costs are already loaded with (state loaders covered by EE)
(2) These costs are collected through GRC (state current applicable decision)
(3) LGP contracts that directly support the sector is included/not included in this item

C. → <u>Table·showing·costs·by·functional·area·of·management·structure</u>¶
¶

- Expenses broken out into labor, non-labor O&M (with contract labor identified)
- Identify any capital costs

B. **Attachment A, Question C.9**

"Using a common budget template developed in consultation with interested stakeholders (hopefully agreed upon at a "meet and confer" session), display how much of each year's budget each PA anticipates spending "in-house" (e.g., for administration, non-outsourced direct implementation, other non-incentive costs, marketing), by sector and by cross-cutting program."

- TURN and ORA invite the PAs to propose a common table format for this information. We don't have anything specific in mind.
- Additionally, include a brief description of the method used by the PA to estimate the costs presented in the C.9 Table.

MCE
SUPPLEMENTAL 2018 EE BUDGET INFORMATION
COMMERCIAL BUDGET DETAIL

Sector	Cost Element	Functional Group	2016 EE Portfolio Expenditures ($Million)		2018 EE Portfolio Budget ($Million)	
Commercial	Labor(1)	Policy, Strategy, and Regulatory Reporting Compliance	$	0.024	$	0.080
		Program Management	$	0.049	$	0.161
		Engineering services				
		Customer Application/Rebate/Incentive Processing	$	0.020	$	0.067
		Customer Project Inspections				
		Portfolio Analytics	$	0.008	$	0.027
		ME&O (Local)				
		Account Management / Sales				
		IT				
		Call Center				
	Labor Total		$	0.102	$	0.335
	Non-Labor	Third-Party Implementers Contracts				
		Local/Government Partnerships Contracts (3)				
		Other Contracts				
		Policy, Strategy, and Regulatory Reporting Compliance	$	0.011		
		Program Management	$	0.165	$	0.654
		Engineering services				
		Customer Application/Rebate/Incentive Processing	$	0.011		
		Customer Project Inspections				
		Portfolio Analytics			$	0.112
		ME&O (Local)	$	0.015	$	0.205
		Account Management / Sales				
		IT				
		Call Center				
		Facilities				
		Incentives--Core Programs	$	0.087	$	0.726
		Incentives--Third Party Program				
	Non-Labor Total		$	0.289	$	1.696
Commercial Total			$	0.391	$	2.031
	Other (collected through GRC) (2)	Labor Overheads				

Notes:
(1) Labor costs are already loaded with (state loaders covered by EE)
(2) These costs are collected through GRC (state current applicable decision)
(3) LGP contracts that directly support the sector is included/not included in this item

C. **<u>Table showing costs by functional area of management structure</u>**

- Expenses broken out into labor, non-labor O&M (with contract labor identified)
- Identify any capital costs

B. **<u>Attachment A, Question C.9</u>**

"Using a common budget template developed in consultation with interested stakeholders (hopefully agreed upon at a "meet and confer" session), display how much of each year's budget each PA anticipates spending "in-house" (e.g., for administration, non-outsourced direct implementation, other non-incentive costs, marketing), by sector and by cross-cutting program."

- TURN and ORA invite the PAs to propose a common table format for this information. We don't have anything specific in mind.
- Additionally, include a brief description of the method used by the PA to estimate the costs presented in the C.9 Table.

MCE
SUPPLEMENTAL 2018 EE BUDGET INFORMATION
INDUSTRIAL BUDGET DETAIL

Sector	Cost Element	Functional Group	2016 EE Portfolio Expenditures ($Million)	2018 EE Portfolio Budget ($Million)
Industrial	Labor(1)	Policy, Strategy, and Regulatory Reporting Compliance		$ 0.04
		Program Management		$ 0.09
		Engineering services		$ -
		Customer Application/Rebate/Incentive Processing		$ 0.04
		Customer Project Inspections		$ -
		Portfolio Analytics		$ 0.01
		ME&O (Local)		
		Account Management / Sales		
		IT		
		Call Center		
	Labor Total			$ 0.184
	Non-Labor	Third-Party Implementers Contracts		
		Local/Government Partnerships Contracts (3)		
		Other Contracts		
		Policy, Strategy, and Regulatory Reporting Compliance		
		Program Management		$ 0.315
		Engineering services		
		Customer Application/Rebate/Incentive Processing		
		Customer Project Inspections		
		Portfolio Analytics		$ 0.061
		ME&O (Local)		$ 0.149
		Account Management / Sales		
		IT		
		Call Center		
		Facilities		
		Incentives--Core Programs		$ 0.404
		Incentives--Third Party Program		
	Non-Labor Total			$ 0.928
Industrial Total				$ 1.112
	Other (collected through GRC) (2)	Labor Overheads		

Notes:
(1) Labor costs are already loaded with (state loaders covered by EE)
(2) These costs are collected through GRC (state current applicable decision)
(3) LGP contracts that directly support the sector is included/not included in this item

C. Table showing costs by functional area of management structure

- Expenses broken out into labor, non-labor O&M (with contract labor identified)
- Identify any capital costs

B. Attachment A, Question C.9

"Using a common budget template developed in consultation with interested stakeholders (hopefully agreed upon at a "meet and confer" session), display how much of each year's budget each PA anticipates spending "in-house" (e.g., for administration, non-outsourced direct implementation, other non-incentive costs, marketing), by sector and by cross-cutting program."

- TURN and ORA invite the PAs to propose a common table format for this information. We don't have anything specific in mind.
- Additionally, include a brief description of the method used by the PA to estimate the costs presented in the C.9 Table.

MCE
SUPPLEMENTAL 2018 EE BUDGET INFORMATION
AGRICULTURAL BUDGET DETAIL

Sector	Cost Element	Functional Group	2016 EE Portfolio Expenditures ($Million)	2018 EE Portfolio Budget ($Million)
Agricultural	Labor(1)	Policy, Strategy, and Regulatory Reporting Compliance		$ 0.039
		Program Management		$ 0.078
		Engineering services		
		Customer Application/Rebate/Incentive Processing		$ 0.032
		Customer Project Inspections		
		Portfolio Analytics		$ 0.013
		ME&O (Local)		
		Account Management / Sales		
		IT		
		Call Center		
	Labor Total			$ 0.162
	Non-Labor	Third-Party Implementers Contracts		
		Local/Government Partnerships Contracts (3)		
		Other Contracts		
		Policy, Strategy, and Regulatory Reporting Compliance		
		Program Management		$ 0.331
		Engineering services		
		Customer Application/Rebate/Incentive Processing		
		Customer Project Inspections		
		Portfolio Analytics		$ 0.054
		ME&O (Local)		$ 0.121
		Account Management / Sales		
		IT		
		Call Center		
		Facilities		
		Incentives--Core Programs		$ 0.312
		Incentives--Third Party Program		
	Non-Labor Total			$ 0.817
Agricultural Total				$ 0.979
	Other (collected through GRC) (2)	Labor Overheads		

Notes:
(1) Labor costs are already loaded with (state loaders covered by EE)
(2) These costs are collected through GRC (state current applicable decision)
(3) LGP contracts that directly support the sector is included/not included in this item

C. Table showing costs by functional area of management structure

- Expenses broken out into labor, non-labor O&M (with contract labor identified)
- Identify any capital costs

B. Attachment A, Question C.9

"Using a common budget template developed in consultation with interested stakeholders (hopefully agreed upon at a "meet and confer" session), display how much of each year's budget each PA anticipates spending "in-house" (e.g., for administration, non-outsourced direct implementation, other non-incentive costs, marketing), by sector and by cross-cutting program."

- TURN and ORA invite the PAs to propose a common table format for this information. We don't have anything specific in mind.
- Additionally, include a brief description of the method used by the PA to estimate the costs presented in the C.9 Table.

MCE
SUPPLEMENTAL 2018 EE BUDGET INFORMATION
CROSS -CUTTING BUDGET DETAIL

Sector	Cost Element	Functional Group	2016 EE Portfolio Expenditures ($Million)	2018 EE Portfolio Budget ($Million)
Cross Cutting	Labor(1)	Policy, Strategy, and Regulatory Reporting Compliance	$ 0.005	
		Program Management	$ 0.010	
		Engineering services		
		Customer Application/Rebate/Incentive Processing	$ 0.004	
		Customer Project Inspections		
		Portfolio Analytics	$ 0.002	
		ME&O (Local)		
		Account Management / Sales		
		IT		
		Call Center		
	Labor Total		$ 0.022	
	Non-Labor	Third-Party Implementers Contracts		
		Local/Government Partnerships Contracts (3)		
		Other Contracts		
		Policy, Strategy, and Regulatory Reporting Compliance	$ 0.000	
		Program Management	$ 0.003	
		Engineering services		
		Customer Application/Rebate/Incentive Processing	$ 0.000	
		Customer Project Inspections		
		Portfolio Analytics		
		ME&O (Local)	$ 0.000	
		Account Management / Sales		
		IT		
		Call Center		
		Facilities		
		Incentives--Core Programs		
		Incentives--Third Party Program		
	Non-Labor Total		$ 0.004	
Cross Cutting Total			$ 0.025	
	Other (collected through GRC) (2)	Labor Overheads		

Notes:
(1) Labor costs are already loaded with (state loaders covered by EE)
(2) These costs are collected through GRC (state current applicable decision)
(3) LGP contracts that directly support the sector is included/not included in this item

C. **<u>Table showing costs by functional area of management structure</u>**

- Expenses broken out into labor, non-labor O&M (with contract labor identified)
- Identify any capital costs

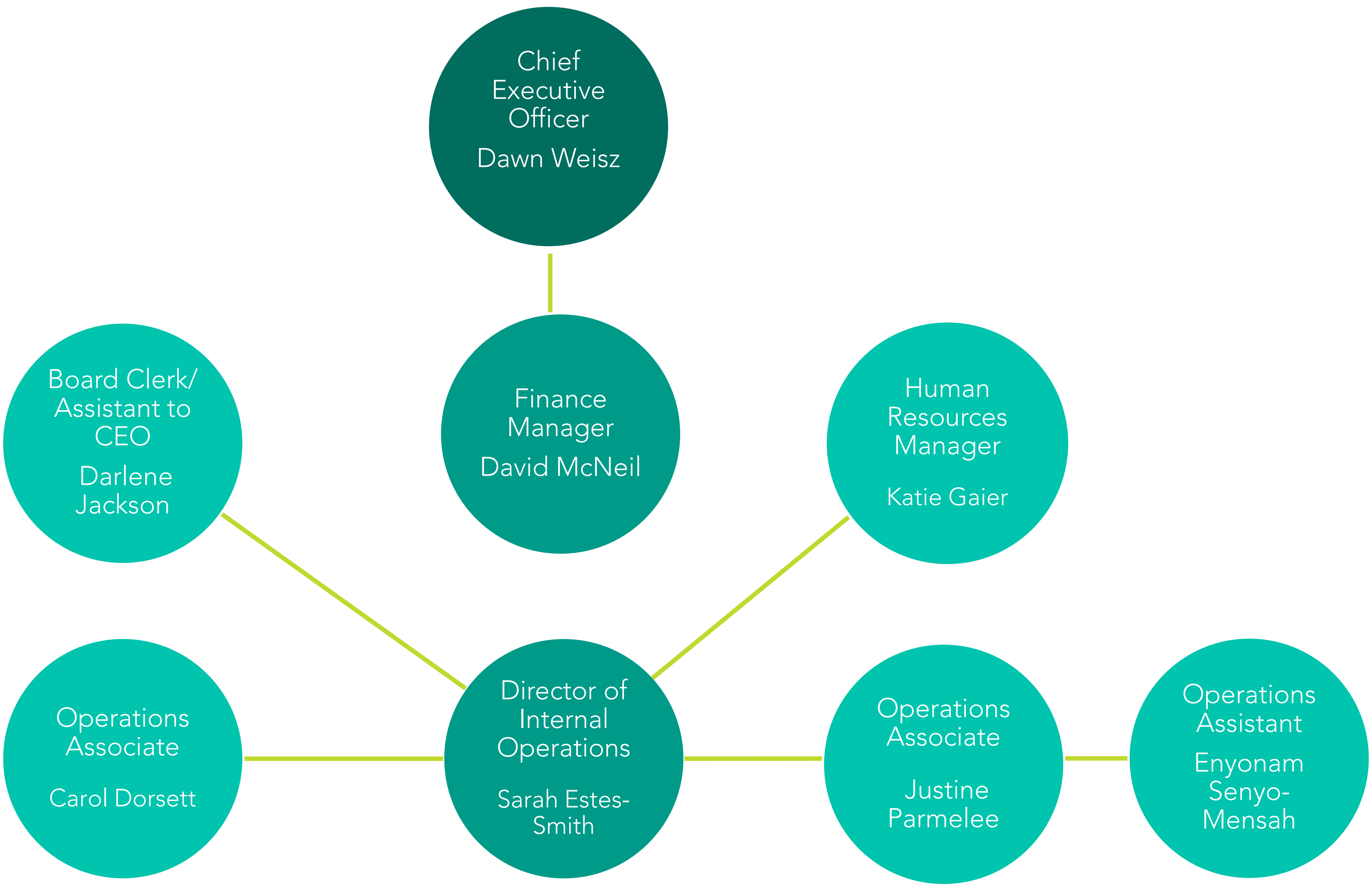
B. **<u>Attachment-A, Question C.9</u>**

"Using a common budget template developed in consultation with interested stakeholders (hopefully agreed upon at a "meet and confer" session), display how much of each year's budget each PA anticipates spending "in-house" (e.g., for administration, non-outsourced direct implementation, other non-incentive costs, marketing), by sector and by cross-cutting program."

- TURN and ORA invite the PAs to propose a common table format for this information. We don't have anything specific in mind.
- Additionally, include a brief description of the method used by the PA to estimate the costs presented in the C.9 Table.

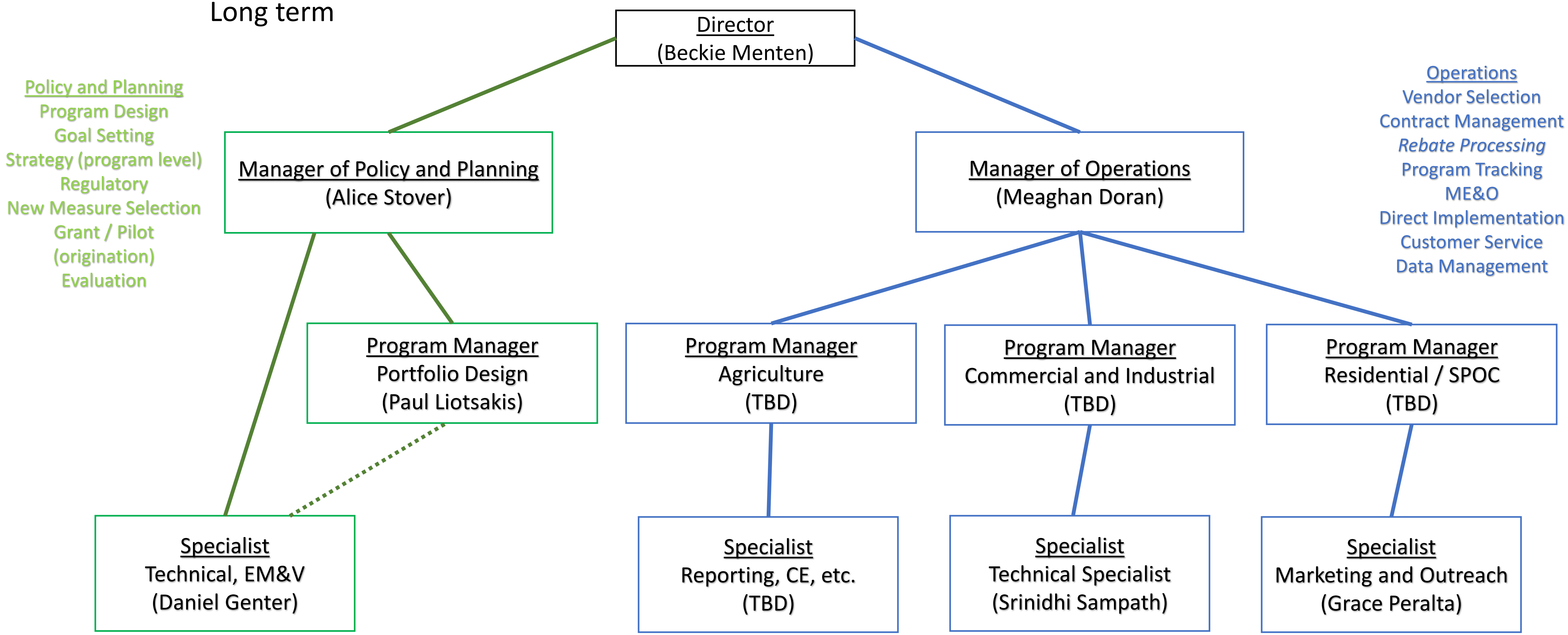
Attachment C:
Departmental Organizational Charts

Administration and Internal Operations Team



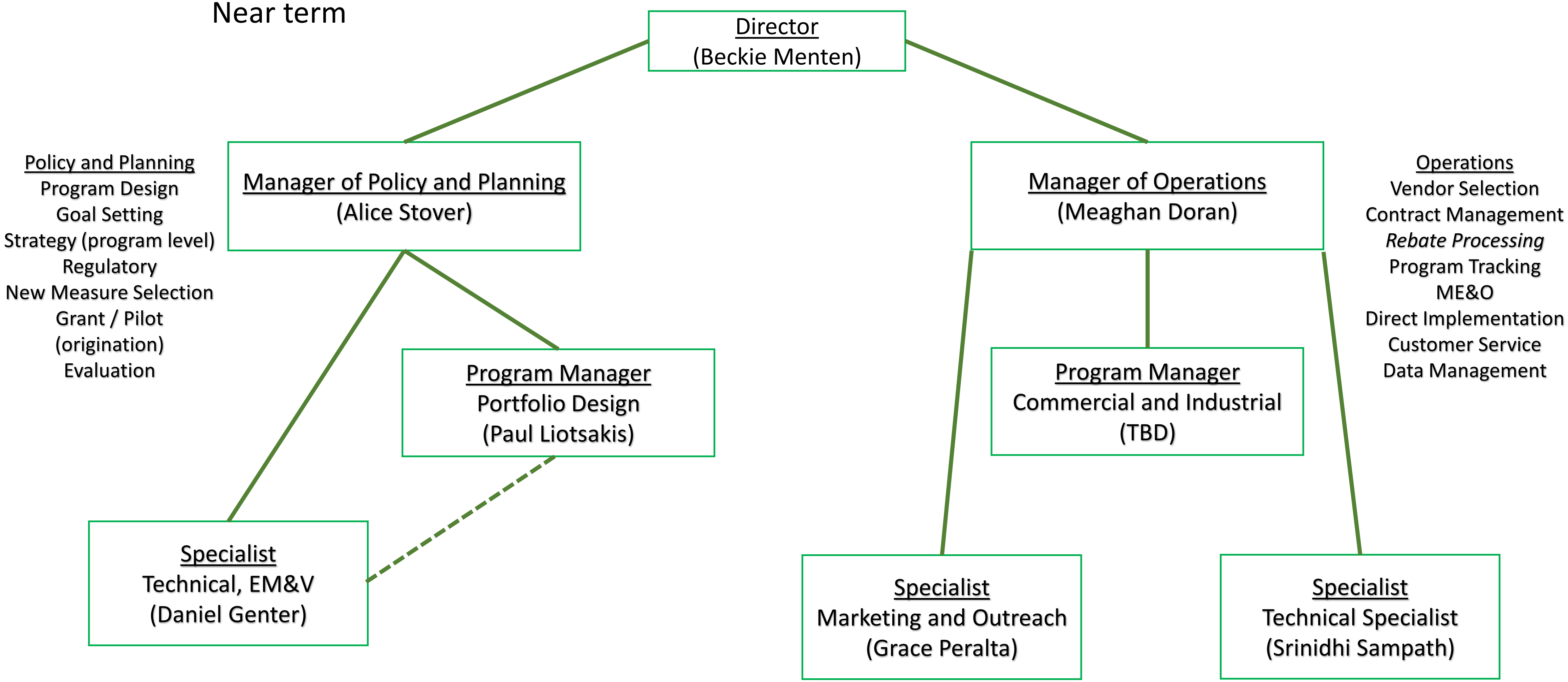
Revised 3/23/17

MCE's CP Team: Organizational Chart
Long term

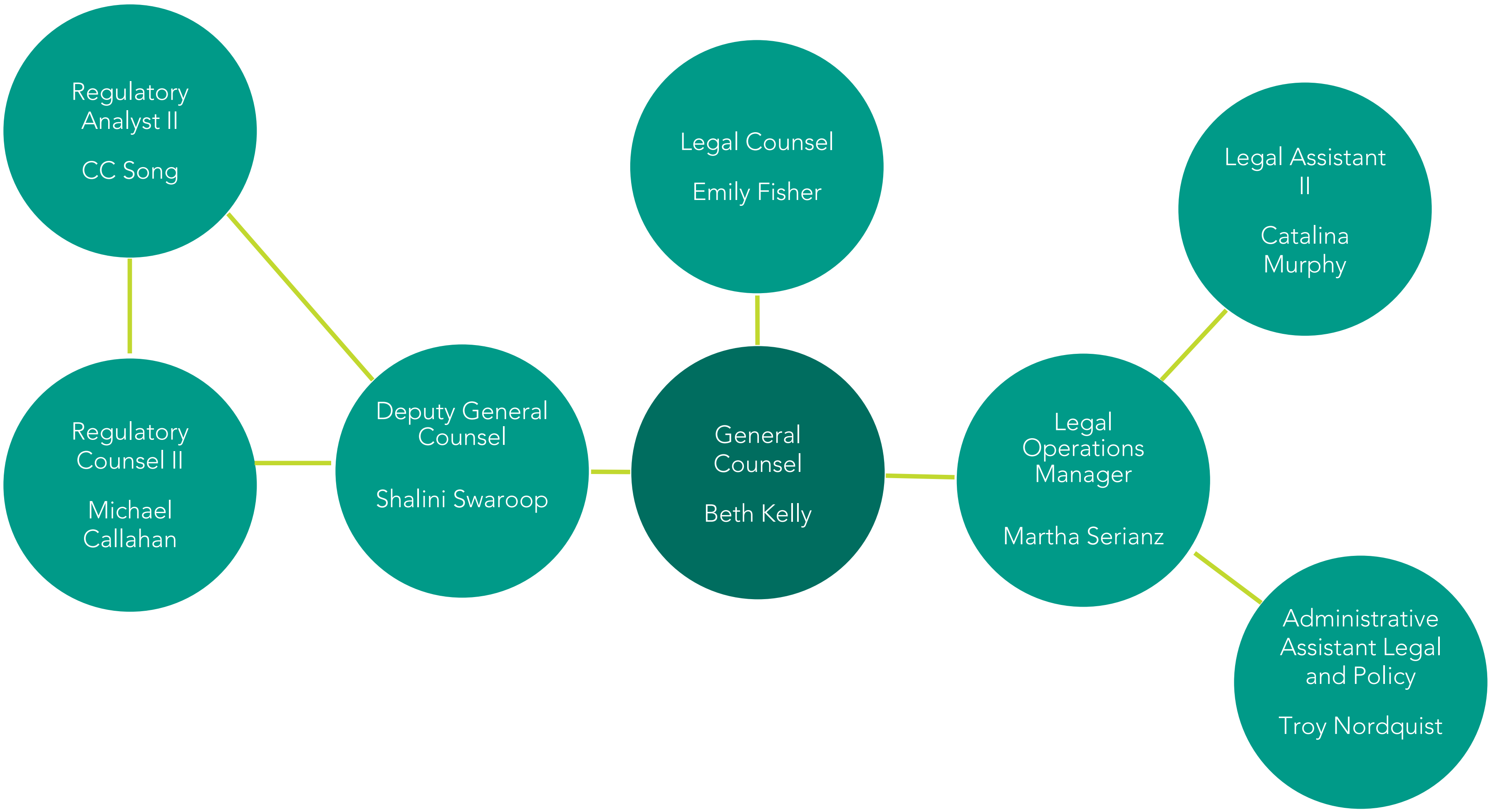


MCE's CP Team: Organizational Chart

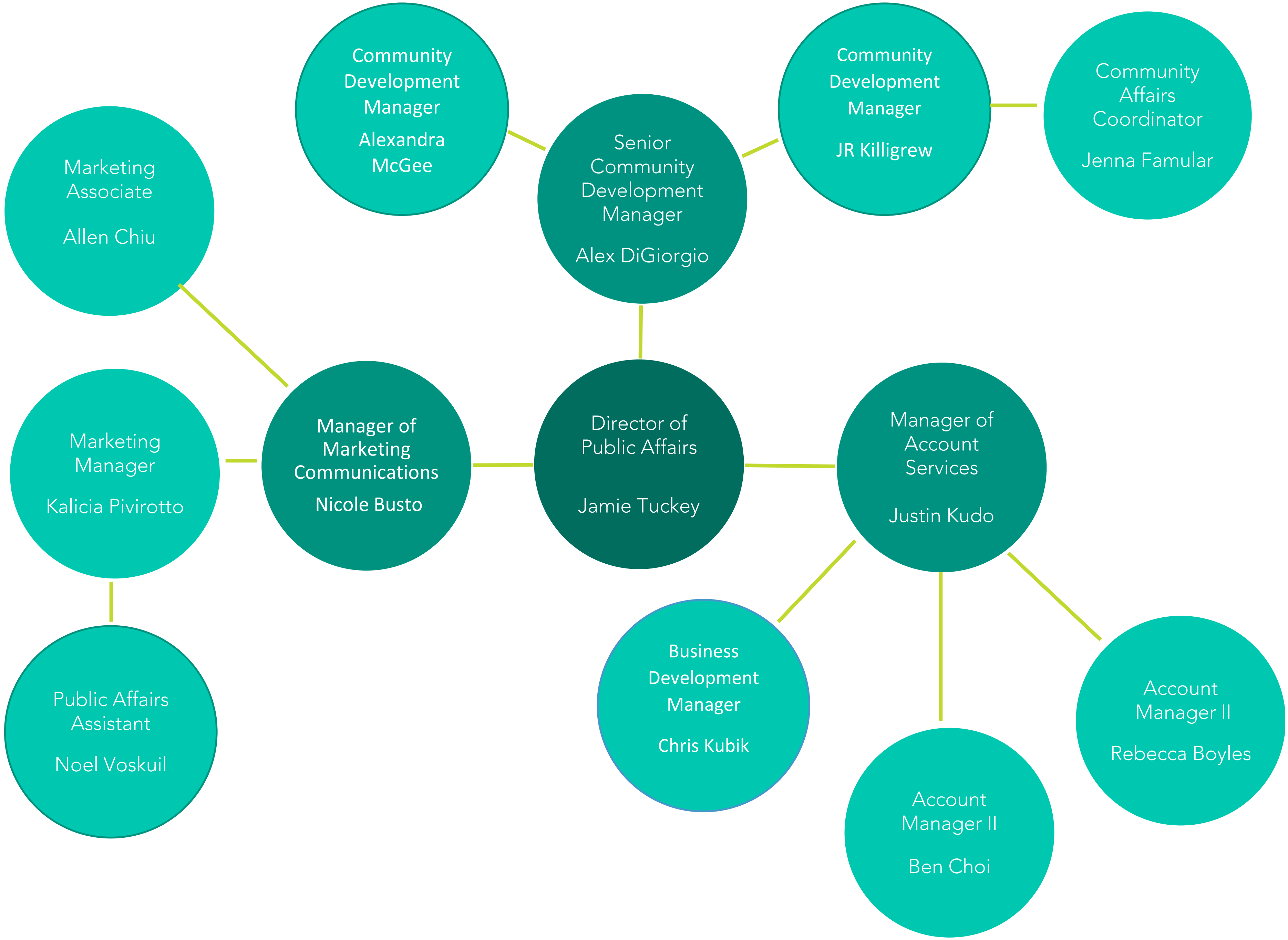
Near term



Legal & Regulatory Team



Public Affairs Team



Revised 3/23/17

CalCCA
California Community
Choice Association

June 16, 2017

CPUC Energy Division
Attention: Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, CA 94102-3298
E-mail: EDTariffUnit@cpuc.ca.gov

Russell G. Worden
Managing Director, State Regulatory Operations
Southern California Edison Company
8631 Rush Street
Rosemead, California 91770
E-mail: AdviceTariffManager@sce.com

Re: Comments of the County of Los Angeles and California Community Choice Association (CalCCA) to Draft Resolution E-4851 approving Southern California Edison Company's ("SCE") Advice Letter 3562-E seeking approval of Submission of the Maverick Solar, LLC Contract for Procurement of Renewable Energy From SCE's 2015 Renewables Portfolio Standard Solicitation

As allowed under Rule 14.5 of the Commission's Rules of Practice and Procedure, [1] the County of Los Angeles ("LA County") and CalCCA[2] (collectively the "CCA parties") urge the Commission to reject the proposed contract with Maverick Solar, as it would unnecessarily increase the stranded costs borne by customers via Non-Bypassable Charges ("NBCs"). SCE does not need additional renewables to comply with the RPS mandate. A 33% RPS is required by 2020, and the CPUC website indicates that SCE will already have a 41.4% RPS under contract for 2020.[3] Moreover, as load departs in the future, SCE's existing renewable portfolio will come to constitute an increasing percentage of their total retail sales.

[1] Rule 14.5 provides that: "Any person may comment on a draft or alternate draft resolution by serving (but not filing) comments on the Commission by no later than ten days before the Commission meeting when the draft or alternate resolution is first scheduled for consideration (as indicated on the first page of the draft or alternate resolution) in accordance with the instructions accompanying the notice of the draft or alternate draft resolution in the Commission's Daily Calendar.

[2] CalCCA, the California Community Choice Association, is a trade association representing the interests of its members. CalCCA's operational members are Apple Valley Clean Energy, CleanPowerSF, Lancaster Choice Energy, MCE, Peninsula Clean Energy, Silicon Valley Clean Energy, Redwood Coast Energy Authority, and Sonoma Clean Power.

[3] CPUC Renewable Procurement Status Website. Accessed 6/12/17 at: http://www.cpuc.ca.gov/RPS_Homepage/

For example, a departure of 50% of SCE's load[4] would increase the RPS content of remaining bundled sales to 82.8% (e.g. 41.5% RPS / 50% remaining bundled sales). Thus, this proposed procurement is not needed for existing compliance, and will be even less so in the future. As SCE itself stated only a few days ago as part of a joint utility application: "California stands on the precipice of a much different energy future, a future that could shortly see the vast majority of the Joint Utilities' electric customers depart to alternative retail choice providers."(emphasis added)[5]

In the Commission's Staff White Paper ("White Paper") titled *Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework*, Commission staff estimate that as much as 25% of Investor Owned Utility ("IOU") retail electric load will be served by non-IOU sources within the next year.[6] In addition, the White Paper acknowledges estimates that over 85% of retail load will be served by non-IOU sources by the mid-2020s.

Given this dramatic and imminent load departure, the CCA Parties find extension of the Maverick Contract both irresponsible and damaging to all customers. The extension of the Maverick Contract will unfairly disadvantage customers in areas where significant CCA formation activities are taking place. Notably, SCE submitted its advice letter request after SCE began communicating with the Commission about the significant departure of CCA customer load.[7] Such a contract extension represents an avoidable increase to the already growing stranded assets within SCE's power portfolio.

The substantial size and duration of the proposed contract extension make it even more imperative that the Commission reject the request put forth in AL 3562-E. The proposed extension represents a 15-year commitment to purchase output from a 125-MW solar resource, an estimated 406,000 MWh/year of power. Yet SCE will need to downsize its portfolio within the next year rather than expand it, since a signification portion of the load will be served by at least one emerging CCA.

The Commission should either reject Draft Resolution E-4851 or ensure that the power costs associated with the Maverick Solar Contract are not included in any future NBCs. Approval of this contract will result in additional stranded assets in SCE's power portfolio that will unnecessarily increase the financial burden on *all* ratepayers. This resource is not needed given SCE's current RPS portfolio and expected generation load reduction from proposed CCAs (Los Angeles Community Choice Energy, Western Riverside Council of Governments, Pico Rivera and Coachella Valley Council of Governments) in Edison's service territory.

Instead, the Commission should direct SCE to utilize the forthcoming IRP process to determine the need for renewable resource procurement, whether they be new resources or extensions of existing contracts. Additionally, evaluation of the need for renewable resource procurement should be based on realistic forecasts of departing load that even Edison admits will happen. Approval of the Maverick Solar

[4] An assumed departure of 50% of SCE's load is roughly the mid-point between estimates provided by CPUC staff in its White Paper for 2020 (25%) and the mid-2020s (85%).

[5] Joint Reply of Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company to Protests and Responses in A.17-04-018, p. 2, filed June 9, 2017.

[6] CPUC White Paper, "Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework", May 2017. Accessed 6/9/2017 at: http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/News_Room/News_and_Updates/Retail%20Choice%20White%20Paper%205%208%2017.pdf

[7] The IOUs began aggressively communicating with the Commission about CCA load departure in January 2017 and SCE submitted its advice letter for the Maverick Solar Project in February 2017.

project, first conceived under forecasts of Edison load that are no longer realistic, should not be granted. Such approval will only result in over-procurement by SCE, and increased rates for all SCE ratepayers.

Respectfully Submitted,

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cc: Commissioners
Southern California Edison

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of the Retirement of Diablo Canyon Power Plan Implementation of the Joint Proposal, And Recovery of Associated Costs Through Proposed Ratemaking Mechanisms (U39E).	Application 16-08-006

REPLY BRIEF OF THE JOINT OPPONENTS

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June 16, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of the Retirement of Diablo Canyon Power Plan Implementation of the Joint Proposal, And Recovery of Associated Costs Through Proposed Ratemaking Mechanisms (U39E).	Application 16-08-006

REPLY BRIEF OF THE JOINT OPPONENTS

This reply brief is submitted pursuant to Rule 13.11 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure and the schedule set by the Administrative Law Judge's Ruling on May 19, 2017. The Joint Opponents[1] submit this joint reply brief. The Joint Opponents are: the Alliance for Retail Energy Markets,[2] the California Clean DG Coalition,[3] California Community Choice Association,[4] California Large Energy Consumers Association,[5] the Direct Access

1 Joint Opponents are a subset of the Joint Intervenors. For a list of Joint Intervenors, see Ex. Joint-1 at 1. The Joint Opponents authorized Marin Clean Energy's (MCE's) counsel to submit this filing for them.

2 The Alliance for Retail Energy Markets (AReM) is a California non-profit mutual benefit corporation formed by electric service providers active in California's direct access market.

3 The California Clean DG Coalition (CCDC) is an ad hoc group interested in promoting the ability of distributed generation (DG) system manufacturers, distributors, marketers and investors, and electric customers to deploy DG. Its members represent a variety of DG technologies.

4 California Community Choice Association (CalCCA) is a California nonprofit organization formed in June 2016 that represents the statewide interests of California's Community Choice Aggregation (CCA) programs in regulatory and legislative matters. CalCCA is comprised of eight voting members, which include the existing CCA programs in California – Apple Valley Choice Energy, CleanPowerSF, Lancaster Choice Energy, Marin Clean Energy, Peninsula Clean Energy, Redwood Coast Energy Authority, Silicon Valley Clean Energy, and Sonoma Clean Power. CalCCA's affiliate members include Central Coast Power (counties of San Luis Obispo, Santa Barbara and Ventura); the cities of Corona, Davis, Hermosa Beach, and San Jose; Placer County; and Los Angeles County.

5 The California Large Energy Consumers Association (CLECA) is an ad hoc organization of large, high load factor industrial customers of Southern California Edison Company and

Customer Coalition,[6] the Energy Users Forum,[7] Marin Clean Energy,[8] Peninsula Clean Energy Authority,[9] Silicon Valley Clean Energy Authority,[10] and Sonoma Clean Power Authority.[11]

INTRODUCTION AND EXECUTIVE SUMMARY

Joint Opponents respond to the opening briefs of Pacific Gas & Electric Company (PG&E), the Natural Resources Defense Council (NRDC), the Independent Energy Producers Association (IEP), the Center for Energy Efficiency and Renewable Technology (CEERT), and the Future Grid Coalition (FGC). These parties seek approval of procurement that is not supported by the record and not needed; the resulting imposition of ratepayer costs would not be just or reasonable. No approval of replacement procurement should be granted in this proceeding and PG&E's request for adoption of a policy directive to the Integrated Resources Plan (IRP) proceeding should be rejected for the following reasons:

Pacific Gas and Electric Company; the members are in the cement, steel, industrial gas, pipeline, beverage and mining industries. CLECA has been an active participant in Commission regulatory proceedings since 1987.

6 The Direct Access Customer Coalition (DACC) is a regulatory alliance of educational, commercial, industrial and governmental customers who have opted for direct access service for some or all their electrical loads. In the aggregate, DACC member companies represent over 1,900 megawatts (MW) of demand that is met by both direct access and bundled utility service and about 11,500 gigawatt hours (GWh) of statewide annual usage.

7 The Energy Users Forum (EUF) is an ad hoc coalition that represents the interests of medium and large bundled service and Direct Access (DA) customers in California, primarily taking service on rate schedules for accounts with demands above approximately 50 kW.

8 MCE is the first operating CCA in California. MCE provides retail electric service to approximately 255,000 customer accounts. MCE also serves as a Commission-authorized energy efficiency program administrator.

9 Peninsula Clean Energy Authority is a CCA that supplies electricity to approximately 300,000 customers in all 20 cities and the unincorporated portions of San Mateo County.

10 Silicon Valley Clean Energy Authority is a joint powers authority formed in 2016 to implement a CCA program for electric customers within the jurisdictional boundaries of its members, which include the County of Santa Clara and eleven cities within the county.

11 Sonoma Clean Power Authority, the second operating CCA in California, provides service to approximately 230,000 accounts in Sonoma and Mendocino Counties.

1. The need assessment for additional resources is uncertain and deficient.
2. PG&E has not provided adequate ratepayer protections to justify the commitment of $1.3 billion for Tranche 1.
3. Additional energy efficiency (EE) can be procured through a subsequent business plan filing and early procurement of EE is not necessary.
4. Tranche 1 violates California law by depriving CCAs of the right to elect to administer nonbypassable charges collected from their customers.
5. The requested policy directive to the IRP proceeding is unnecessary.
6. PG&E may use the unjustified policy directive to shift costs of its own new renewables procurement to its competitors.
7. Future Grid Coalition's proposal for a narrower, more focused scoping of EE to just existing commercial buildings with EE meters may have merit, but there is insufficient record evidence for its approval here; it should be raised and considered in the ongoing EE Business Plan proceeding.
8. IEP and CEERT's proposals for approval of renewable procurement in this docket should be rejected, as the need has not been proven and the proposals not sufficiently supported by the record; however, if approved, cost recovery should be limited to existing mechanisms from bundled customers.

Based on the record, additional procurement and the policy directive should be rejected.

I. Issue 2.1: Retirement of Diablo Canyon -not addressed

II. Issue 2.2: Proposed Replacement Procurement Should Be Rejected

Any potential replacement procurement does not need to be addressed in this proceeding. In its opening brief, PG&E states that:

> Based on the current schedule for the IRP proceeding, PG&E and the other Joint Parties believe that there is sufficient time to determine the need, hold solicitations on the same schedule for procurement and develop replacement resources prior to the expiration of the NRC operating licenses for Diablo Canyon.[12]

[12] PG&E Opening Brief at 36.

The Joint Opponents agree with this statement. The Commission should rely on PG&E's statement and have any potential replacement procurement be addressed in the IRP proceeding.

A. PG&E's Tranche 1 Proposal is Factually and Legally Flawed and Should be Denied

i. PG&E's Need Assessment Should Not be Relied Upon Due to Significant Uncertainty

PG&E claims Tranche 1 is needed to replace Diablo Canyon.[13] Proponents claim that Tranche 1 will merely replace on a small portion of the output of Diablo Canyon because it represents only 13%[14] (or approximately one ninth) of the output.[15] However, PG&E acknowledges there is "significant uncertainty" in the projection of need for replacement energy.[16] Further, PG&E clarified that it is not seeking Commission adoption of its need analysis.[17] Additionally, with PG&E customers departing retail electricity service for CCAs, it is not clear that there will be any need to replace the power generated at Diablo Canyon.[18] Therefore, the premise upon which PG&E's request is made—namely, that more procurement is needed to replace Diablo Canyon's output—is fundamentally flawed.

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13 PG&E Opening Brief at 23.
14 PG&E Opening Brief at 29.
15 NRDC Opening Brief at 4-5.
16 Ex. PG&E-1 at 2-9, lines 11-12.
17 Ex. PG&E-5 at 2-14; *see also* Vol. 3 Tr. 423-424 (PG&E/Frazier-Hampton) (acknowledging that the proper forum for a needs analysis is the IRP).
18 Ex. MCE-1, at 10 ("It is certainly possible that there is no need at all to replace the generation that will be lost when PG&E closes Diablo Canyon.…[D]iscontinued operation of the facility, from an operational perspective, is likely a solution to PG&E's declining energy requirements in and of itself.").

PG&E's own estimates project that the output of resources curtailed due to the baseload operation of Diablo Canyon range from 850 GWh to 3,500 GWh annually.[19] This range represents additional replacement power comprising 6%-23% of Diablo Canyon's output.[20] These curtailed resources can replace the 13% of Diablo Canyon output proposed in Tranche 1.[21] PG&E has failed to prove at the outset that any replacement procurement is required from the retirement of Diablo Canyon. Therefore, the Commission should not authorize Tranche 1 in this proceeding due to significant flaws in the need assessment.

ii. PG&E Overstates its Commitments to Ratepayer Protections

PG&E claims it agreed to provide the Total Resource Cost ("TRC") test results for winning EE bids.[22] However, the testimony PG&E cites does not include such a commitment. PG&E simply posits that "the TRC test *could* be submitted to the Commission…."[23] Even if PG&E voluntarily provided this information, the Commission separately requires PG&E to achieve a 1.25 TRC ratio on a portfolio basis for EE programs.[24] Simply reporting the TRC for each implementer is a considerably weaker cost-effectiveness ratepayer protection than achieving a 1.25 TRC ratio on a portfolio

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19 Vol. 4 Tr. 528, lines 9-19 (PG&E/Strauss).

20 These percentages were calculated based on 2,000 GWh equaling 13% of Diablo Canyon output.

21 While PG&E is not asking for Commission adoption of its estimated avoided curtailment, some amount of avoided curtailment should result from Diablo Canyon's closure, unless resources with similar baseload operating profiles are procured to replace Diablo Canyon. *See* Vol. 3 Tr. 425 (PG&E/Frazier-Hampton)(PG&E is not "requesting that the Commission formally adopt any range of potential RPS eligible curtailment benefits").

22 PG&E Opening Brief at 28.

23 Ex. PG&E 5-1 at 2-50, lines 5-6 (*emphasis added*).

24 *See* D.12-11-015 at 18 (stating TRC test conducted on a portfolio basis for all utilities); *see also* D.14-10-046 at 109 (stating TRC requirement is 1.25 after 2015).

level. It is inconsistent with current Commission requirements and clearly not a commitment.

PG&E claims to have agreed to reporting EE savings on a gross and net basis.[25] Again, the testimony PG&E cites does not include any such commitment; it simply states a willingness to report both gross and net savings while indicating a hesitation to report net based on increased costs of reporting.[26] This is far from a firm commitment.

PG&E claims to have articulated a "solid framework" for the solicitation process.[27] However, the solicitation process is not final, and is proposed to be finalized by PG&E in discussion with a procurement review group.[28] Considering the significant issues related to the procurement of $1.3 billion of EE in Tranche 1, the lack of firm details on the solicitation process presents a significant risk to ratepayers. The Commission should not require ratepayers to make a $1.3 billion commitment now based upon such an ambiguous and incomplete solicitation processes outline.

Lastly, PG&E has not provided adequate ratepayer protections in the event the Tranche 1 solicitations are unsuccessful. PG&E and NRDC claim that harm to ratepayers is minimal because PG&E will return unspent funds if the competitive solicitations are not successful.[29] However, PG&E contradicts this position by maintaining the ability to propose utility programs to spend the remaining Tranche 1 funds at its own discretion, whether or not the competitive solicitations are

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[25] PG&E Opening Brief at 28.

[26] Ex. PG&E-5-1 at 2-51, lines 11-16.

[27] PG&E Opening Brief at 25.

[28] *See* Ex. MCE-2 (stating PG&E's RFO has not yet been developed and PG&E plans to develop the RFO after approval of the application in consultation with the procurement review group).

[29] PG&E Opening Brief at 33; NRDC Opening Brief at 6.

unsuccessful.[30] Additionally, PG&E returning unspent funds to ratepayers in the future does nothing to remedy the harm from funds already spent on failed solicitations. Tranche 1 should be rejected because the risk to ratepayers is substantial even if the solicitations fail.

iii. PG&E Can Request EE to Replace Diablo Canyon in a Business Plan without Delaying the EE Proceeding

PG&E and NRDC claim that requesting EE to replace Diablo Canyon in a Business Plan, the process all other EE Program Administrators ("PAs") are required to comply with, will delay the Business Plan proceeding.[31] However, PG&E can easily incorporate the request for additional EE to replace Diablo Canyon in the subsequent business plan filing, as indicated below.

A recent ruling in the Business Plan proceeding indicates a final decision is planned for a Commission vote between December 2017 and February 2018, depending on whether hearings and additional testimony are needed.[32] By November 1, 2017, the California Energy Commission will provide updated EE goals based on the doubling called for in Senate Bill 350.[33] The Commission articulated triggering events for PAs to file new business plans, including updates to meet savings goals.[34] Due to the revised savings goals mandated by statute, it is clearly anticipated that PAs will need to update business plans shortly after they are first approved. To the extent the Commission concludes this proposal should move forward, PG&E simply can

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30 Vol. 5 Tr. 681-683 (PG&E/Berman).
31 PG&E Opening Brief at 32; NRDC Opening Brief at 8.
32 Administrative Law Judges' Ruling Modifying Schedule, A.17-01-013 et. al (filed June 09, 2017) at 8-9.
33 D.15-10-028 at 31.
34 D.15-10-028 at 57.

incorporate any additional EE levels to replace Diablo Canyon in that subsequent business plan update without delaying the Business Plan proceeding.

iv. The Early Procurement of EE is Not Necessary

PG&E and NRDC advocate for early procurement of EE, claiming that the long time horizon is required to allow winning bidders to install measures prior to Diablo Canyon retirement.[35] However, this need for advanced work is greatly overstated. PG&E's general EE programs have traditionally operated on two year program cycles[36] and have been able to exceed the assigned goals by PG&E's own analysis.[37] There is no cogent argument as to why it is necessary to begin procurement seven years before Diablo Canyon goes offline; rather, the proposal is premature and unnecessary.

v. PG&E's Proposal Violates the CCA Right to Administer Funds that are Collected from its Customers

PG&E's Tranche 1 proposal is unlawful because it violates the CCA right to administer funds collected from its customers.[38] CCAs may elect to administer funds collected from their customers through a nonbypassable charge for EE programs.[39] There is an exception; CCAs cannot elect to administer funds collected for statewide and regional programs.[40] The Commission interpreted the exception in a decision where it adopted definitions for Regional Programs and Statewide Programs.[41]

Regional Programs are "offered to all eligible customers throughout an individual

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35 PG&E Opening Brief at 29; NRDC Opening Brief at 7.
36 *See e.g.* D.12-11-015 (decision approving 2010 to 2012 EE portfolios and budgets); *see also* D.14-10-046 (decision approving 2013 to 2014 EE programs and budgets).
37 PG&E Opening Brief at 33.
38 City and County of San Francisco (CCSF) Opening Brief at 18-21.
39 Cal. Pub. Util. Code § 381.1(e).
40 Cal. Pub. Util. Code § 381.1(e).
41 D.14-01-033 at 25-26.

IOU's service territory…. This does not include any programs that are offered only in a geographic subset of an IOU territory."[42] PG&E has stated that Tranche 1 applies to PG&E's entire service area.[43] However, PG&E also stated it would select offers by location until the potential for that location is saturated.[44] These are not Regional Programs because they are associated with specific locations within PG&E's service area and are not offered to all eligible customers throughout PG&E's service area. For this reason, the proposed Tranche 1 EE programs do not fall under the exception for Regional Programs.

Statewide Programs "are offered throughout the four IOU service territories on a generally consistent basis."[45] The Commission recently modified the definition of Statewide Programs to be led by a single program administrator for the entire state.[46] The Tranche 1 EE programs are only proposed to be administered in PG&E's service area.[47] They are not Statewide Programs because they are not offered in each of the four IOU service territories. Here too, the proposed Tranche 1 EE programs cannot be subject to the exception because they are not Statewide Programs.

CCAs have a right to administer the funds collected for Tranche 1 because the proposed programs are not subject to the regional and statewide programs exception. PG&E's proposal denies that right.[48] As a result, PG&E's proposed Tranche 1 violates California law and should not be authorized.

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42 D.14-01-033 at 25.
43 PG&E Opening Brief at 73.
44 Ex. PG&E-1 at 4-6, lines 26-31.
45 D.14-01-033 at 25.
46 D.16-08-019, Ordering Paragraph 5 at 109-110.
47 PG&E Opening Brief at 25.
48 CCSF Opening Brief at 19-20.

B. A Policy Directive to the IRP Proceeding is Not Necessary

PG&E requests the Commission provide a policy directive to the IRP proceeding that Diablo Canyon should be replaced with GHG-free resources.[49] The stated objective of this policy is to frame the consideration of Diablo Canyon replacement in the IRP proceeding.[50] The request is vague because it calls for a policy requiring GHG-free resources without including a definition of GHG-free resources.[51]

The policy directive is not necessary. The IRP proceeding will consider the needs of the entire grid, which will involve consideration of the Diablo Canyon closure.[52] As discussed above, the "need" to replace Diablo Canyon remains an open question[53] – one to be answered in the IRP.[54] Indeed, the utility is not even asking for approval for a determination of need here;[55] its analysis is for "information" only.[56] Additionally, Northern California CCAs procure substantial GHG-free resources relative to PG&E and beyond state requirements.[57] The increase in GHG-free supply resulting from CCAs

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49 PG&E Opening Brief at 36-37.

50 PG&E Opening Brief at 36.

51 PG&E Opening Brief at 35; NRDC Opening Brief at 4.

52 Vol. 2 Tr. 238 (PG&E/Frazier-Hampton)("It is my understanding that in the scenarios that have been identified, Diablo Canyon is not considered to be operating in those scenarios."); *see also* Administrative Law Judge's Ruling Seeking Comment on Staff Proposal on Process for Integrated Resource Planning, R.16-02-007 (filed May 16, 2017), Attachment: Proposal for Implementing Integrated Resource Planning at the CPUC, Appendix B at 18 (stating Diablo Canyon is assumed to retire between 2024 and 2025).

53 Ex. MCE-1, at 10 ("It is certainly possible that there is no need at all to replace the generation that will be lost when PG&E closes Diablo Canyon.… [D]iscontinued operation of the facility, from an operational perspective, is likely a solution to PG&E's declining energy requirements in and of itself.").

54 Vol. 3 Tr. 423-424 (PG&E/Frazier-Hampton)(acknowledging that the proper forum for a needs analysis is the IRP).

55 Ex. PG&E-5 at 2-14; *see also* Vol. 3 Tr. 423-424 (PG&E/Frazier-Hampton).

56 Vol. 2 Tr. 236 (PG&E/Frazier-Hampton)("The purpose of the need analysis was to provide information").

57 Ex. MCE-1 at 11-13.

mitigates the potential harm from closing Diablo Canyon.[58] There is no clear need to direct any policies to the IRP proceeding.

PG&E may use the unjustified policy directive to shift costs of its own new renewables procurement to its competitors. At the outset of this proceeding, PG&E proposed additional procurement with associated cost allocation to other load serving entities.[59] Part of PG&E's requested policy directive is that the IRP proceeding determine the "responsibility for" the replacement power.[60] It is possible PG&E could use the requested policy directive to justify assignment of its own costs to other LSEs in the IRP proceeding. The Commission should not pre-judge the policies governing any potential replacement resources for this specific resource. Instead, the Commission itself should consider and propose procurement policies in the IRP proceeding based upon its role articulated in SB 350 (2015).

C. Future Grid Coalition's Proposal, Like PG&E's Tranche 1 Proposal, Lacks Necessary Detail and Evidentiary Support; It Should Not Be Adopted Here

Future Grid Coalition proposes a narrower Tranche 1 focused solely on EE for existing commercial building stock for $204 million/year.[61] This proposal is interesting, novel, and worthy of consideration in the ongoing EE Business Plan proceeding. However, it suffers from flaws similar to PG&E's Tranche 1 proposal: it is insufficiently developed and lacks necessary evidentiary support for an investment of ratepayer dollars of this magnitude. For example, the specifications of the automated

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58 Ex. MCE-1 at 13-15.

59 *See e.g.* A.16-08-006 at 12 (summarizing Tranche 2, Tranche 3, and the Clean Energy Charge).

60 PG&E Opening Brief at 4.

61 Future Grid Coalition Opening Brief at 2. Future Grid Coalition also refers to replacing Diablo Canyon's capacity with its proposed energy efficiency measures, as opposed to energy.

measurement and verification are to be developed at a later date by an unspecified panel of experts.[62] There is scant evidence in this proceeding on how, where or by when the Commission would need to develop a pre-certification process for metering technology.[63] The Joint Opponents, while intrigued by this proposal, do not support its adoption here. It is not supported by sufficient record evidence, and the resulting imposition of $204 million/year in costs on ratepayers would not be just or reasonable.

Pay-for-performance EE in existing commercial buildings, with performance based on metered savings, should be explored and developed in the EE Business Plan proceeding. As noted above, it is expected that the Business Plans will be updated over the next year or so; moreover, there will be ongoing EE solicitations over the next several years as part of that proceeding.[64] Additional time could enable the needed development of this proposal in an EE-specific setting.

D. Additional Renewable Procurement Requested by IEP and CEERT Lacks a Determination of Need and Record Support and Should Be Denied

IEP and CEERT request approval in this proceeding for procurement of renewable resources to replace Diablo Canyon.[65] These requests should be denied as they rest on an unsubstantiated assumption that replacement procurement is needed.[66] Notably, PG&E states "Considering all of the factors together under a full

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[62] Future Grid Coalition Opening Brief at 12.

[63] Future Grid Coalition Opening Brief at 10.

[64] Ex. Joint-1 at 17-19; *see also* Ex. TURN X1 at 35 ("PG&E plans to establish a rolling cadence to solicitation opportunities. In 2017, 2018, and 2019, PG&E will run a number of solicitations by sector…").

[65] IEP Opening Brief at 7, 11; *see also* CEERT Opening Brief at 16.

[66] CEERT Opening Brief at 16 ("Tranche 2 involves a modest procurement that is well within the most conservative forecast of PG&E's bundled customer [need] in the absence of Diablo Canyon, with its costs, in turn, capable of recovery through existing ratemaking

range of planning assumptions, PG&E has reasonably concluded that Diablo Canyon is not needed for its bundled customer following expiration of its current NRC operating licenses."[67] If Diablo Canyon is not needed, replacement energy procurement may not be needed either.[68] For costs to be recoverable in rates, and the rates to be just and reasonable, Commission approval of procurement must ***first*** be based on an identification of a need by the Commission for its jurisdictional load serving entities.[69] Pursuant to California Public Utilities Code §454.5, the procurement must be undertaken "to fulfill its unmet resource needs."[70] Arguments that the portfolio must be "diverse and balanced"[71] or that procurement sooner rather than later will be less expensive[72] fail due to the lack a prerequisite: a determination of need. Indeed, approval of a need determination is not even being requested here.[73] As detailed above, the question of need for replacement energy procurement is best determined in the IRP.[74]

Concern over the delay in the IRP schedule[75] should be assuaged by the undeniable fact that there are many years before Diablo Canyon retires in 2024-2025. For a potential solicitation in 2020 for replacement energy resources, PG&E witness

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mechanisms."); *see also* IEP Opening Brief at 7 (referring to procurement of a "fraction of the resources needed to replace Diablo Canyon's output").

67 PG&E Opening Brief, at 18.

68 Ex. MCE-1, at 10.

69 See, generally, D. 13-02-015.

70 Cal. Pub. Util. Code Section 454.5(b)(9)(A).

71 CEERT Opening Brief at 17-20.

72 IEP Opening Brief at 8-11.

73 Ex. PG&E-5 at 2-14.

74 Vol. 3 Tr. 423-424 (PG&E/Frazier-Hampton)(acknowledging that the proper forum for a needs analysis is the IRP); *see also* Joint Opponents Opening Brief at 2-3; *see also* City and County of San Francisco Opening Brief at 1-2; *see also* Office of Ratepayer Advocates Opening Brief at 4-5; *see also* Opening Brief of Shell Energy North America, at 1; *see also* Energy Producers and Users Opening Brief at 2; *see also* Opening Brief of EDF at 5.

75 CEERT Opening Brief at 16-17.

Malnight testified "that's a timeframe that can still be met by the IRP."[76] Regardless of the delayed schedule, the IRP remains the best forum for a determination of need and replacement procurement.

The substantial opposition to Tranches 2 and 3[77] and PG&E's withdrawal of its testimony on those tranches and the related cost recovery mechanism result in substantial evidence against approval of renewables procurement here in light of the whole record.[78] Neither IEP nor CEERT provide a compelling basis for a Commission determination of need here, as opposed to addressing the question more holistically in the IRP. Since the demonstration of need for the requested procurement is lacking, any costs imposed on ratepayers would result in rates that are not just and reasonable.

Finally, IEP provides no proposal for cost recovery for the replacement resources. If the Commission were to authorize the procurement IEP recommends, which we strongly oppose, the cost recovery should be traditional cost recovery from bundled customers, as suggested by CEERT.[79] Here again, however, the topic is best addressed in the IRP.[80]

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76 Vol. 2 Tr. 270 (PG&E/Malnight).

77 *See* Ex. Joint-1, at 5-30; *see also* Ex. CCSF-1; *see also* Ex. SC-1 at 3-13; *see also* Ex. ORA-1, at 2; *see also* Ex. ORA-4 and Ex. ORA-5; *see also* Ex. Shell-1, at 4-9; *see also* Ex. MCE-1 at 8-15; *see also* Ex. TURN-2 and TURN-3.

78 Were the Commission to approve renewables procurement here, a reviewing court would examine the administrative record as a whole, examining not just the evidence supporting the Commission's determination, but also the evidence against the determination. *See* De la Fuente II v. FDIC, 332 F.3d 1208, 1220 (9th Cir. 2003). Here, the substantial evidence in light of the record as a whole clearly weighs against approval of Tranches 2 and 3 or any modification of them.

79 CEERT Opening Brief at 16. Other parties also opposed PG&E's proposed Clean Energy Charge. *See, e.g.*, Ex. ORA-6.

80 Vol. 2 Tr. 249-250 (PG&E/Malnight) (stating that the IRP will address issues of cost and "develop an overall plan to achieving California's clean energy goals at least cost to customers").

III. 2.3: Proposed Employee Program

Not addressed.

IV. 2.4: Proposed Community Impacts Program

Not addressed.

V. 2.5: Recovery of License Renewal Costs

Not addressed.

VI. 2.6: Proposed Ratemaking and Cost Allocation Issue

Addressed above in section II.B.

VII. 2.7: Land Use, Facilities, and Decommission

Not addressed.

CONCLUSION

PG&E, NRDC, IEP, CEERT, FGC seek approval of procurement that is not supported by the record and not needed; the resulting imposition of ratepayer costs would not be just or reasonable. No approval of replacement procurement should be granted in this proceeding and PG&E's request for adoption of a policy directive to the IRP proceeding should be rejected.

Respectfully submitted,

Michael Callahan

Counsel to MCE
and on behalf of the Joint Opponents

June 16, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements.	)))))	Rulemaking 13-09-011 (Filed September 19, 2013)

RESPONSE OF MARIN CLEAN ENERGY TO QUESTIONS REGARDING IMPLEMENTATION OF THE COMPETITIVE NEUTRALITY COST CAUSATION PRINCIPLE

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June 19, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements.	Rulemaking 13-09-011 (Filed September 19, 2013)

RESPONSE OF MARIN CLEAN ENERGY
TO QUESTIONS REGARDING IMPLEMENTATION OF THE
COMPETITIVE NEUTRALITY COST CAUSATION PRINCIPLE

Pursuant to the *Administrative Law Judge's Ruling Requesting Responses to Questions Regarding the Pathways to New Models of Demand Response, Implementation of the Competitive Neutrality Cost Causation Principle, and Remaining Barriers to the Integration of Demand Response into CAISO Markets* ("Ruling"), issued on May 22, 2017, Marin Clean Energy ("MCE"), respectfully submits the following response to the questions listed in Attachment A of the Ruling regarding implementation of the competitive neutrality cost causation principle.[1] This response complies with the revised filing date of June 19, 2017 established by Administrative Law Judges Kelly A. Hymes and Nilgun Atamturk in a ruling by electronic mail on May 31, 2017.

I. Introduction and Background

MCE operates the first operational Community Choice Aggregation ("CCA") program within California. MCE's customers receive generation services from MCE, and receive transmission, distribution, billing and other services from Pacific Gas and Electric Company ("PG&E"). MCE currently provides generation service to approximately 250,000 customer accounts throughout Marin County, Napa County, and the cities of Richmond, San Pablo, El Cerrito, Benicia, Lafayette, and

[1] Ruling, Appendix A, pp. 5-6.

Walnut Creek. MCE also offers Demand Response ("DR") programs to its customers. Currently, MCE's DR offerings are limited to pilots, which utilize technologies such as controlled charging and thermostats. MCE customers also have the ability to participate in PG&E's DR programs, or directly participate in third-party programs.

MCE first proposed the concept of "competitive neutrality" in this rulemaking in 2014 as a set of foundational principles to apply to cost recovery for the DR programs of the investor-owned utilities ("IOUs").[2] In Decision ("D.") 14-12-024, the Commission adopted MCE's proposal in the form of the competitive neutrality cost allocation principle.[3] The Commission subsequently began the process to implement this principle in December 2016.[4]

MCE welcomes the opportunity to move this process forward. As MCE has noted in previous comments and workshops, the purpose of the competitive neutrality cost allocation principle is to promote fair competition among all Load-Serving Entities ("LSEs") and effectively reduce the competitive barriers CCA and other providers face in providing their own DR programs. While the utilities have endeavored to complicate and delay implementation, MCE believes that interpreting and implementing the principle defined in D.14-12-024 is and should be simple and straightforward. Below, MCE sets forth clear guidelines for adoption and urges the Commission to move swiftly and efficiently to implement the competitive neutrality cost allocation principle.

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[2] Decision 14-12-024, p. 45.
[3] D.14-12-024, Ordering Paragraph 8.
[4] *Administrative Law Judge's Ruling Scheduling December 9, 2016 Webinar and February 22, 2017 Workshop and Requiring Filing of Proposals to Implement the Competitive Neutrality Cost Allocation Principle,* R.13-09-011, December 2, 2016.

II. Responses of MCE To Questions in Ruling

1. *Provide your definition for a "similar demand response program." The definition may identify essential elements of demand response programs, such that if those essential elements are the same, the two programs can be deemed similar. These could be either specific attributes or grid impact, or both. They should be easily identifiable and/or accurately measurable. Provide justification for your definition.*

"Similar" does not mean "identical." In other words, the DR program rules, characteristics, and eligibility conditions specified for an IOU's DR program should not be required to match a particular DR program offered by a CCA in order for the CCA's program to qualify as similar.[5] Because the objective of this principle is to ensure fair competition, the Commission should interpret the "similar" requirement in D.14-12-024 in the broadest possible terms. Accordingly, MCE proposes the following guidelines for adoption by the Commission:

1. **The CCA's "similar" DR program should not be required to be offered to the *same* customer class or subset of the class as the IOU's DR program**, because a CCA may have very different customer class composition from an IOU. For example, if an IOU's DR program is offered to all customers (CCA, direct access and bundled), the CCA's "similar" program could be offered to all *CCA* customers (but not bundled or direct access customers). If an IOU's program is offered to all large Commercial and Industrial ("C&I") customers above a specified kilowatt-size, the CCA's DR program should be considered "similar" if it is offered to all or any portion of the CCA's C&I customers. This is because CCAs may not have C&I customers of the same size. Likewise, if an IOU's DR program is offered to a subset of residential customers, the CCA's DR program should be considered "similar" if it is offered to the CCA's residential customers or any particular subset of those residential customers.

[5] These same conditions would apply equally for "similar" DR programs offered by electric service providers.

2. **The CCA's "similar" DR program should not be required to use the identical hours of operation as the IOU's DR program**, because a CCA may have a different load profile from the IOU's and different energy management objectives it desires to achieve.
3. **The CCA's "similar" DR program should not be required to incorporate any of the prices or pricing elements of the IOU's DR program.** In accordance with Public Utilities Code Section 366.2(a)(5), CCAs have the ability to determine their own pricing and DR program tariffs for their "similar" DR program based on their own program design.[6] Thus, the IOUs' pricing, tariff rules and triggers should not apply when determining whether a CCA's DR program is "similar."
4. **The CCA's "similar" DR program should not be required to follow the Commission's restrictions on use of Backup Generators ("BUGs") in providing DR resources**, as this requirement was determined in a Commission decision, not required by statute.[7]
5. **The CCA's "similar" DR program should provide the *same type* of DR resource as the IOU's DR program.**
   i. If the IOUs' DR program is categorized as "Load Modifying," then the CCA's "similar" DR program must be Load Modifying and meet the applicable requirements for such DR resources.

[6] Public Utilities Code Section 366.2(a)(5): A community choice aggregator shall be solely responsible for all generation procurement activities on behalf of the community choice aggregator's customers, except where other generation procurement arrangements are expressly authorized by statute.
[7] See D.14-12-024, and modified by D.16-09-056.

ii. If the IOUs' DR program is categorized as "Supply Side," then the CCA's "similar" DR program must be Supply Side and meet the applicable requirements for such DR resources.

2. *Should the definition of "similar demand response program" include the requirement that the competing program of the direct access or community choice provider meet California clean energy policies? Why or why not? Define which policies should be included and why?*

The definition of "similar demand response program" should not include the exceedingly vague requirement that the competing program of the direct access or CCA provider meet California clean energy policies. Such an additional requirement is unnecessary. DR resources are designated as preferred resources in California[8] that meet California's clean energy policies, and are considered to be a clean energy tool to help maintain system reliability.[9] Thus, by their very nature, DR programs meet California's clean energy policies. Moreover, as MCE outlined in answer to Question 1 above, a CCA's "similar" DR program must procure the same type of DR resource as the IOU's DR program, including meeting all applicable requirements for that type of DR resource. Therefore, no additional requirements are needed to ensure that the CCA's similar DR program meets California's "clean energy policies."

In addition, MCE is concerned that adding this requirement would make the determination of "similar" less clear and subject to variable interpretation with variable outcomes. This would discourage CCAs from pursuing development of DR programs in the first instance.

MCE further points out that each of the CCAs in California were founded to expand procurement of renewables and reduce Greenhouse Gas ("GHG") emissions. So far, all these CCAs have performed above and beyond the state mandates. Many CCAs' boards, consisting of local

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[8] See, for example, *2016 IEPR Update,* California Energy Commission, February 28, 2017, pp. 8 and 99.
[9] *2017 Integrated Energy Policy Report Scoping Order*, California Energy Commission, March 6, 2017, p. 3.

elected officials, have also set more aggressive energy policy goals for their CCAs than the state requires. Therefore, the clean energy goals of California and CCAs are aligned.

3. *How should the Commission reconcile policy differences in cases where CCA procurement decisions are in conflict with or are not meeting the State's demand response goals?*

California has not established any state-mandated DR goals. Moreover, there is no evidence that any such policy differences do or would exist regarding CCA procurement of DR. Therefore, DR goals should not be factored into the determination of whether or not a particular CCA DR program is "similar."

While the Commission has approved a statewide event-based DR goal of 5 percent of peak load, it was approved as part of a joint settlement and only applies to the IOUs' DR program.[10] Application of this 5 percent DR goal to CCA programs has no statutory basis and implementing this goal would exceed the Commission's statutory authority. The Commission should allow the legislature to determine state-mandated DR goals if they are needed. Furthermore, the implementation of this goal would be problematic due to operational differences between CCAs and IOUs. For example, because the discontinuation of IOU cost recovery from CCA customers for "similar" IOU DR programs will occur on a program-by-program basis, one program could not be expected to meet the stated DR goal of 5 percent. Doing so would assign an unfair share of the responsibility for meeting the goal to one program, as well as undermine the CCA's procurement authority pursuant to Public Utilities Code Section 366.2(a)(5). In fact, MCE's 2017 Integrated Resource Plan sets a goal of 5% of its total capacity requirements met through DR programs operated directly by MCE or through utility-administered programs for which MCE customers are

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[10] See, for example, D. 14-12-024, pp. 10 and 19.

eligible.[11] Accordingly, MCE recommends that the determination of "similar" be confined to the criteria set forth in response to Question 1.

4. *Parties addressed the potential conflict of Commission policies to ensure demand response provider competition versus those policies to ensure customers have choice. How should the Commission address this conflict?*

It is premature to address this issue at this point in time, given that the DR market is still developing, the direct access market is closed to new customers, and the Commission is contemplating a new rulemaking to consider changes to California's retail energy market structure. The Commission should avoid creating new issues or providing a solution that may not fit the changing market structure in the future.

5. *Should the Commission allow ratepayer funds to implement utility billing systems in order to allow each customer to choose between a utility and a CCA?*

Changes to the utilities' billing systems are not needed to implement choice for DR programs. All customers today have the choice to sign up for a utility DR program or de-enroll from that utility's DR programs. Thus, such choice has already been implemented in the utilities' billing system. However, the difference with the competitive neutrality cost allocation principle is that the utilities must now remove the costs of their affected DR programs from the rates of the CCA and direct access customers. That functionality would likely require changes to the utilities' billing systems.

The Commission has the discretion to provide ratepayer funds to implement changes to the utilities' billing systems. The utilities should propose cost-effective options to implement this change in their billing systems as quickly, simply, and inexpensively as possible. Unfortunately, the utilities have not shown an inclination to follow this approach in implementing the necessary billing system

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[11] MCE Integrated Resource Plan, pp.33-34.

changes. In fact, the IOUs have requested "some flexibility" in removing the costs of their DR programs from direct access or CCA customers' bills.[12] This is contrary to D.14-12-024, which specified that the demand response costs be removed "no later than one year" following the implementation of the DR program by the CCA or electric service provider.[13]

6. *With respect to the potential conflict between the Commission's clean energy policies and its competitive neutrality policies, how should the Commission balance these two important matters?*

As explained above, MCE does not envision any conflict between the competitive neutrality cost allocation principle and the Commission's (or the state's) clean energy policies. The Commission's objective should be to *encourage* the pursuit of clean energy policies, including DR programs by *all LSEs*. The key rationale for adopting the competitive neutrality cost allocation principle was to foster development of non-utility DR programs by removing competitive barriers.[14] Moreover, the statutorily-based Commission energy policies already apply to all LSEs, including Resource Adequacy requirements, Renewable Portfolio Standards, Energy Storage, and Integrated Resource Planning. All of these policies, including the clean energy policies, apply to CCAs and IOU alike and do not present a conflict for DR programs.

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[12] *Joint Utilities' Proposal on Competitive Neutrality Cost Causation Principles in Response to Administrative Law Judge Hymes' December 2, 2016 Ruling*, R.13-09-011, February 17, 2017, p. 6.
[13] D.14-12-024, pp. 49-50.
[14] See discussion, D.14-12-024, pp. 48-50.

7. *Joint Utilities assert that "approximately 16% of the Joint Utilities' total retail load receives generation service from a CCA or a Direct Access Energy Service Provider (ESP). This figure has the potential to increase to about 80 percent of the Joint Utilities' total retail load." In this context, how would implementing the competitive neutrality cost causation principle enhance the State's demand response goals? Consider cases in which a CCA might offer a program, but there might not be any participation. How should/could the Commission track and monitor the demand response programs offered by CCAs and Direct Access providers? In such a potential scenario, what recourse would the Commission have to address the Demand Response resource shortfall?*

The Commission should focus on promoting competitive options, like the competitive neutrality cost allocation principle, rather than contemplating further delay in its implementation or saddling the principle with unworkable requirements. When fair competition exists, CCAs will develop their own programs tailored to their local customer needs. These program designs may help achieve broader DR success throughout the state.

In addition, the CCA has a strong incentive to determine the appropriate characteristics of the program to attract customers and operate cost effectively. Since IOUs allocate costs of many DR programs to all customers through Transmission and Distribution ("T&D") rates, those programs do not impact IOU generation rates. CCAs will fund DR programs from their own generation revenue, which will impact their generation rates. A CCA DR program performs poorly will add costs to generation rates without providing a corresponding rate benefit. This outcome would make the CCA's generation rates less competitive compared to the incumbent IOU. Thus, unlike the IOU T&D-funded DR programs, CCAs have a significant incentive to offer DR programs that customers want and that operate successfully.

Further, as discussed above, there is no state-mandated DR goal, so the concept of a shortfall does not apply. MCE sees no need for the Commission to separately track and monitor non-utility DR programs because this tracking mechanism already exists through the California Energy Commission's biennial Integrated Energy Policy Report ("IEPR") and the new Integrated Resource

Planning ("IRP") provisions being implemented in R.16-02-007. Imposing any additional requirements would create even greater cost barriers to CCAs and their customers.

8. *Should the Commission consider CCAs' long-term viability in examining their ability to achieve the state's Demand Response goals?*

As discussed above, there is no statewide DR goal established by statute and thus no DR goal applicable to CCAs. Moreover, CCAs' "long-term viability" is not relevant in any way to the task at hand – implementing, at long last, the competitive neutrality cost causation principle adopted nearly three years ago in D.14-12-024. Parties that raise such issues have the goal of undermining competition and their efforts should not be encouraged by further consideration of their proposals.

9. *How could CCAs comply with the Commission's prohibited resources requirement?*

CCAs are not obligated to comply with the Commission's prohibited resources requirement as it is not a state-mandated requirement, and at this point CCAs are not seeking Commission-approved funding for their DR programs. However, operational CCAs have thus far embraced the mission to deploy more renewable energy resources to reduce GHG emissions and prefer GHG-free resources. MCE anticipates that CCAs will administer DR programs that ensure procurement of such GHG-free resources, especially because renewable-based portfolios stand to benefit more from DR for load shaping.

10. *What is the regulatory process that should be followed to determine that a demand response program is similar and can be implemented by a CCA? Would a Tier 3 Advice Letter process that allows for comments and protests be sufficient?*

Submission of a Tier 2 Advice Letter should suffice. Once the definition of "similar" is established, Staff should have more than adequate direction to make the determination of what constitutes a "similar" CCA DR program without requiring a full Commission resolution. A simple definition for "similar" programs, as proposed above,[15] will reduce churn in the regulatory process. Please refer to MCE's March 3rd comments on this topic for more details on its proposed advice letter process.[16]

III. Conclusion

MCE appreciates the opportunity to provide its response to questions addressing implementation of the competitive neutrality cost causation principle. MCE looks forward to working with the Commission to finalize and implement the principle as quickly as possible.

Dated: June 19, 2017

Respectfully submitted,

<u>/s/ C.C. Song</u>

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[15] *Supra.* p. 3-6.

[16] *Comments of Marin Clean Energy on Implementing the Competitive Neutrality Cost Causation Principle, R.13-09-011, March 3, 2017, p. 10.*

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U338E), Pacific Gas and Electric Company (U39E), and San Diego Gas & Electric Company (U902E), for Approval of the Portfolio Allocation Methodology for all Customers.	Application 17-04-018 (Filed April 25, 2017)

**NOTICE OF EX PARTE COMMUNICATION BY
CALIFORNIA COMMUNITY CHOICE ASSOCIATION**

Pursuant to Rule 8.4 of the Commission's Rules of Practice and Procedure, the California Community Choice Association ("CalCCA") hereby gives notice of the following *ex parte* written communication.

On June 19, 2017 at 1:50 p.m., James Hendry submitted, via email the attached comments to Suzanne Casazza. These comments are a response to questions posed by President Michael Picker in relation to the *Joint CPUC and California Energy Commission En Banc on The Changing Nature of Consumer and Retail Choice in California* held on May 19, 2017. It is CalCCA's understanding that Ms. Casazza will communicate these responses to President Picker, Commissioner Martha Guzman Aceves, Commissioner Liane M. Randolph, Commissioner Carla Peterman, and Commissioner Clifford Rechtschaffen.

A copy of that email and comments are included herein as Attachment A. To request a copy of this notice, please contact Blake Elder at belder@kfwlaw.com.

Respectfully submitted on June 19, 2017.

/s/ Barbara Hale
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ATTACHMENT A

PENINSULA CLEAN ENERGY

Joseph F. Wiedman <jwiedman@peninsulacleanenergy.com>

EnBanc Comments of CalCCA

Hendry, James <JHendry@sfwater.org> Mon, Jun 19, 2017 at 1:50 PM
To: "Suzanne.Casazza@cpuc.ca.gov" <Suzanne.Casazza@cpuc.ca.gov>
Cc: "Joseph F. Wiedman (jwiedman@peninsulacleanenergy.com)" <jwiedman@peninsulacleanenergy.com>, "Hale, Barbara" <BHale@sfwater.org>

Suzanne – Attached are the comments of the California Community Choice Association (CalCCA) on the question raised in the CPUC's en banc. Thanks for the extension of time to file comments, sorry it took a little longer to get everything finalized for filing.

As always, please give us a call if you need any further information at (415) 554-1526.

CalCCA Comments on En Banc and Staff White Paper.pdf
212K

CALIFORNIA COMMUNITY CHOICE ASSOCIATION (CalCCA)
COMMENTS ON
THE CUSTOMER AND RETAIL CHOICE EN BANC AND WHITE PAPER

The California Community Choice Association ("CalCCA")[1] appreciates the opportunity to provide informal comment on the Staff White Paper titled "Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework," published May 9, 2017 ("Staff White Paper"), and on the questions posed to the panelists at the En Banc on The Changing Nature of Consumer and Retail Choice in California, held on May 19, 2017 ("En Banc").

The Staff White Paper and En Banc open a discussion regarding several important trends that are currently driving significant change within California's electricity sector and the overall clean-energy economy. CalCCA's responses to the Staff White Paper and the En Banc highlight the many ways in which the changing electricity landscape presents opportunities for furthering the State's "reliability, affordability, equity and carbon reduction imperatives while recognizing [the] important role that technology and customer preferences will play in shaping this future."[2]

In particular, CalCCA highlights the many ways in which community choice aggregators ("CCAs") are crucial partners in achieving the State's policy goals. For example, CCAs increase participation in energy decisions, design local programs around customer preferences, promote the use of new technologies, enhance affordability, and accelerate achievement of the State's greenhouse-gas goals. CalCCA elaborates on these CCA efforts in the comments below and explains the ways in which CCAs differ from other types of service providers. CalCCA also proposes several solutions for better incorporating CCAs into the State's planning and procurement processes.

I. STAFF WHITE PAPER

"California's Changing Electricity Landscape"[3] presents an opportunity.

California has an enormous task in front of it in effectuating its laudable energy policy goals. As the Staff White Paper explains:

> "California has set itself on the path to reducing statewide greenhouse gas emissions by 40% below 1990 levels by 2030, using tools such as a 50% renewable portfolio standard, doubling of existing energy efficiency savings for both electricity and natural gas usage and putting well over 1.5 million zero emission vehicles on the road."[4]

There are currently eight operational CCAs in California with several more set to launch in 2017 and another 20 being explored across the state.[5] During the En Banc, Geof Syphers, the Chief Executive

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[1] CalCCA, the California Community Choice Association, is a trade association representing the interests of its members .CalCCA's operational members are Apple Valley Clean Energy, CleanPowerSF, Lancaster Choice Energy, MCE, Peninsula Clean Energy Authority, Silicon Valley Clean Energy, Redwood Coast Energy Authority, and Sonoma Clean
Power.

[2] Staff White Paper p. 5.

[3] *Id.* pp. 3-5.

[4] *Id.* p. 3 (internal citations omitted).

[5] UCLA Luskin Report p. 6.

Officer of Sonoma Clean Power ("SCP") noted that nearly $2 billion in new generating facility investment has been facilitated by CCA procurement.[6]

The University of California, Los Angeles Luskin Center for Innovation recently issued a report on "The Promises and Challenges of Community Choice Aggregation in California" ("UCLA Luskin Report" or "Report"). The Report identifies a number of benefits that CCAs provide to Californians and their ratepayers, including significant financial benefits. In fact, the Report finds that "all CCAs provide their customers with more competitive rates (for a comparable service) than do their affiliated [investor-owned utilities ("IOUs")].[7] The Report also finds that "CCAs offer ratepayers a more accessible decision-making process compared to IOUs' ratepayers" and that CCAs provide "their ratepayers with enhanced local community participation in governance decisions."[8]

With respect to environmental benefits, the UCLA Luskin Report concludes:

> "Thus far, all CCAs in operation in California generally offer a larger share of renewable energy than do their affiliated IOU, up to 25 percentage points more. We estimate that these efforts resulted in emission reductions of approximately 600,000 metric tons of carbon dioxide (CO2) equivalent in the past twelve months. With the statewide carbon market pricing a ton of carbon at $12.73 in 2016, this translates to $7.5 million in annual savings for electricity ratepayers. Through our analysis, we found that continued development of CCAs may enable California to surpass its 2020 renewable targets by up to four percentage points."[9]

The Report also points out that reducing the use of fossil fuels in California's power mix "may also disproportionately benefit low- and moderate-income households who generally live closer to natural gas power plants than wealthier households."[10]

The UCLA Luskin Report reconfirms the important opportunities that a changing electricity landscape can provide for advancing State policy goals and the crucial role that CCAs are currently playing in harnessing these opportunities.

CCAs are crucial partners in achieving State policy goals.

The Staff White Paper acknowledges: "the three IOUs and 34 POUs have been the dominant parties on whom policy makers have relied as enablers of a number of key public policy initiatives, ranging from the procurement of renewable energy to providing low-income Californians with subsidized electricity."[11] The Commission should also see CCAs as a strong partner in helping the State achieve its environmental policy objectives.

The Commission has effectuated State policy through its oversight of the State's IOUs. While CCAs are not subject to the Commission's oversight unless explicitly directed by statutes, CCAs' goals and objectives are entirely consistent with the Commission's and the State's policy objectives. For example, many CCAs offer net energy metering programs with stronger financial incentives for local customers to invest in on-site renewables. CCAs are also aligned with the Commission's desire to enhance

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6 Retail Choice En Banc, Recording at approximately 142:10 to 142:30.
7 UCLA Luskin Report p. 14.
8 *Id.* p. 21.
9 *Id.* p. 1.
10 *Id.* p. 15.
11 Staff White Paper p. 4.

affordability by offering competitive generation rates. Some CCAs are taking additional measures to ensure even greater affordability. For example, PCE is also developing a rate stabilization fund to protect its customers from potential, future rate shocks.

CCAs are also highly aligned with the Commission's desire to accelerate achievement of the State's greenhouse-gas ("GHG") reduction goals. Many CCAs plan to be 100% GHG free before 2030, and some have set renewable procurement goals much higher than currently mandated by the State. Most CCAs currently offer their customers a default renewable energy offering, and a 100% renewable energy offering. The UCLA Luskin Report concludes that several CCAs' current power mixes already produce 50% less greenhouse-gas emissions than that of PG&E.[12] In addition, many CCAs are committed to the development of a sustainable workforce, including support for local businesses, union labor, and apprenticeship and pre-apprenticeship programs that create employment opportunities and build and sustain healthy communities.[13] [14]

II. WHAT CUSTOMERS WANT

Panelists were asked, in protecting consumers from "bad actors:" "Should consumer protections be limited to for-profit entities and not CCAs?" Panelists were also asked: "Should residential customers have access to alternative retail suppliers other than CCAs?"

California Law already has consumer protections related to CCAs. For example, Public Utilities Code Sections 366.2 requires CCA implementation plans to provide for customer protection procedures, universal access, reliability and equitable treatment of all customer classes (Section 366.2(3) and (4)). For the reasons explained below, consumer protections should be limited to for-profit entities.

CCAs are unique load serving entities ("LSEs") that are responsive to local consumers, including low-income and hard-to-serve customers. This is due to the local governance structure required of CCAs and the statutory requirement that CCAs must offer service to all residential customers in their territories. CCAs were specifically created to give residential and other customers options for alternative suppliers. Any expansion of retail choice should be carefully considered to ensure that the problems that resulted from extensive retail choice in the early 2000s are avoided. Any discussion of market reform needs to take into account the unique role CCAs play in achieving State policy goals, the alternatives they already provide to customers, and that no harm must be done to those efforts.

CCAs are not like other LSEs.

CCAs are public agencies that are governed by a public board of directors, a city council, or a commission.[15] Boards of directors are comprised of elected or appointed officials from the member communities, including in almost all cases county chairs and vice chairs, mayors, and city or town council members and supervisors.[16] As such, the elected and appointed officials who control CCAs have an obligation, enforced through the ballot box, to make sure the interests of their customers are represented and protected. This distinguishes CCAs from other LSEs.

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[12] UCLA Luskin Report p. 16.

[13] http://www.peninsulacleanenergy.com/wp-content/uploads/2017/01/PCE-Policy-10-final-1.pdf

[14] MCE's Community Power Coalition was formed to cultivate a relationship with ratepayer advocates and community-based organizations to focus on the interests of underrepresented and historically marginalized constituencies. https://www.mcecleanenergy.org/community-power-coalition/

[15] UCLA Luskin Report p. 12.

[16] *Id.*

Transparency is another benefit of CCAs. CCAs are local non-profit public entities overseen by elected officials responsive to the clean energy needs of the communities they serve. As local government agencies, all CCA board meetings are open to the public and must be properly noticed. Board meetings are subject to the Brown Act and any local sunshine ordinances that may apply. Additionally, CCA records are subject to the Public Records Act. CCA customers are CCA constituents, and thus have a direct line to their locally elected board member to engage in CCA issues. This transparency is in stark contrast to the operations of the IOUs, which require a complex regulatory system in order to provide input into their operations.

The local governance structure required of CCAs also allows them to tailor procurement and adopt local programs to reflect local ratepayer preferences. The UCLA Luskin Report observes that a "CCA's knowledge of its community can help the effectiveness of investments by targeting programs that support community preferences."[17] For example, Peninsula Clean Energy's (PCE's) strategic goals include stimulating development of new renewable energy projects and clean-tech innovation in San Mateo County, in part by procuring 20 megawatts ("MW") of new local power by 2025.[18] MCE Clean Energy has several local renewable projects in operation and underway, including some targeted at reducing local pollution.[19] These examples demonstrate the ways in which CCAs are not like other LSEs.

CCAs are fully committed to serving low-income customers.

Unlike some other LSEs, CCAs are not able to selectively serve the most profitable customers and must offer service to all residential customers within their territories, including low-income and hard-to-reach customers. The best and most direct way to serve low-income customers is to ensure rates are as low as possible. Many CCAs offer lower rates than their incumbent IOUs. When tallied up across CCAs, these rate discounts produce substantial savings for families and businesses across the State. The Center for Climate Protection projects that California ratepayers will save $188 million annually by the end of 2020 assuming CCAs offer at least a 1% rate discount compared to the incumbent IOU.[20]

Expansion of retail choice should not harm CCA efforts that advance State policy goals.

Any discussion around expansion of caps on direct access providers and their responsibilities must first recognize the value CCAs have in advancing state policy goals and any proposed changes in state policy must not harm CCAs.

In addition, CCAs were specifically created in the wake of the electricity crisis of the early 2000s to give residential and other customers an option for an alternative supplier without the problems that resulted from broader retail competition. Any expansion of retail choice should be carefully considered to ensure that the problems that resulted from extensive retail choice in the early 2000 are avoided.

Consumer protection is of critical importance to CCAs.

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17 *Id.* p. 10.
18 https://www.peninsulacleanenergy.com/learn-more/goals-and-policies
19 https://www.mcecleanenergy.org/local-projects/
20 Center for Climate Protection, "Community Choice Energy Programs in California: Greenhouse Gas and Customer Cost Savings," p. 6. https://climateprotection.org/wp-content/uploads/2017/06/Forecast-of-CCA-Impacts-in-CA-2016-2020-June-2-2017.pdf

CCAs are required by statute to develop an implementation plan that addresses the rights and responsibilities of program participants, including, but not limited to, consumer protection.[21] CalCCA is not aware of any deficiencies related to consumer protection procedures established by CCAs in California that merit State mandated consumer protection requirements. CCAs are focused on serving their local customers fairly and in a high-quality, professional manner. As such, CCAs strongly support consumer protection and providing superior customer experiences.[22]

CCAs are very sensitive to customers' understanding of their rates. CCAs conduct broad customer education campaigns and develop rate structures that often mirror IOUs' own rate structures in order to minimize customer confusion. In addition, CCAs, which are governed by a public board of directors, a city council or a commission, are easily accessible to their customers. CCA customers also may opt out of CCA programs, which provides further assurance that CCA customers are fully protected with regard to rates. For these reasons, CalCCA believes the Commission should continue to focus its resources on the oversight of IOUs rather than CCAs.

III. STATE OF CUSTOMER CHOICE IN CALIFORNIA

Panelists were asked: "What are important authorities that the CPUC should maintain or gain in the future to regulate the supply and resource adequacy portfolios as heavily for the non-IOU suppliers as it does for IOUs?" Panelists were also asked: "Who should be the provider of last resort in any particular area?"

CalCCA believes the necessary framework for regulating supply and resource adequacy is already in place, but it needs to be adjusted, as explained below.

CCA expansion is fully compatible with current planning and procurement processes.

CalCCA believes much of the necessary framework is already in place to address the Commission's concerns with regard to aligning the expansion of CCAs with the planning and procurement processes at different California agencies, but work remains to improve that alignment. There are two critical issues the Commission has identified, both in the Staff White Paper and its En Banc questions. The first is how to ensure remaining customers are indifferent to the departure of CCA customers, and the second is how to ensure reliability and appropriate resource planning as "non-IOU LSEs serve an ever-greater percentage of load."[23]

Geof Syphers with SCP squarely addressed the first issue at the En Banc when he said *solving the exit fee is the key*. Ensuring ratepayer indifference for all customers is the right goal, the equitable goal, and one that CalCCA supports. However, equitable treatment should extend to both departed and remaining customers. The existing mechanisms to ensure indifference, such as the Power Charge Indifference Adjustment ("PCIA"), are opaque, unfair and create significant, short-term pricing risks for departed customers. This unfairness and lack of certainty needs to be fixed as discussed further below.

On ensuring reliability and appropriate resource planning, the Staff White Paper raises concerns regarding planning and procurement, but it appears to stop short of identifying clear gaps in the State's oversight. Rather, it notes CCAs "might be less willing" to assist with reliability concerns, and the emergence of

[21] Cal. Pub. Util. Code § 366.2(c)(3)(E).
[22] https://www.peninsulacleanenergy.com/learn-more/goals-and-policies
[23] Staff White Paper at 7.

CCAs "could diminish the long-term effectiveness" of integrated resource planning ("IRP"), and that CCAs may need to provide new types of data to the CEC.

It has not been demonstrated that the regulatory framework the Legislature has constructed fails to provide the oversight necessary to minimize the risks listed in the Staff White Paper. For example, CCAs contract with, or employ, scheduling coordinators to ensure a balanced supply of energy in their service territory. CCAs are subject to the same resource adequacy (RA) obligations as the IOUs, meet the same environmental mandates (e.g., renewable portfolio standard) and the same energy storage requirements applicable to CPUC-jurisdictional LSEs .[24] On planning, while a CCA board appropriately determines *how* to meet SB 350's integrated resource planning mandate, the CPUC still has the authority to determine *if* CCAs meet the mandate.[25] Finally, as the Staff White Paper notes, CCAs are already required to "support CEC demand forecasting" because they are LSEs "currently subject to data and forecast reporting requirements."[26] These examples demonstrate how a framework to ensure reliability and appropriate planning on a statewide basis already exists. If individual agencies or stakeholders identify clear gaps in this framework, CalCCA is certainly open to discussing the best way to fill them.

CalCCA welcomes a discussion of what entity is appropriate to be the POLR.

The incumbent IOU serves as the POLR for CCAs under current rules. POLR is operative (1) when a CCA customer opts-out, (2) if a CCA elects to cease operations, or (3) when a CCA customer fails to pay for CCA service. The CPUC has already developed rules for customers who voluntarily return to IOU service and recently, R.03-10-003 was reopened to consider CCA bonding to cover CCA customers in the unlikely event that CCA customers are *involuntarily* returned to IOU service.[27] Collectively, these safeguards should meet the goals of ensuring reliable service and ratepayer indifference. Longer-term, CalCCA is open to a broader discussion of who should provide POLR services, including the possibility of CCAs assuming this role in their jurisdictions.

IV. CURRENT STATE OF RETAIL ELECTRICITY MARKET AND COMING CHANGES

Panelists were asked: "In this 'future' retail electric system, how do you see the role for the regulated utility evolving and what, if any, functions should be preserved for the regulated utility [to] support achieving State policy goals?"

CalCCA believes the current utility business model needs fundamental reform. In particular, data access and fair access to the distribution system are important problems that need to be resolved.

The utility business model needs fundamental reform.

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24 *See, e.g.,* Cal. Pub. Util. Code § 380(c) ("Each load-serving entity shall maintain physical generating capacity and electrical demand response adequate to meet its load requirements, including, but not limited to, peak demand and planning and operating reserves. The generating capacity or electrical demand response shall be deliverable to locations and at times as may be necessary to maintain electric service system reliability and local area reliability"); Cal. Pub. Util. Code § 380(k) (CCAs are LSEs for the purpose of RA requirements).

25 See Joint CCA Letter to Paul Douglas, R.16-02-007, *Clarification of the Joint Community Choice Aggregators' Views On Key Integrated Resource Plan Matters* (March 15, 2017).

26 Staff White paper at 8.

27 "Administrative Law Judge's Ruling Setting Prehearing Conference and Requesting Prehearing Conference Statements." January 30, 2017. http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M173/K118/173118975.PDF

A 2015 Commission report, titled *Electric Utility Business and Regulatory Models,* identifies four major issues that present both challenges and opportunities regarding the application of the current business and regulatory model to the future grid.[28] They are: (1) a general consensus that the cost-of-service model is outdated because its fundamental operating principles are sales growth and large asset acquisition, both of which contradict energy conservation; (2) a blurring of the boundaries of the natural monopoly utility because energy and financial innovations are expanding market competition; (3) the transition of a centralized, one-way distribution grid toward an open, flexible network; and (4) challenges to IOUs' financial stability and credit ratings, due to diminishing profit potential.[29] According to the report, the rate of change experienced by California's IOUs could be outpacing the cost-of-service model that underpins the industry.[30]

It the Commission pursues such reforms, CalCCA supports pursuing new models that will expand customer energy choice and open doors to additional energy innovation, while also preserving distribution system reliability and integrity. Numerous other U.S. states, including New York, Maryland, Illinois and Rhode Island, are actively pursuing new business models for electric IOUs.

Data access is a foundational problem that needs to be resolved.

It is difficult to overstate the importance of useful energy data – and the need for access to such data. A report published in 2015 by the UCLA School of Law describes how energy data can be "immensely useful to a variety of audiences, including customers, policy makers, and public interest organizations, to realize both economic and environmental benefits."[31] Expanding access to energy data could bring cleaner, more efficient energy and savings to California consumers, boosting emerging clean technologies, which would help the State achieve its environmental and energy goals in a more cost-effective manner, and further benefit ratepayers by reducing the need for new investments in power plants through improved energy efficiency. [32] The report identifies the most useful types of customer- and utility-centered data, as well as key barriers to accessing energy data and solutions for overcoming those barriers.[33]

Currently, IOUs have a significant strategic advantage in California's marketplace, because they collect, harbor and largely control customer- and utility-centered data. While the Commission has for several years explored the possibility of making available to third parties certain customer-centered data,[34] significant obstacles remain in place that prevent third parties from accessing useful data. While customer privacy needs to be respected and appropriate safeguards established, CCAs must be allowed to

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[28] *Electric Utility Business and Regulatory Models*; California Public Utilities Commission Policy & Planning Division; published June 8, 2015 (pp. 3-4).

[29] Ibid.

[30] Ibid. p. 4

[31] "Knowledge is Power: How Improved Energy Data Access Can Bolster Clean Energy Technologies & Save Money;" UCLA School of Law, et al.; published January 2015 (p. 1)

[32] Ibid.

[33] Ibid. pp. 2-3.

[34] See, for example, A.12-03-002 ("In the Matter of the Application of Pacific Gas and Electric Company for Adoption of its Customer Data Access Project (U39E)."); A.12-03-003 ("In the Matter of the Application of San Diego Gas & Electric Company (U902E) For Authority To Implement A Backhaul Program To Provide Authorized Third Parties Access To A Customer's Usage Data Based Upon Consent Of The Customer."); A.12-03-004 ("Application of Southern California Edison Company (U338E) For Approval of Proposal To Enable Automated Access of Customer Usage Data to Authorized Third Parties and Approval of Cost Recovery Mechanism."); and R.14-08-013 ("Order Instituting Rulemaking Regarding Policies, Procedures and Rules for Development of Distribution Resources Plans Pursuant to Public Utilities Code Section 769").

access customer-centered data in a simple, streamlined manner and format that enables them to offer customers new products and services that expand clean energy options and customer choice, and which may benefit the broader distribution system and other ratepayers.

Access to the Distribution System should be fair and nondiscriminatory.

The Commission must also continue progress towards ensuring that access to the distribution is fair and nondiscriminatory. The Commission has begun exploration of this issue in its proceeding on distributed energy resources.

V. FUTURE OF RETAIL ELECTRICITY SERVICE

Panelists were asked: "Are there any urgent steps that the CPUC, the CEC and/or CAISO need to take over the next 12-18 months to begin changing the role of the utility and the structure of regulation?" Panelists were also asked: "what considerations must California account for related to technological change in its regulatory framework and how is technological change impacted by the structure of the investor-owned utility."

The methodology for calculating the PCIA must be improved, as many stakeholders (including IOUs) already recognize,[35] in order to ensure costs are equitably allocated, ratepayer indifference is maintained, and to maximize transparency and minimize volatility. CalCCA offers suggestions below for goals that a PCIA replacement should accomplish, and explains why a recent IOU-proposed portfolio allocation methodology ("PAM") fails to satisfy those goals. CalCCA also explains why CCAs are well positioned to drive innovation and technology deployment and offers examples of how states are successfully incorporating a diversity of participants into their electricity markets in an effort to achieve policy goals that are similar to those in California.

Urgent steps are needed to fix the PCIA.

The PCIA is an unfair mechanism for allocating costs between IOU and non-IOU customers.

The following reforms are needed to ensure that the PCIA, or any successor fees for departing load met the following criteria:

- Transparent: CCAs, ESPs, and all interested parties need greater access to all data used to calculate exit fees to fully understand its calculation;
- Minimizing Costs/Ensuring Costs are unavoidable: A major emphasis should be on minimizing the amount of any exit fees by ensuring utility costs are reasonable, utilities are actively managing/terminating or transferring contracts as needed, utility-owned generation resources are managed efficiently, and that the utilities stop "digging the hole deeper" by continuing to procure unneeded resources;
- Reflect all value streams: Any market-based or administrative benchmarks used to calculate exit fees must identify all of the additional benefits received and costs avoided by the utilities' energy portfolios; and
- Increase Certainty/Reduce Volatility: Departing load customers should be protected from rate shock while a durable market framework is being developed. This could include use of a longer-

[35] Staff White Paper p. 9.

term forecast period (e.g. 3 years); setting a cap on the level of the PCIA; spreading under-collections over a longer-time period.

Departing load customers should have certainty regarding *both* the level of departing load changes *and* the duration of those charges. These ends can be achieved by either allowing for an upfront, lump-sum payment for each vintage of departing load, or a crystal-clear window into how departing load charges are calculated, ideally with a definitive end point for such charges. The ideal approach couples this certainty with optionality by giving CCAs a choice between (a) an upfront payment for a departing load charge and (b) a transparent calculation of such a charge, with a finite term for the charge. This optionality allows each CCA to choose the best path forward for its customers while ensuring both new and existing CCAs can finance around their obligations to remaining customers without putting obligations to departing customers at risk.

The IOU PAM proposal in A.17-04-018 is not the solution to the PCIA dilemma. CalCCA and over a dozen parties have filed protests in response to the PAM proposal, and CalCCA has moved for its dismissal.[36] The PAM proposal fails to address the problems CCAs have with the PCIA including lack of transparency, little incentive to minimize costs, failure to reflect all value streams and a lack of cost certainty. The PAM provides no "buy-out" mechanism or ability for CCAs to pay once for departing load costs associated with each vintage of departing load customer. There is no certainty on when an amendment to a power purchase agreement will constitute a new contract, and there is no certain end date for a particular vintage's need to pay the PAM. This lack of certainty, and the lack of any tools for CCAs to proactively manage departing load costs, creates significant concerns that the PAM could actually increase the volatility of the departing load charges that are passed through to departing customers via yearly adjustments and true-ups. This is untenable for CCAs that are committed to providing rate stability and rate savings to their customers.

The PAM proposal is also fundamentally flawed in its treatment of avoidable costs. It does not specify which contracts and utility plant should be included in departing load charges, and it does not contain any mechanisms to align IOU interests in minimizing unavoidable costs. The PAM proposal is not the right way to begin addressing the topic of how to allocate the cost of IOU above-market cost resources between departing and remaining customers. To the contrary, we need to clearly identify what resources are at risk of being stranded assets and discuss how to minimize cost exposure to those resources over time. The first order of business is to stop the digging. The IOUs are already over procured, and no additional procurement should be ordered until there is greater certainty on who will pay the associated costs.

CCAs are well positioned to drive innovation and technology deployment.

California should continue to lead in the development of renewable energy.[37] While operational challenges remain to its continued development, CCAs are well positioned to assist the state in working through them. In particular, the CAISO noted that periodic negative prices are a huge incentive for demand response and storage.[38] That incentive can drive innovation and technology deployment, and the most nimble organizations to test different advancements and their effectiveness likely will be CCAs, since incumbent IOUs, unlike CCAs, require CPUC approval of pilots and programs in order for the cost

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[36] California Community Choice Association, R.17-04-018, Motion to Dismiss Application Without Prejudice (May 30, 2017).

[37] *See, e.g.,* M. Rothleder, CAISO, *Renewable Integration Presentation at the IEPR Workshop at the CEC* (May 12, 2017).

[38] *See id.* at slides 9-15, 23-27 (identifying opportunities and solutions for technical challenges as the penetration of renewable energy on California's system increases).

of those programs to be included in rates. The need for such approval can delay implementation and even foreclose the IOUs' willingness to explore different technologies and advancements. Leveraging CCAs as laboratories of innovation can result in timely solutions to planning and procurement issues the State would not otherwise be able to capture.

Other states are successfully incorporating diverse participants into their markets; California can too.

Looking beyond California illustrates that electricity markets can successfully be restructured to engage a diverse array of participants. For example, both New Jersey and Massachusetts, states with operating CCAs, provide retail electric choice; participate in competitive regional wholesale markets; have fostered vibrant, top-ten-ranked solar markets[39]; and implemented portfolios of strong clean energy policies. These examples demonstrate that engaging a diverse array of participants, through mechanisms like locally controlled CCAs, is both doable and fully compatible with achieving State policy goals. CalCCA looks forward to discussing ideas for reforming California's energy markets in the rulemaking anticipated within the Staff White Paper.

CONCLUSIONS

CalCCA appreciates the opportunity to provide informal comments on the Staff White Paper and En Banc questions. CalCCA's comments highlight the unique role that CCAs play in increasing participation in energy decisions, designing local programs around customer preferences, promoting the use of new technologies, enhancing affordability, and accelerating achievement of the State's policy goals. CalCCA looks forward to working with the Commission to solve critical challenges, like fixing the PCIA and improving data access, so the opportunities presented by a "Changing Electricity Landscape" can be fully realized.

Respectfully submitted,

/s/ Barbara Hale

Barbara Hale President
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1125 Tamalpais Avenue San Rafael, CA 94901
E-mail: info@cal-cca.org

[39] Solar Energy Industries Association, "Top 10 Solar States", http://www.seia.org/research-resources/top-10-solar-states.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Portions of AB 117 concerning Community Choice Aggregation.	Rulemaking 03-10-003 (Filed October 2, 2003)

NOTICE OF EX PARTE COMMUNICATION BY
CALIFORNIA COMMUNITY CHOICE ASSOCIATION

Pursuant to Rule 8.4 of the Commission's Rules of Practice and Procedure, the California Community Choice Association ("CalCCA") hereby gives notice of the following *ex parte* written communication.

On June 19, 2017 at 1:50 p.m., James Hendry submitted, via email the attached comments to Suzanne Casazza. These comments are a response to questions posed by President Michael Picker in relation to the *Joint CPUC and California Energy Commission En Banc on The Changing Nature of Consumer and Retail Choice in California* held on May 19, 2017. It is CalCCA's understanding that Ms. Casazza will communicate these responses to President Picker, Commissioner Martha Guzman Aceves, Commissioner Liane M. Randolph, Commissioner Carla Peterman, and Commissioner Clifford Rechtschaffen.

A copy of that email and comments are included herein as Attachment A. To request a copy of this notice, please contact Blake Elder at belder@kfwlaw.com.

Respectfully submitted on June 19, 2017.

/s/ Barbara Hale
Barbara Hale
President, CalCCA
1125 Tamalpais Ave.
San Rafael, CA 94901
Tele: (415) 464-6689
Email: info@cal-cca.org

ATTACHMENT A

PENINSULA CLEAN ENERGY

Joseph F. Wiedman <jwiedman@peninsulacleanenergy.com>

EnBanc Comments of CalCCA

Hendry, James <JHendry@sfwater.org> Mon, Jun 19, 2017 at 1:50 PM
To: "Suzanne.Casazza@cpuc.ca.gov" <Suzanne.Casazza@cpuc.ca.gov>
Cc: "Joseph F. Wiedman (jwiedman@peninsulacleanenergy.com)" <jwiedman@peninsulacleanenergy.com>, "Hale, Barbara" <BHale@sfwater.org>

Suzanne – Attached are the comments of the California Community Choice Association (CalCCA) on the question raised in the CPUC's en banc. Thanks for the extension of time to file comments, sorry it took a little longer to get everything finalized for filing.

As always, please give us a call if you need any further information at (415) 554-1526.

CalCCA Comments on En Banc and Staff White Paper.pdf
212K

CALIFORNIA COMMUNITY CHOICE ASSOCIATION (CalCCA)
COMMENTS ON
THE CUSTOMER AND RETAIL CHOICE EN BANC AND WHITE PAPER

The California Community Choice Association ("CalCCA")[1] appreciates the opportunity to provide informal comment on the Staff White Paper titled "Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework," published May 9, 2017 ("Staff White Paper"), and on the questions posed to the panelists at the En Banc on The Changing Nature of Consumer and Retail Choice in California, held on May 19, 2017 ("En Banc").

The Staff White Paper and En Banc open a discussion regarding several important trends that are currently driving significant change within California's electricity sector and the overall clean-energy economy. CalCCA's responses to the Staff White Paper and the En Banc highlight the many ways in which the changing electricity landscape presents opportunities for furthering the State's "reliability, affordability, equity and carbon reduction imperatives while recognizing [the] important role that technology and customer preferences will play in shaping this future."[2]

In particular, CalCCA highlights the many ways in which community choice aggregators ("CCAs") are crucial partners in achieving the State's policy goals. For example, CCAs increase participation in energy decisions, design local programs around customer preferences, promote the use of new technologies, enhance affordability, and accelerate achievement of the State's greenhouse-gas goals. CalCCA elaborates on these CCA efforts in the comments below and explains the ways in which CCAs differ from other types of service providers. CalCCA also proposes several solutions for better incorporating CCAs into the State's planning and procurement processes.

I. STAFF WHITE PAPER

"California's Changing Electricity Landscape"[3] presents an opportunity.

California has an enormous task in front of it in effectuating its laudable energy policy goals. As the Staff White Paper explains:

> "California has set itself on the path to reducing statewide greenhouse gas emissions by 40% below 1990 levels by 2030, using tools such as a 50% renewable portfolio standard, doubling of existing energy efficiency savings for both electricity and natural gas usage and putting well over 1.5 million zero emission vehicles on the road."[4]

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2 Staff White Paper p. 5.

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5 UCLA Luskin Report p. 6.

Officer of Sonoma Clean Power ("SCP") noted that nearly $2 billion in new generating facility investment has been facilitated by CCA procurement.[6]

The University of California, Los Angeles Luskin Center for Innovation recently issued a report on "The Promises and Challenges of Community Choice Aggregation in California" ("UCLA Luskin Report" or "Report"). The Report identifies a number of benefits that CCAs provide to Californians and their ratepayers, including significant financial benefits. In fact, the Report finds that "all CCAs provide their customers with more competitive rates (for a comparable service) than do their affiliated [investor-owned utilities ("IOUs")].[7] The Report also finds that "CCAs offer ratepayers a more accessible decision-making process compared to IOUs' ratepayers" and that CCAs provide "their ratepayers with enhanced local community participation in governance decisions."[8]

With respect to environmental benefits, the UCLA Luskin Report concludes:

> "Thus far, all CCAs in operation in California generally offer a larger share of renewable energy than do their affiliated IOU, up to 25 percentage points more. We estimate that these efforts resulted in emission reductions of approximately 600,000 metric tons of carbon dioxide (CO_2) equivalent in the past twelve months. With the statewide carbon market pricing a ton of carbon at $12.73 in 2016, this translates to $7.5 million in annual savings for electricity ratepayers. Through our analysis, we found that continued development of CCAs may enable California to surpass its 2020 renewable targets by up to four percentage points."[9]

The Report also points out that reducing the use of fossil fuels in California's power mix "may also disproportionately benefit low- and moderate-income households who generally live closer to natural gas power plants than wealthier households."[10]

The UCLA Luskin Report reconfirms the important opportunities that a changing electricity landscape can provide for advancing State policy goals and the crucial role that CCAs are currently playing in harnessing these opportunities.

CCAs are crucial partners in achieving State policy goals.

The Staff White Paper acknowledges: "the three IOUs and 34 POUs have been the dominant parties on whom policy makers have relied as enablers of a number of key public policy initiatives, ranging from the procurement of renewable energy to providing low-income Californians with subsidized electricity."[11] The Commission should also see CCAs as a strong partner in helping the State achieve its environmental policy objectives.

The Commission has effectuated State policy through its oversight of the State's IOUs. While CCAs are not subject to the Commission's oversight unless explicitly directed by statutes, CCAs' goals and objectives are entirely consistent with the Commission's and the State's policy objectives. For example, many CCAs offer net energy metering programs with stronger financial incentives for local customers to invest in on-site renewables. CCAs are also aligned with the Commission's desire to enhance

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6 Retail Choice En Banc, Recording at approximately 142:10 to 142:30.
7 UCLA Luskin Report p. 14.
8 *Id.* p. 21.
9 *Id.* p. 1.
10 *Id.* p. 15.
11 Staff White Paper p. 4.

affordability by offering competitive generation rates. Some CCAs are taking additional measures to ensure even greater affordability. For example, PCE is also developing a rate stabilization fund to protect its customers from potential, future rate shocks.

CCAs are also highly aligned with the Commission's desire to accelerate achievement of the State's greenhouse-gas ("GHG") reduction goals. Many CCAs plan to be 100% GHG free before 2030, and some have set renewable procurement goals much higher than currently mandated by the State. Most CCAs currently offer their customers a default renewable energy offering, and a 100% renewable energy offering. The UCLA Luskin Report concludes that several CCAs' current power mixes already produce 50% less greenhouse-gas emissions than that of PG&E.[12] In addition, many CCAs are committed to the development of a sustainable workforce, including support for local businesses, union labor, and apprenticeship and pre-apprenticeship programs that create employment opportunities and build and sustain healthy communities.[13] [14]

II. WHAT CUSTOMERS WANT

Panelists were asked, in protecting consumers from "bad actors:" "Should consumer protections be limited to for-profit entities and not CCAs?" Panelists were also asked: "Should residential customers have access to alternative retail suppliers other than CCAs?"

California Law already has consumer protections related to CCAs. For example, Public Utilities Code Sections 366.2 requires CCA implementation plans to provide for customer protection procedures, universal access, reliability and equitable treatment of all customer classes (Section 366.2(3) and (4)). For the reasons explained below, consumer protections should be limited to for-profit entities.

CCAs are unique load serving entities ("LSEs") that are responsive to local consumers, including low-income and hard-to-serve customers. This is due to the local governance structure required of CCAs and the statutory requirement that CCAs must offer service to all residential customers in their territories. CCAs were specifically created to give residential and other customers options for alternative suppliers. Any expansion of retail choice should be carefully considered to ensure that the problems that resulted from extensive retail choice in the early 2000s are avoided. Any discussion of market reform needs to take into account the unique role CCAs play in achieving State policy goals, the alternatives they already provide to customers, and that no harm must be done to those efforts.

CCAs are not like other LSEs.

CCAs are public agencies that are governed by a public board of directors, a city council, or a commission.[15] Boards of directors are comprised of elected or appointed officials from the member communities, including in almost all cases county chairs and vice chairs, mayors, and city or town council members and supervisors.[16] As such, the elected and appointed officials who control CCAs have an obligation, enforced through the ballot box, to make sure the interests of their customers are represented and protected. This distinguishes CCAs from other LSEs.

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12 UCLA Luskin Report p. 16.

13 http://www.peninsulacleanenergy.com/wp-content/uploads/2017/01/PCE-Policy-10-final-1.pdf

14 MCE's Community Power Coalition was formed to cultivate a relationship with ratepayer advocates and community-based organizations to focus on the interests of underrepresented and historically marginalized constituencies. https://www.mcecleanenergy.org/community-power-coalition/

15 UCLA Luskin Report p. 12.

16 *Id.*

Transparency is another benefit of CCAs. CCAs are local non-profit public entities overseen by elected officials responsive to the clean energy needs of the communities they serve. As local government agencies, all CCA board meetings are open to the public and must be properly noticed. Board meetings are subject to the Brown Act and any local sunshine ordinances that may apply. Additionally, CCA records are subject to the Public Records Act. CCA customers are CCA constituents, and thus have a direct line to their locally elected board member to engage in CCA issues. This transparency is in stark contrast to the operations of the IOUs, which require a complex regulatory system in order to provide input into their operations.

The local governance structure required of CCAs also allows them to tailor procurement and adopt local programs to reflect local ratepayer preferences. The UCLA Luskin Report observes that a "CCA's knowledge of its community can help the effectiveness of investments by targeting programs that support community preferences."[17] For example, Peninsula Clean Energy's (PCE's) strategic goals include stimulating development of new renewable energy projects and clean-tech innovation in San Mateo County, in part by procuring 20 megawatts ("MW") of new local power by 2025.[18] MCE Clean Energy has several local renewable projects in operation and underway, including some targeted at reducing local pollution.[19] These examples demonstrate the ways in which CCAs are not like other LSEs.

CCAs are fully committed to serving low-income customers.

Unlike some other LSEs, CCAs are not able to selectively serve the most profitable customers and must offer service to all residential customers within their territories, including low-income and hard-to-reach customers. The best and most direct way to serve low-income customers is to ensure rates are as low as possible. Many CCAs offer lower rates than their incumbent IOUs. When tallied up across CCAs, these rate discounts produce substantial savings for families and businesses across the State. The Center for Climate Protection projects that California ratepayers will save $188 million annually by the end of 2020 assuming CCAs offer at least a 1% rate discount compared to the incumbent IOU.[20]

Expansion of retail choice should not harm CCA efforts that advance State policy goals.

Any discussion around expansion of caps on direct access providers and their responsibilities must first recognize the value CCAs have in advancing state policy goals and any proposed changes in state policy must not harm CCAs.

In addition, CCAs were specifically created in the wake of the electricity crisis of the early 2000s to give residential and other customers an option for an alternative supplier without the problems that resulted from broader retail competition. Any expansion of retail choice should be carefully considered to ensure that the problems that resulted from extensive retail choice in the early 2000 are avoided.

Consumer protection is of critical importance to CCAs.

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17 *Id.* p. 10.

18 https://www.peninsulacleanenergy.com/learn-more/goals-and-policies

19 https://www.mcecleanenergy.org/local-projects/

20 Center for Climate Protection, "Community Choice Energy Programs in California: Greenhouse Gas and Customer Cost Savings," p. 6. https://climateprotection.org/wp-content/uploads/2017/06/Forecast-of-CCA-Impacts-in-CA-2016-2020-June-2-2017.pdf

CCAs are required by statute to develop an implementation plan that addresses the rights and responsibilities of program participants, including, but not limited to, consumer protection.[21] CalCCA is not aware of any deficiencies related to consumer protection procedures established by CCAs in California that merit State mandated consumer protection requirements. CCAs are focused on serving their local customers fairly and in a high-quality, professional manner. As such, CCAs strongly support consumer protection and providing superior customer experiences.[22]

CCAs are very sensitive to customers' understanding of their rates. CCAs conduct broad customer education campaigns and develop rate structures that often mirror IOUs' own rate structures in order to minimize customer confusion. In addition, CCAs, which are governed by a public board of directors, a city council or a commission, are easily accessible to their customers. CCA customers also may opt out of CCA programs, which provides further assurance that CCA customers are fully protected with regard to rates. For these reasons, CalCCA believes the Commission should continue to focus its resources on the oversight of IOUs rather than CCAs.

III. STATE OF CUSTOMER CHOICE IN CALIFORNIA

Panelists were asked: "What are important authorities that the CPUC should maintain or gain in the future to regulate the supply and resource adequacy portfolios as heavily for the non-IOU suppliers as it does for IOUs?" Panelists were also asked: "Who should be the provider of last resort in any particular area?"

CalCCA believes the necessary framework for regulating supply and resource adequacy is already in place, but it needs to be adjusted, as explained below.

CCA expansion is fully compatible with current planning and procurement processes.

CalCCA believes much of the necessary framework is already in place to address the Commission's concerns with regard to aligning the expansion of CCAs with the planning and procurement processes at different California agencies, but work remains to improve that alignment. There are two critical issues the Commission has identified, both in the Staff White Paper and its En Banc questions. The first is how to ensure remaining customers are indifferent to the departure of CCA customers, and the second is how to ensure reliability and appropriate resource planning as "non-IOU LSEs serve an ever-greater percentage of load."[23]

Geof Syphers with SCP squarely addressed the first issue at the En Banc when he said *solving the exit fee is the key*. Ensuring ratepayer indifference for all customers is the right goal, the equitable goal, and one that CalCCA supports. However, equitable treatment should extend to both departed and remaining customers. The existing mechanisms to ensure indifference, such as the Power Charge Indifference Adjustment ("PCIA"), are opaque, unfair and create significant, short-term pricing risks for departed customers. This unfairness and lack of certainty needs to be fixed as discussed further below.

On ensuring reliability and appropriate resource planning, the Staff White Paper raises concerns regarding planning and procurement, but it appears to stop short of identifying clear gaps in the State's oversight. Rather, it notes CCAs "might be less willing" to assist with reliability concerns, and the emergence of

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21 Cal. Pub. Util. Code § 366.2(c)(3)(E).

22 https://www.peninsulacleanenergy.com/learn-more/goals-and-policies

23 Staff White Paper at 7.

CCAs "could diminish the long-term effectiveness" of integrated resource planning ("IRP"), and that CCAs may need to provide new types of data to the CEC.

It has not been demonstrated that the regulatory framework the Legislature has constructed fails to provide the oversight necessary to minimize the risks listed in the Staff White Paper. For example, CCAs contract with, or employ, scheduling coordinators to ensure a balanced supply of energy in their service territory. CCAs are subject to the same resource adequacy (RA) obligations as the IOUs, meet the same environmental mandates (e.g., renewable portfolio standard) and the same energy storage requirements applicable to CPUC-jurisdictional LSEs .[24] On planning, while a CCA board appropriately determines *how* to meet SB 350's integrated resource planning mandate, the CPUC still has the authority to determine *if* CCAs meet the mandate.[25] Finally, as the Staff White Paper notes, CCAs are already required to "support CEC demand forecasting" because they are LSEs "currently subject to data and forecast reporting requirements."[26] These examples demonstrate how a framework to ensure reliability and appropriate planning on a statewide basis already exists. If individual agencies or stakeholders identify clear gaps in this framework, CalCCA is certainly open to discussing the best way to fill them.

CalCCA welcomes a discussion of what entity is appropriate to be the POLR.

The incumbent IOU serves as the POLR for CCAs under current rules. POLR is operative (1) when a CCA customer opts-out, (2) if a CCA elects to cease operations, or (3) when a CCA customer fails to pay for CCA service. The CPUC has already developed rules for customers who voluntarily return to IOU service and recently, R.03-10-003 was reopened to consider CCA bonding to cover CCA customers in the unlikely event that CCA customers are *involuntarily* returned to IOU service.[27] Collectively, these safeguards should meet the goals of ensuring reliable service and ratepayer indifference. Longer-term, CalCCA is open to a broader discussion of who should provide POLR services, including the possibility of CCAs assuming this role in their jurisdictions.

IV. CURRENT STATE OF RETAIL ELECTRICITY MARKET AND COMING CHANGES

Panelists were asked: "In this 'future' retail electric system, how do you see the role for the regulated utility evolving and what, if any, functions should be preserved for the regulated utility [to] support achieving State policy goals?"

CalCCA believes the current utility business model needs fundamental reform. In particular, data access and fair access to the distribution system are important problems that need to be resolved.

The utility business model needs fundamental reform.

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24 *See, e.g.,* Cal. Pub. Util. Code § 380(c) ("Each load-serving entity shall maintain physical generating capacity and electrical demand response adequate to meet its load requirements, including, but not limited to, peak demand and planning and operating reserves. The generating capacity or electrical demand response shall be deliverable to locations and at times as may be necessary to maintain electric service system reliability and local area reliability"); Cal. Pub. Util. Code § 380(k) (CCAs are LSEs for the purpose of RA requirements).

25 See Joint CCA Letter to Paul Douglas, R.16-02-007, *Clarification of the Joint Community Choice Aggregators' Views On Key Integrated Resource Plan Matters* (March 15, 2017).

26 Staff White paper at 8.

27 "Administrative Law Judge's Ruling Setting Prehearing Conference and Requesting Prehearing Conference Statements." January 30, 2017. http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M173/K118/173118975.PDF

A 2015 Commission report, titled *Electric Utility Business and Regulatory Models,* identifies four major issues that present both challenges and opportunities regarding the application of the current business and regulatory model to the future grid.[28] They are: (1) a general consensus that the cost-of-service model is outdated because its fundamental operating principles are sales growth and large asset acquisition, both of which contradict energy conservation; (2) a blurring of the boundaries of the natural monopoly utility because energy and financial innovations are expanding market competition; (3) the transition of a centralized, one-way distribution grid toward an open, flexible network; and (4) challenges to IOUs' financial stability and credit ratings, due to diminishing profit potential.[29] According to the report, the rate of change experienced by California's IOUs could be outpacing the cost-of-service model that underpins the industry.[30]

It the Commission pursues such reforms, CalCCA supports pursuing new models that will expand customer energy choice and open doors to additional energy innovation, while also preserving distribution system reliability and integrity. Numerous other U.S. states, including New York, Maryland, Illinois and Rhode Island, are actively pursuing new business models for electric IOUs.

Data access is a foundational problem that needs to be resolved.

It is difficult to overstate the importance of useful energy data – and the need for access to such data. A report published in 2015 by the UCLA School of Law describes how energy data can be "immensely useful to a variety of audiences, including customers, policy makers, and public interest organizations, to realize both economic and environmental benefits."[31] Expanding access to energy data could bring cleaner, more efficient energy and savings to California consumers, boosting emerging clean technologies, which would help the State achieve its environmental and energy goals in a more cost-effective manner, and further benefit ratepayers by reducing the need for new investments in power plants through improved energy efficiency.[32] The report identifies the most useful types of customer- and utility-centered data, as well as key barriers to accessing energy data and solutions for overcoming those barriers.[33]

Currently, IOUs have a significant strategic advantage in California's marketplace, because they collect, harbor and largely control customer- and utility-centered data. While the Commission has for several years explored the possibility of making available to third parties certain customer-centered data,[34] significant obstacles remain in place that prevent third parties from accessing useful data. While customer privacy needs to be respected and appropriate safeguards established, CCAs must be allowed to

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28 *Electric Utility Business and Regulatory Models*; California Public Utilities Commission Policy & Planning Division; published June 8, 2015 (pp. 3-4).

29 Ibid.

30 Ibid. p. 4

31 "Knowledge is Power: How Improved Energy Data Access Can Bolster Clean Energy Technologies & Save Money;" UCLA School of Law, et al.; published January 2015 (p. 1)

32 Ibid.

33 Ibid. pp. 2-3.

34 See, for example, A.12-03-002 ("In the Matter of the Application of Pacific Gas and Electric Company for Adoption of its Customer Data Access Project (U39E)."); A.12-03-003 ("In the Matter of the Application of San Diego Gas & Electric Company (U902E) For Authority To Implement A Backhaul Program To Provide Authorized Third Parties Access To A Customer's Usage Data Based Upon Consent Of The Customer."); A.12-03-004 ("Application of Southern California Edison Company (U338E) For Approval of Proposal To Enable Automated Access of Customer Usage Data to Authorized Third Parties and Approval of Cost Recovery Mechanism."); and R.14-08-013 ("Order Instituting Rulemaking Regarding Policies, Procedures and Rules for Development of Distribution Resources Plans Pursuant to Public Utilities Code Section 769").

access customer-centered data in a simple, streamlined manner and format that enables them to offer customers new products and services that expand clean energy options and customer choice, and which may benefit the broader distribution system and other ratepayers.

Access to the Distribution System should be fair and nondiscriminatory.

The Commission must also continue progress towards ensuring that access to the distribution is fair and nondiscriminatory. The Commission has begun exploration of this issue in its proceeding on distributed energy resources.

V. FUTURE OF RETAIL ELECTRICITY SERVICE

Panelists were asked: "Are there any urgent steps that the CPUC, the CEC and/or CAISO need to take over the next 12-18 months to begin changing the role of the utility and the structure of regulation?" Panelists were also asked: "what considerations must California account for related to technological change in its regulatory framework and how is technological change impacted by the structure of the investor-owned utility."

The methodology for calculating the PCIA must be improved, as many stakeholders (including IOUs) already recognize,[35] in order to ensure costs are equitably allocated, ratepayer indifference is maintained, and to maximize transparency and minimize volatility. CalCCA offers suggestions below for goals that a PCIA replacement should accomplish, and explains why a recent IOU-proposed portfolio allocation methodology ("PAM") fails to satisfy those goals. CalCCA also explains why CCAs are well positioned to drive innovation and technology deployment and offers examples of how states are successfully incorporating a diversity of participants into their electricity markets in an effort to achieve policy goals that are similar to those in California.

Urgent steps are needed to fix the PCIA.

The PCIA is an unfair mechanism for allocating costs between IOU and non-IOU customers.

The following reforms are needed to ensure that the PCIA, or any successor fees for departing load met the following criteria:

- Transparent: CCAs, ESPs, and all interested parties need greater access to all data used to calculate exit fees to fully understand its calculation;
- Minimizing Costs/Ensuring Costs are unavoidable: A major emphasis should be on minimizing the amount of any exit fees by ensuring utility costs are reasonable, utilities are actively managing/terminating or transferring contracts as needed, utility-owned generation resources are managed efficiently, and that the utilities stop "digging the hole deeper" by continuing to procure unneeded resources;
- Reflect all value streams: Any market-based or administrative benchmarks used to calculate exit fees must identify all of the additional benefits received and costs avoided by the utilities' energy portfolios; and
- Increase Certainty/Reduce Volatility: Departing load customers should be protected from rate shock while a durable market framework is being developed. This could include use of a longer-

[35] Staff White Paper p. 9.

term forecast period (e.g. 3 years); setting a cap on the level of the PCIA; spreading under-collections over a longer-time period.

Departing load customers should have certainty regarding *both* the level of departing load changes *and* the duration of those charges. These ends can be achieved by either allowing for an upfront, lump-sum payment for each vintage of departing load, or a crystal-clear window into how departing load charges are calculated, ideally with a definitive end point for such charges. The ideal approach couples this certainty with optionality by giving CCAs a choice between (a) an upfront payment for a departing load charge and (b) a transparent calculation of such a charge, with a finite term for the charge. This optionality allows each CCA to choose the best path forward for its customers while ensuring both new and existing CCAs can finance around their obligations to remaining customers without putting obligations to departing customers at risk.

The IOU PAM proposal in A.17-04-018 is not the solution to the PCIA dilemma. CalCCA and over a dozen parties have filed protests in response to the PAM proposal, and CalCCA has moved for its dismissal.[36] The PAM proposal fails to address the problems CCAs have with the PCIA including lack of transparency, little incentive to minimize costs, failure to reflect all value streams and a lack of cost certainty. The PAM provides no "buy-out" mechanism or ability for CCAs to pay once for departing load costs associated with each vintage of departing load customer. There is no certainty on when an amendment to a power purchase agreement will constitute a new contract, and there is no certain end date for a particular vintage's need to pay the PAM. This lack of certainty, and the lack of any tools for CCAs to proactively manage departing load costs, creates significant concerns that the PAM could actually increase the volatility of the departing load charges that are passed through to departing customers via yearly adjustments and true-ups. This is untenable for CCAs that are committed to providing rate stability and rate savings to their customers.

The PAM proposal is also fundamentally flawed in its treatment of avoidable costs. It does not specify which contracts and utility plant should be included in departing load charges, and it does not contain any mechanisms to align IOU interests in minimizing unavoidable costs. The PAM proposal is not the right way to begin addressing the topic of how to allocate the cost of IOU above-market cost resources between departing and remaining customers. To the contrary, we need to clearly identify what resources are at risk of being stranded assets and discuss how to minimize cost exposure to those resources over time. The first order of business is to stop the digging. The IOUs are already over procured, and no additional procurement should be ordered until there is greater certainty on who will pay the associated costs.

CCAs are well positioned to drive innovation and technology deployment.

California should continue to lead in the development of renewable energy.[37] While operational challenges remain to its continued development, CCAs are well positioned to assist the state in working through them. In particular, the CAISO noted that periodic negative prices are a huge incentive for demand response and storage.[38] That incentive can drive innovation and technology deployment, and the most nimble organizations to test different advancements and their effectiveness likely will be CCAs, since incumbent IOUs, unlike CCAs, require CPUC approval of pilots and programs in order for the cost

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36 California Community Choice Association, R.17-04-018, Motion to Dismiss Application Without Prejudice (May 30, 2017).

37 *See, e.g.,* M. Rothleder, CAISO, *Renewable Integration Presentation at the IEPR Workshop at the CEC* (May 12, 2017).

38 *See id.* at slides 9-15, 23-27 (identifying opportunities and solutions for technical challenges as the penetration of renewable energy on California's system increases).

of those programs to be included in rates. The need for such approval can delay implementation and even foreclose the IOUs' willingness to explore different technologies and advancements. Leveraging CCAs as laboratories of innovation can result in timely solutions to planning and procurement issues the State would not otherwise be able to capture.

Other states are successfully incorporating diverse participants into their markets; California can too.

Looking beyond California illustrates that electricity markets can successfully be restructured to engage a diverse array of participants. For example, both New Jersey and Massachusetts, states with operating CCAs, provide retail electric choice; participate in competitive regional wholesale markets; have fostered vibrant, top-ten-ranked solar markets[39]; and implemented portfolios of strong clean energy policies. These examples demonstrate that engaging a diverse array of participants, through mechanisms like locally controlled CCAs, is both doable and fully compatible with achieving State policy goals. CalCCA looks forward to discussing ideas for reforming California's energy markets in the rulemaking anticipated within the Staff White Paper.

CONCLUSIONS

CalCCA appreciates the opportunity to provide informal comments on the Staff White Paper and En Banc questions. CalCCA's comments highlight the unique role that CCAs play in increasing participation in energy decisions, designing local programs around customer preferences, promoting the use of new technologies, enhancing affordability, and accelerating achievement of the State's policy goals. CalCCA looks forward to working with the Commission to solve critical challenges, like fixing the PCIA and improving data access, so the opportunities presented by a "Changing Electricity Landscape" can be fully realized.

Respectfully submitted,

/s/ Barbara Hale

Barbara Hale President
CALIFORNIA COMMUNITY CHOICE ASSOCIATION
1125 Tamalpais Avenue San Rafael, CA 94901
E-mail: info@cal-cca.org

[39] Solar Energy Industries Association, "Top 10 Solar States", http://www.seia.org/research-resources/top-10-solar-states.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering.	Rulemaking 14-07-002 (Filed July 10, 2014)

NOTICE OF EX PARTE COMMUNICATION BY
CALIFORNIA COMMUNITY CHOICE ASSOCIATION

Pursuant to Rule 8.4 of the Commission's Rules of Practice and Procedure, the California Community Choice Association ("CalCCA") hereby gives notice of the following *ex parte* written communication.

On June 19, 2017 at 1:50 p.m., James Hendry submitted, via email the attached comments to Suzanne Casazza. These comments are a response to questions posed by President Michael Picker in relation to the *Joint CPUC and California Energy Commission En Banc on The Changing Nature of Consumer and Retail Choice in California* held on May 19, 2017. It is CalCCA's understanding that Ms. Casazza will communicate these responses to President Picker, Commissioner Martha Guzman Aceves, Commissioner Liane M. Randolph, Commissioner Carla Peterman, and Commissioner Clifford Rechtschaffen.

A copy of that email and comments are included herein as Attachment A. To request a copy of this notice, please contact Blake Elder at belder@kfwlaw.com.

Respectfully submitted on June 19, 2017.

/s/ Barbara Hale
Barbara Hale
President, CalCCA
1125 Tamalpais Ave.
San Rafael, CA 94901
Tele: (415) 464-6689
Email: info@cal-cca.org

ATTACHMENT A

PENINSULA CLEAN ENERGY

Joseph F. Wiedman <jwiedman@peninsulacleanenergy.com>

EnBanc Comments of CalCCA

Hendry, James <JHendry@sfwater.org> Mon, Jun 19, 2017 at 1:50 PM
To: "Suzanne.Casazza@cpuc.ca.gov" <Suzanne.Casazza@cpuc.ca.gov>
Cc: "Joseph F. Wiedman (jwiedman@peninsulacleanenergy.com)" <jwiedman@peninsulacleanenergy.com>, "Hale, Barbara" <BHale@sfwater.org>

Suzanne – Attached are the comments of the California Community Choice Association (CalCCA) on the question raised in the CPUC's en banc. Thanks for the extension of time to file comments, sorry it took a little longer to get everything finalized for filing.

As always, please give us a call if you need any further information at (415) 554-1526.

CalCCA Comments on En Banc and Staff White Paper.pdf
212K

CALIFORNIA COMMUNITY CHOICE ASSOCIATION (CalCCA)
COMMENTS ON
THE CUSTOMER AND RETAIL CHOICE EN BANC AND WHITE PAPER

The California Community Choice Association ("CalCCA")[1] appreciates the opportunity to provide informal comment on the Staff White Paper titled "Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework," published May 9, 2017 ("Staff White Paper"), and on the questions posed to the panelists at the En Banc on The Changing Nature of Consumer and Retail Choice in California, held on May 19, 2017 ("En Banc").

The Staff White Paper and En Banc open a discussion regarding several important trends that are currently driving significant change within California's electricity sector and the overall clean-energy economy. CalCCA's responses to the Staff White Paper and the En Banc highlight the many ways in which the changing electricity landscape presents opportunities for furthering the State's "reliability, affordability, equity and carbon reduction imperatives while recognizing [the] important role that technology and customer preferences will play in shaping this future."[2]

In particular, CalCCA highlights the many ways in which community choice aggregators ("CCAs") are crucial partners in achieving the State's policy goals. For example, CCAs increase participation in energy decisions, design local programs around customer preferences, promote the use of new technologies, enhance affordability, and accelerate achievement of the State's greenhouse-gas goals. CalCCA elaborates on these CCA efforts in the comments below and explains the ways in which CCAs differ from other types of service providers. CalCCA also proposes several solutions for better incorporating CCAs into the State's planning and procurement processes.

I. STAFF WHITE PAPER

"California's Changing Electricity Landscape"[3] presents an opportunity.

California has an enormous task in front of it in effectuating its laudable energy policy goals. As the Staff White Paper explains:

> "California has set itself on the path to reducing statewide greenhouse gas emissions by 40% below 1990 levels by 2030, using tools such as a 50% renewable portfolio standard, doubling of existing energy efficiency savings for both electricity and natural gas usage and putting well over 1.5 million zero emission vehicles on the road."[4]

There are currently eight operational CCAs in California with several more set to launch in 2017 and another 20 being explored across the state.[5] During the En Banc, Geof Syphers, the Chief Executive

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[1] CalCCA, the California Community Choice Association, is a trade association representing the interests of its members .CalCCA's operational members are Apple Valley Clean Energy, CleanPowerSF, Lancaster Choice Energy, MCE, Peninsula Clean Energy Authority, Silicon Valley Clean Energy, Redwood Coast Energy Authority, and Sonoma Clean
Power.

[2] Staff White Paper p. 5.

[3] *Id.* pp. 3-5.

[4] *Id.* p. 3 (internal citations omitted).

[5] UCLA Luskin Report p. 6.

Officer of Sonoma Clean Power ("SCP") noted that nearly $2 billion in new generating facility investment has been facilitated by CCA procurement.[6]

The University of California, Los Angeles Luskin Center for Innovation recently issued a report on "The Promises and Challenges of Community Choice Aggregation in California" ("UCLA Luskin Report" or "Report"). The Report identifies a number of benefits that CCAs provide to Californians and their ratepayers, including significant financial benefits. In fact, the Report finds that "all CCAs provide their customers with more competitive rates (for a comparable service) than do their affiliated [investor-owned utilities ("IOUs")].[7] The Report also finds that "CCAs offer ratepayers a more accessible decision-making process compared to IOUs' ratepayers" and that CCAs provide "their ratepayers with enhanced local community participation in governance decisions."[8]

With respect to environmental benefits, the UCLA Luskin Report concludes:

> "Thus far, all CCAs in operation in California generally offer a larger share of renewable energy than do their affiliated IOU, up to 25 percentage points more. We estimate that these efforts resulted in emission reductions of approximately 600,000 metric tons of carbon dioxide (CO2) equivalent in the past twelve months. With the statewide carbon market pricing a ton of carbon at $12.73 in 2016, this translates to $7.5 million in annual savings for electricity ratepayers. Through our analysis, we found that continued development of CCAs may enable California to surpass its 2020 renewable targets by up to four percentage points."[9]

The Report also points out that reducing the use of fossil fuels in California's power mix "may also disproportionately benefit low- and moderate-income households who generally live closer to natural gas power plants than wealthier households."[10]

The UCLA Luskin Report reconfirms the important opportunities that a changing electricity landscape can provide for advancing State policy goals and the crucial role that CCAs are currently playing in harnessing these opportunities.

CCAs are crucial partners in achieving State policy goals.

The Staff White Paper acknowledges: "the three IOUs and 34 POUs have been the dominant parties on whom policy makers have relied as enablers of a number of key public policy initiatives, ranging from the procurement of renewable energy to providing low-income Californians with subsidized electricity."[11] The Commission should also see CCAs as a strong partner in helping the State achieve its environmental policy objectives.

The Commission has effectuated State policy through its oversight of the State's IOUs. While CCAs are not subject to the Commission's oversight unless explicitly directed by statutes, CCAs' goals and objectives are entirely consistent with the Commission's and the State's policy objectives. For example, many CCAs offer net energy metering programs with stronger financial incentives for local customers to invest in on-site renewables. CCAs are also aligned with the Commission's desire to enhance

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6 Retail Choice En Banc, Recording at approximately 142:10 to 142:30.
7 UCLA Luskin Report p. 14.
8 *Id.* p. 21.
9 *Id.* p. 1.
10 *Id.* p. 15.
11 Staff White Paper p. 4.

affordability by offering competitive generation rates. Some CCAs are taking additional measures to ensure even greater affordability. For example, PCE is also developing a rate stabilization fund to protect its customers from potential, future rate shocks.

CCAs are also highly aligned with the Commission's desire to accelerate achievement of the State's greenhouse-gas ("GHG") reduction goals. Many CCAs plan to be 100% GHG free before 2030, and some have set renewable procurement goals much higher than currently mandated by the State. Most CCAs currently offer their customers a default renewable energy offering, and a 100% renewable energy offering. The UCLA Luskin Report concludes that several CCAs' current power mixes already produce 50% less greenhouse-gas emissions than that of PG&E.[12] In addition, many CCAs are committed to the development of a sustainable workforce, including support for local businesses, union labor, and apprenticeship and pre-apprenticeship programs that create employment opportunities and build and sustain healthy communities.[13] [14]

II. WHAT CUSTOMERS WANT

Panelists were asked, in protecting consumers from "bad actors:" "Should consumer protections be limited to for-profit entities and not CCAs?" Panelists were also asked: "Should residential customers have access to alternative retail suppliers other than CCAs?"

California Law already has consumer protections related to CCAs. For example, Public Utilities Code Sections 366.2 requires CCA implementation plans to provide for customer protection procedures, universal access, reliability and equitable treatment of all customer classes (Section 366.2(3) and (4)). For the reasons explained below, consumer protections should be limited to for-profit entities.

CCAs are unique load serving entities ("LSEs") that are responsive to local consumers, including low-income and hard-to-serve customers. This is due to the local governance structure required of CCAs and the statutory requirement that CCAs must offer service to all residential customers in their territories. CCAs were specifically created to give residential and other customers options for alternative suppliers. Any expansion of retail choice should be carefully considered to ensure that the problems that resulted from extensive retail choice in the early 2000s are avoided. Any discussion of market reform needs to take into account the unique role CCAs play in achieving State policy goals, the alternatives they already provide to customers, and that no harm must be done to those efforts.

CCAs are not like other LSEs.

CCAs are public agencies that are governed by a public board of directors, a city council, or a commission.[15] Boards of directors are comprised of elected or appointed officials from the member communities, including in almost all cases county chairs and vice chairs, mayors, and city or town council members and supervisors.[16] As such, the elected and appointed officials who control CCAs have an obligation, enforced through the ballot box, to make sure the interests of their customers are represented and protected. This distinguishes CCAs from other LSEs.

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12 UCLA Luskin Report p. 16.

13 http://www.peninsulacleanenergy.com/wp-content/uploads/2017/01/PCE-Policy-10-final-1.pdf

14 MCE's Community Power Coalition was formed to cultivate a relationship with ratepayer advocates and community-based organizations to focus on the interests of underrepresented and historically marginalized constituencies. https://www.mcecleanenergy.org/community-power-coalition/

15 UCLA Luskin Report p. 12.

16 *Id.*

Transparency is another benefit of CCAs. CCAs are local non-profit public entities overseen by elected officials responsive to the clean energy needs of the communities they serve. As local government agencies, all CCA board meetings are open to the public and must be properly noticed. Board meetings are subject to the Brown Act and any local sunshine ordinances that may apply. Additionally, CCA records are subject to the Public Records Act. CCA customers are CCA constituents, and thus have a direct line to their locally elected board member to engage in CCA issues. This transparency is in stark contrast to the operations of the IOUs, which require a complex regulatory system in order to provide input into their operations.

The local governance structure required of CCAs also allows them to tailor procurement and adopt local programs to reflect local ratepayer preferences. The UCLA Luskin Report observes that a "CCA's knowledge of its community can help the effectiveness of investments by targeting programs that support community preferences."[17] For example, Peninsula Clean Energy's (PCE's) strategic goals include stimulating development of new renewable energy projects and clean-tech innovation in San Mateo County, in part by procuring 20 megawatts ("MW") of new local power by 2025.[18] MCE Clean Energy has several local renewable projects in operation and underway, including some targeted at reducing local pollution.[19] These examples demonstrate the ways in which CCAs are not like other LSEs.

CCAs are fully committed to serving low-income customers.

Unlike some other LSEs, CCAs are not able to selectively serve the most profitable customers and must offer service to all residential customers within their territories, including low-income and hard-to-reach customers. The best and most direct way to serve low-income customers is to ensure rates are as low as possible. Many CCAs offer lower rates than their incumbent IOUs. When tallied up across CCAs, these rate discounts produce substantial savings for families and businesses across the State. The Center for Climate Protection projects that California ratepayers will save $188 million annually by the end of 2020 assuming CCAs offer at least a 1% rate discount compared to the incumbent IOU.[20]

Expansion of retail choice should not harm CCA efforts that advance State policy goals.

Any discussion around expansion of caps on direct access providers and their responsibilities must first recognize the value CCAs have in advancing state policy goals and any proposed changes in state policy must not harm CCAs.

In addition, CCAs were specifically created in the wake of the electricity crisis of the early 2000s to give residential and other customers an option for an alternative supplier without the problems that resulted from broader retail competition. Any expansion of retail choice should be carefully considered to ensure that the problems that resulted from extensive retail choice in the early 2000 are avoided.

Consumer protection is of critical importance to CCAs.

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[17] *Id.* p. 10.

[18] https://www.peninsulacleanenergy.com/learn-more/goals-and-policies

[19] https://www.mcecleanenergy.org/local-projects/

[20] Center for Climate Protection, "Community Choice Energy Programs in California: Greenhouse Gas and Customer Cost Savings," p. 6. https://climateprotection.org/wp-content/uploads/2017/06/Forecast-of-CCA-Impacts-in-CA-2016-2020-June-2-2017.pdf

CCAs are required by statute to develop an implementation plan that addresses the rights and responsibilities of program participants, including, but not limited to, consumer protection.[21] CalCCA is not aware of any deficiencies related to consumer protection procedures established by CCAs in California that merit State mandated consumer protection requirements. CCAs are focused on serving their local customers fairly and in a high-quality, professional manner. As such, CCAs strongly support consumer protection and providing superior customer experiences.[22]

CCAs are very sensitive to customers' understanding of their rates. CCAs conduct broad customer education campaigns and develop rate structures that often mirror IOUs' own rate structures in order to minimize customer confusion. In addition, CCAs, which are governed by a public board of directors, a city council or a commission, are easily accessible to their customers. CCA customers also may opt out of CCA programs, which provides further assurance that CCA customers are fully protected with regard to rates. For these reasons, CalCCA believes the Commission should continue to focus its resources on the oversight of IOUs rather than CCAs.

III. STATE OF CUSTOMER CHOICE IN CALIFORNIA

Panelists were asked: "What are important authorities that the CPUC should maintain or gain in the future to regulate the supply and resource adequacy portfolios as heavily for the non-IOU suppliers as it does for IOUs?" Panelists were also asked: "Who should be the provider of last resort in any particular area?"

CalCCA believes the necessary framework for regulating supply and resource adequacy is already in place, but it needs to be adjusted, as explained below.

CCA expansion is fully compatible with current planning and procurement processes.

CalCCA believes much of the necessary framework is already in place to address the Commission's concerns with regard to aligning the expansion of CCAs with the planning and procurement processes at different California agencies, but work remains to improve that alignment. There are two critical issues the Commission has identified, both in the Staff White Paper and its En Banc questions. The first is how to ensure remaining customers are indifferent to the departure of CCA customers, and the second is how to ensure reliability and appropriate resource planning as "non-IOU LSEs serve an ever-greater percentage of load."[23]

Geof Syphers with SCP squarely addressed the first issue at the En Banc when he said *solving the exit fee is the key*. Ensuring ratepayer indifference for all customers is the right goal, the equitable goal, and one that CalCCA supports. However, equitable treatment should extend to both departed and remaining customers. The existing mechanisms to ensure indifference, such as the Power Charge Indifference Adjustment ("PCIA"), are opaque, unfair and create significant, short-term pricing risks for departed customers. This unfairness and lack of certainty needs to be fixed as discussed further below.

On ensuring reliability and appropriate resource planning, the Staff White Paper raises concerns regarding planning and procurement, but it appears to stop short of identifying clear gaps in the State's oversight. Rather, it notes CCAs "might be less willing" to assist with reliability concerns, and the emergence of

21 Cal. Pub. Util. Code § 366.2(c)(3)(E).
22 https://www.peninsulacleanenergy.com/learn-more/goals-and-policies
23 Staff White Paper at 7.

CCAs "could diminish the long-term effectiveness" of integrated resource planning ("IRP"), and that CCAs may need to provide new types of data to the CEC.

It has not been demonstrated that the regulatory framework the Legislature has constructed fails to provide the oversight necessary to minimize the risks listed in the Staff White Paper. For example, CCAs contract with, or employ, scheduling coordinators to ensure a balanced supply of energy in their service territory. CCAs are subject to the same resource adequacy (RA) obligations as the IOUs, meet the same environmental mandates (e.g., renewable portfolio standard) and the same energy storage requirements applicable to CPUC-jurisdictional LSEs .[24] On planning, while a CCA board appropriately determines *how* to meet SB 350's integrated resource planning mandate, the CPUC still has the authority to determine *if* CCAs meet the mandate.[25] Finally, as the Staff White Paper notes, CCAs are already required to "support CEC demand forecasting" because they are LSEs "currently subject to data and forecast reporting requirements."[26] These examples demonstrate how a framework to ensure reliability and appropriate planning on a statewide basis already exists. If individual agencies or stakeholders identify clear gaps in this framework, CalCCA is certainly open to discussing the best way to fill them.

CalCCA welcomes a discussion of what entity is appropriate to be the POLR.

The incumbent IOU serves as the POLR for CCAs under current rules. POLR is operative (1) when a CCA customer opts-out, (2) if a CCA elects to cease operations, or (3) when a CCA customer fails to pay for CCA service. The CPUC has already developed rules for customers who voluntarily return to IOU service and recently, R.03-10-003 was reopened to consider CCA bonding to cover CCA customers in the unlikely event that CCA customers are *involuntarily* returned to IOU service.[27] Collectively, these safeguards should meet the goals of ensuring reliable service and ratepayer indifference. Longer-term, CalCCA is open to a broader discussion of who should provide POLR services, including the possibility of CCAs assuming this role in their jurisdictions.

IV. CURRENT STATE OF RETAIL ELECTRICITY MARKET AND COMING CHANGES

Panelists were asked: "In this 'future' retail electric system, how do you see the role for the regulated utility evolving and what, if any, functions should be preserved for the regulated utility [to] support achieving State policy goals?"

CalCCA believes the current utility business model needs fundamental reform. In particular, data access and fair access to the distribution system are important problems that need to be resolved.

The utility business model needs fundamental reform.

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24 *See, e.g.,* Cal. Pub. Util. Code § 380(c) ("Each load-serving entity shall maintain physical generating capacity and electrical demand response adequate to meet its load requirements, including, but not limited to, peak demand and planning and operating reserves. The generating capacity or electrical demand response shall be deliverable to locations and at times as may be necessary to maintain electric service system reliability and local area reliability"); Cal. Pub. Util. Code § 380(k) (CCAs are LSEs for the purpose of RA requirements).

25 See Joint CCA Letter to Paul Douglas, R.16-02-007, *Clarification of the Joint Community Choice Aggregators' Views On Key Integrated Resource Plan Matters* (March 15, 2017).

26 Staff White paper at 8.

27 "Administrative Law Judge's Ruling Setting Prehearing Conference and Requesting Prehearing Conference Statements." January 30, 2017. http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M173/K118/173118975.PDF

A 2015 Commission report, titled *Electric Utility Business and Regulatory Models,* identifies four major issues that present both challenges and opportunities regarding the application of the current business and regulatory model to the future grid.[28] They are: (1) a general consensus that the cost-of-service model is outdated because its fundamental operating principles are sales growth and large asset acquisition, both of which contradict energy conservation; (2) a blurring of the boundaries of the natural monopoly utility because energy and financial innovations are expanding market competition; (3) the transition of a centralized, one-way distribution grid toward an open, flexible network; and (4) challenges to IOUs' financial stability and credit ratings, due to diminishing profit potential.[29] According to the report, the rate of change experienced by California's IOUs could be outpacing the cost-of-service model that underpins the industry.[30]

It the Commission pursues such reforms, CalCCA supports pursuing new models that will expand customer energy choice and open doors to additional energy innovation, while also preserving distribution system reliability and integrity. Numerous other U.S. states, including New York, Maryland, Illinois and Rhode Island, are actively pursuing new business models for electric IOUs.

Data access is a foundational problem that needs to be resolved.

It is difficult to overstate the importance of useful energy data – and the need for access to such data. A report published in 2015 by the UCLA School of Law describes how energy data can be "immensely useful to a variety of audiences, including customers, policy makers, and public interest organizations, to realize both economic and environmental benefits."[31] Expanding access to energy data could bring cleaner, more efficient energy and savings to California consumers, boosting emerging clean technologies, which would help the State achieve its environmental and energy goals in a more cost-effective manner, and further benefit ratepayers by reducing the need for new investments in power plants through improved energy efficiency. [32] The report identifies the most useful types of customer- and utility-centered data, as well as key barriers to accessing energy data and solutions for overcoming those barriers.[33]

Currently, IOUs have a significant strategic advantage in California's marketplace, because they collect, harbor and largely control customer- and utility-centered data. While the Commission has for several years explored the possibility of making available to third parties certain customer-centered data,[34] significant obstacles remain in place that prevent third parties from accessing useful data. While customer privacy needs to be respected and appropriate safeguards established, CCAs must be allowed to

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28 *Electric Utility Business and Regulatory Models*; California Public Utilities Commission Policy & Planning Division; published June 8, 2015 (pp. 3-4).
29 Ibid.
30 Ibid. p. 4
31 "Knowledge is Power: How Improved Energy Data Access Can Bolster Clean Energy Technologies & Save Money;" UCLA School of Law, et al.; published January 2015 (p. 1)
32 Ibid.
33 Ibid. pp. 2-3.
34 See, for example, A.12-03-002 ("In the Matter of the Application of Pacific Gas and Electric Company for Adoption of its Customer Data Access Project (U39E)."); A.12-03-003 ("In the Matter of the Application of San Diego Gas & Electric Company (U902E) For Authority To Implement A Backhaul Program To Provide Authorized Third Parties Access To A Customer's Usage Data Based Upon Consent Of The Customer."); A.12-03-004 ("Application of Southern California Edison Company (U338E) For Approval of Proposal To Enable Automated Access of Customer Usage Data to Authorized Third Parties and Approval of Cost Recovery Mechanism."); and R.14-08-013 ("Order Instituting Rulemaking Regarding Policies, Procedures and Rules for Development of Distribution Resources Plans Pursuant to Public Utilities Code Section 769").

access customer-centered data in a simple, streamlined manner and format that enables them to offer customers new products and services that expand clean energy options and customer choice, and which may benefit the broader distribution system and other ratepayers.

Access to the Distribution System should be fair and nondiscriminatory.

The Commission must also continue progress towards ensuring that access to the distribution is fair and nondiscriminatory. The Commission has begun exploration of this issue in its proceeding on distributed energy resources.

V. FUTURE OF RETAIL ELECTRICITY SERVICE

Panelists were asked: "Are there any urgent steps that the CPUC, the CEC and/or CAISO need to take over the next 12-18 months to begin changing the role of the utility and the structure of regulation?" Panelists were also asked: "what considerations must California account for related to technological change in its regulatory framework and how is technological change impacted by the structure of the investor-owned utility."

The methodology for calculating the PCIA must be improved, as many stakeholders (including IOUs) already recognize,[35] in order to ensure costs are equitably allocated, ratepayer indifference is maintained, and to maximize transparency and minimize volatility. CalCCA offers suggestions below for goals that a PCIA replacement should accomplish, and explains why a recent IOU-proposed portfolio allocation methodology ("PAM") fails to satisfy those goals. CalCCA also explains why CCAs are well positioned to drive innovation and technology deployment and offers examples of how states are successfully incorporating a diversity of participants into their electricity markets in an effort to achieve policy goals that are similar to those in California.

Urgent steps are needed to fix the PCIA.

The PCIA is an unfair mechanism for allocating costs between IOU and non-IOU customers.

The following reforms are needed to ensure that the PCIA, or any successor fees for departing load met the following criteria:

- Transparent: CCAs, ESPs, and all interested parties need greater access to all data used to calculate exit fees to fully understand its calculation;
- Minimizing Costs/Ensuring Costs are unavoidable: A major emphasis should be on minimizing the amount of any exit fees by ensuring utility costs are reasonable, utilities are actively managing/terminating or transferring contracts as needed, utility-owned generation resources are managed efficiently, and that the utilities stop "digging the hole deeper" by continuing to procure unneeded resources;
- Reflect all value streams: Any market-based or administrative benchmarks used to calculate exit fees must identify all of the additional benefits received and costs avoided by the utilities' energy portfolios; and
- Increase Certainty/Reduce Volatility: Departing load customers should be protected from rate shock while a durable market framework is being developed. This could include use of a longer-

35 Staff White Paper p. 9.

term forecast period (e.g. 3 years); setting a cap on the level of the PCIA; spreading under-collections over a longer-time period.

Departing load customers should have certainty regarding *both* the level of departing load changes *and* the duration of those charges. These ends can be achieved by either allowing for an upfront, lump-sum payment for each vintage of departing load, or a crystal-clear window into how departing load charges are calculated, ideally with a definitive end point for such charges. The ideal approach couples this certainty with optionality by giving CCAs a choice between (a) an upfront payment for a departing load charge and (b) a transparent calculation of such a charge, with a finite term for the charge. This optionality allows each CCA to choose the best path forward for its customers while ensuring both new and existing CCAs can finance around their obligations to remaining customers without putting obligations to departing customers at risk.

The IOU PAM proposal in A.17-04-018 is not the solution to the PCIA dilemma. CalCCA and over a dozen parties have filed protests in response to the PAM proposal, and CalCCA has moved for its dismissal.[36] The PAM proposal fails to address the problems CCAs have with the PCIA including lack of transparency, little incentive to minimize costs, failure to reflect all value streams and a lack of cost certainty. The PAM provides no "buy-out" mechanism or ability for CCAs to pay once for departing load costs associated with each vintage of departing load customer. There is no certainty on when an amendment to a power purchase agreement will constitute a new contract, and there is no certain end date for a particular vintage's need to pay the PAM. This lack of certainty, and the lack of any tools for CCAs to proactively manage departing load costs, creates significant concerns that the PAM could actually increase the volatility of the departing load charges that are passed through to departing customers via yearly adjustments and true-ups. This is untenable for CCAs that are committed to providing rate stability and rate savings to their customers.

The PAM proposal is also fundamentally flawed in its treatment of avoidable costs. It does not specify which contracts and utility plant should be included in departing load charges, and it does not contain any mechanisms to align IOU interests in minimizing unavoidable costs. The PAM proposal is not the right way to begin addressing the topic of how to allocate the cost of IOU above-market cost resources between departing and remaining customers. To the contrary, we need to clearly identify what resources are at risk of being stranded assets and discuss how to minimize cost exposure to those resources over time. The first order of business is to stop the digging. The IOUs are already over procured, and no additional procurement should be ordered until there is greater certainty on who will pay the associated costs.

CCAs are well positioned to drive innovation and technology deployment.

California should continue to lead in the development of renewable energy.[37] While operational challenges remain to its continued development, CCAs are well positioned to assist the state in working through them. In particular, the CAISO noted that periodic negative prices are a huge incentive for demand response and storage.[38] That incentive can drive innovation and technology deployment, and the most nimble organizations to test different advancements and their effectiveness likely will be CCAs, since incumbent IOUs, unlike CCAs, require CPUC approval of pilots and programs in order for the cost

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36 California Community Choice Association, R.17-04-018, Motion to Dismiss Application Without Prejudice (May 30, 2017).

37 *See, e.g.,* M. Rothleder, CAISO, *Renewable Integration Presentation at the IEPR Workshop at the CEC* (May 12, 2017).

38 *See id.* at slides 9-15, 23-27 (identifying opportunities and solutions for technical challenges as the penetration of renewable energy on California's system increases).

of those programs to be included in rates. The need for such approval can delay implementation and even foreclose the IOUs' willingness to explore different technologies and advancements. Leveraging CCAs as laboratories of innovation can result in timely solutions to planning and procurement issues the State would not otherwise be able to capture.

Other states are successfully incorporating diverse participants into their markets; California can too.

Looking beyond California illustrates that electricity markets can successfully be restructured to engage a diverse array of participants. For example, both New Jersey and Massachusetts, states with operating CCAs, provide retail electric choice; participate in competitive regional wholesale markets; have fostered vibrant, top-ten-ranked solar markets[39]; and implemented portfolios of strong clean energy policies. These examples demonstrate that engaging a diverse array of participants, through mechanisms like locally controlled CCAs, is both doable and fully compatible with achieving State policy goals. CalCCA looks forward to discussing ideas for reforming California's energy markets in the rulemaking anticipated within the Staff White Paper.

CONCLUSIONS

CalCCA appreciates the opportunity to provide informal comments on the Staff White Paper and En Banc questions. CalCCA's comments highlight the unique role that CCAs play in increasing participation in energy decisions, designing local programs around customer preferences, promoting the use of new technologies, enhancing affordability, and accelerating achievement of the State's policy goals. CalCCA looks forward to working with the Commission to solve critical challenges, like fixing the PCIA and improving data access, so the opportunities presented by a "Changing Electricity Landscape" can be fully realized.

Respectfully submitted,

/s/ Barbara Hale

Barbara Hale President
CALIFORNIA COMMUNITY CHOICE ASSOCIATION
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39 Solar Energy Industries Association, "Top 10 Solar States", http://www.seia.org/research-resources/top-10-solar-states.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures and Rules for Development of Distribution Resources Plans Pursuant to Public Utilities Code Section 769.	Rulemaking 14-08-013 (Filed August 14, 2014)
And Related Matters	Application 15-07-002 Application 15-07-003 Application 15-07-006
(NOT CONSOLIDATED)	
In the Matter of the Application of PacifiCorp (U901E) Setting Forth its Distributed Resource Plan Pursuant to Public Utilities Code Section 769.	Application 15-07-005 (Filed July 1, 2015)
And Related Matters.	Application 15-07-007 Application 15-07-008

NOTICE OF EX PARTE COMMUNICATION BY
CALIFORNIA COMMUNITY CHOICE ASSOCIATION

Pursuant to Rule 8.4 of the Commission's Rules of Practice and Procedure, the California Community Choice Association ("CalCCA") hereby gives notice of the following *ex parte* written communication.

On June 19, 2017 at 1:50 p.m., James Hendry submitted, via email the attached comments to Suzanne Casazza. These comments are a response to questions posed by President Michael Picker in relation to the *Joint CPUC and California Energy Commission En Banc on The Changing Nature of Consumer and Retail Choice in California* held on May 19, 2017. It is CalCCA's understanding that Ms. Casazza will communicate these responses to President Picker, Commissioner Martha Guzman

Aceves, Commissioner Liane M. Randolph, Commissioner Carla Peterman, and Commissioner Clifford Rechtschaffen.

A copy of that email and comments are included herein as Attachment A. To request a copy of this notice, please contact Blake Elder at belder@kfwlaw.com.

Respectfully submitted on June 19, 2017.

<u>/s/ Barbara Hale</u>
Barbara Hale
President, CalCCA
1125 Tamalpais Ave.
San Rafael, CA 94901
Tele: (415) 464-6689
Email: info@cal-cca.org

ATTACHMENT A

PENINSULA CLEAN ENERGY

Joseph F. Wiedman <jwiedman@peninsulacleanenergy.com>

EnBanc Comments of CalCCA

Hendry, James <JHendry@sfwater.org> Mon, Jun 19, 2017 at 1:50 PM
To: "Suzanne.Casazza@cpuc.ca.gov" <Suzanne.Casazza@cpuc.ca.gov>
Cc: "Joseph F. Wiedman (jwiedman@peninsulacleanenergy.com)" <jwiedman@peninsulacleanenergy.com>, "Hale, Barbara" <BHale@sfwater.org>

Suzanne – Attached are the comments of the California Community Choice Association (CalCCA) on the question raised in the CPUC's en banc. Thanks for the extension of time to file comments, sorry it took a little longer to get everything finalized for filing.

As always, please give us a call if you need any further information at (415) 554-1526.

CalCCA Comments on En Banc and Staff White Paper.pdf
212K

CALIFORNIA COMMUNITY CHOICE ASSOCIATION (CalCCA)
COMMENTS ON
THE CUSTOMER AND RETAIL CHOICE EN BANC AND WHITE PAPER

The California Community Choice Association ("CalCCA")[1] appreciates the opportunity to provide informal comment on the Staff White Paper titled "Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework," published May 9, 2017 ("Staff White Paper"), and on the questions posed to the panelists at the En Banc on The Changing Nature of Consumer and Retail Choice in California, held on May 19, 2017 ("En Banc").

The Staff White Paper and En Banc open a discussion regarding several important trends that are currently driving significant change within California's electricity sector and the overall clean-energy economy. CalCCA's responses to the Staff White Paper and the En Banc highlight the many ways in which the changing electricity landscape presents opportunities for furthering the State's "reliability, affordability, equity and carbon reduction imperatives while recognizing [the] important role that technology and customer preferences will play in shaping this future."[2]

In particular, CalCCA highlights the many ways in which community choice aggregators ("CCAs") are crucial partners in achieving the State's policy goals. For example, CCAs increase participation in energy decisions, design local programs around customer preferences, promote the use of new technologies, enhance affordability, and accelerate achievement of the State's greenhouse-gas goals. CalCCA elaborates on these CCA efforts in the comments below and explains the ways in which CCAs differ from other types of service providers. CalCCA also proposes several solutions for better incorporating CCAs into the State's planning and procurement processes.

I. STAFF WHITE PAPER

"California's Changing Electricity Landscape"[3] presents an opportunity.

California has an enormous task in front of it in effectuating its laudable energy policy goals. As the Staff White Paper explains:

> "California has set itself on the path to reducing statewide greenhouse gas emissions by 40% below 1990 levels by 2030, using tools such as a 50% renewable portfolio standard, doubling of existing energy efficiency savings for both electricity and natural gas usage and putting well over 1.5 million zero emission vehicles on the road."[4]

There are currently eight operational CCAs in California with several more set to launch in 2017 and another 20 being explored across the state.[5] During the En Banc, Geof Syphers, the Chief Executive

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[1] CalCCA, the California Community Choice Association, is a trade association representing the interests of its members .CalCCA's operational members are Apple Valley Clean Energy, CleanPowerSF, Lancaster Choice Energy, MCE, Peninsula Clean Energy Authority, Silicon Valley Clean Energy, Redwood Coast Energy Authority, and Sonoma Clean
Power.

[2] Staff White Paper p. 5.

[3] *Id.* pp. 3-5.

[4] *Id.* p. 3 (internal citations omitted).

[5] UCLA Luskin Report p. 6.

Officer of Sonoma Clean Power ("SCP") noted that nearly $2 billion in new generating facility investment has been facilitated by CCA procurement.[6]

The University of California, Los Angeles Luskin Center for Innovation recently issued a report on "The Promises and Challenges of Community Choice Aggregation in California" ("UCLA Luskin Report" or "Report"). The Report identifies a number of benefits that CCAs provide to Californians and their ratepayers, including significant financial benefits. In fact, the Report finds that "all CCAs provide their customers with more competitive rates (for a comparable service) than do their affiliated [investor-owned utilities ("IOUs")].[7] The Report also finds that "CCAs offer ratepayers a more accessible decision-making process compared to IOUs' ratepayers" and that CCAs provide "their ratepayers with enhanced local community participation in governance decisions."[8]

With respect to environmental benefits, the UCLA Luskin Report concludes:

> "Thus far, all CCAs in operation in California generally offer a larger share of renewable energy than do their affiliated IOU, up to 25 percentage points more. We estimate that these efforts resulted in emission reductions of approximately 600,000 metric tons of carbon dioxide (CO2) equivalent in the past twelve months. With the statewide carbon market pricing a ton of carbon at $12.73 in 2016, this translates to $7.5 million in annual savings for electricity ratepayers. Through our analysis, we found that continued development of CCAs may enable California to surpass its 2020 renewable targets by up to four percentage points."[9]

The Report also points out that reducing the use of fossil fuels in California's power mix "may also disproportionately benefit low- and moderate-income households who generally live closer to natural gas power plants than wealthier households."[10]

The UCLA Luskin Report reconfirms the important opportunities that a changing electricity landscape can provide for advancing State policy goals and the crucial role that CCAs are currently playing in harnessing these opportunities.

CCAs are crucial partners in achieving State policy goals.

The Staff White Paper acknowledges: "the three IOUs and 34 POUs have been the dominant parties on whom policy makers have relied as enablers of a number of key public policy initiatives, ranging from the procurement of renewable energy to providing low-income Californians with subsidized electricity."[11] The Commission should also see CCAs as a strong partner in helping the State achieve its environmental policy objectives.

The Commission has effectuated State policy through its oversight of the State's IOUs. While CCAs are not subject to the Commission's oversight unless explicitly directed by statutes, CCAs' goals and objectives are entirely consistent with the Commission's and the State's policy objectives. For example, many CCAs offer net energy metering programs with stronger financial incentives for local customers to invest in on-site renewables. CCAs are also aligned with the Commission's desire to enhance

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6 Retail Choice En Banc, Recording at approximately 142:10 to 142:30.
7 UCLA Luskin Report p. 14.
8 *Id.* p. 21.
9 *Id.* p. 1.
10 *Id.* p. 15.
11 Staff White Paper p. 4.

affordability by offering competitive generation rates. Some CCAs are taking additional measures to ensure even greater affordability. For example, PCE is also developing a rate stabilization fund to protect its customers from potential, future rate shocks.

CCAs are also highly aligned with the Commission's desire to accelerate achievement of the State's greenhouse-gas ("GHG") reduction goals. Many CCAs plan to be 100% GHG free before 2030, and some have set renewable procurement goals much higher than currently mandated by the State. Most CCAs currently offer their customers a default renewable energy offering, and a 100% renewable energy offering. The UCLA Luskin Report concludes that several CCAs' current power mixes already produce 50% less greenhouse-gas emissions than that of PG&E.[12] In addition, many CCAs are committed to the development of a sustainable workforce, including support for local businesses, union labor, and apprenticeship and pre-apprenticeship programs that create employment opportunities and build and sustain healthy communities.[13] [14]

II. WHAT CUSTOMERS WANT

Panelists were asked, in protecting consumers from "bad actors:" "Should consumer protections be limited to for-profit entities and not CCAs?" Panelists were also asked: "Should residential customers have access to alternative retail suppliers other than CCAs?"

California Law already has consumer protections related to CCAs. For example, Public Utilities Code Sections 366.2 requires CCA implementation plans to provide for customer protection procedures, universal access, reliability and equitable treatment of all customer classes (Section 366.2(3) and (4)). For the reasons explained below, consumer protections should be limited to for-profit entities.

CCAs are unique load serving entities ("LSEs") that are responsive to local consumers, including low-income and hard-to-serve customers. This is due to the local governance structure required of CCAs and the statutory requirement that CCAs must offer service to all residential customers in their territories. CCAs were specifically created to give residential and other customers options for alternative suppliers. Any expansion of retail choice should be carefully considered to ensure that the problems that resulted from extensive retail choice in the early 2000s are avoided. Any discussion of market reform needs to take into account the unique role CCAs play in achieving State policy goals, the alternatives they already provide to customers, and that no harm must be done to those efforts.

CCAs are not like other LSEs.

CCAs are public agencies that are governed by a public board of directors, a city council, or a commission.[15] Boards of directors are comprised of elected or appointed officials from the member communities, including in almost all cases county chairs and vice chairs, mayors, and city or town council members and supervisors.[16] As such, the elected and appointed officials who control CCAs have an obligation, enforced through the ballot box, to make sure the interests of their customers are represented and protected. This distinguishes CCAs from other LSEs.

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12 UCLA Luskin Report p. 16.

13 http://www.peninsulacleanenergy.com/wp-content/uploads/2017/01/PCE-Policy-10-final-1.pdf

14 MCE's Community Power Coalition was formed to cultivate a relationship with ratepayer advocates and community-based organizations to focus on the interests of underrepresented and historically marginalized constituencies. https://www.mcecleanenergy.org/community-power-coalition/

15 UCLA Luskin Report p. 12.

16 *Id.*

Transparency is another benefit of CCAs. CCAs are local non-profit public entities overseen by elected officials responsive to the clean energy needs of the communities they serve. As local government agencies, all CCA board meetings are open to the public and must be properly noticed. Board meetings are subject to the Brown Act and any local sunshine ordinances that may apply. Additionally, CCA records are subject to the Public Records Act. CCA customers are CCA constituents, and thus have a direct line to their locally elected board member to engage in CCA issues. This transparency is in stark contrast to the operations of the IOUs, which require a complex regulatory system in order to provide input into their operations.

The local governance structure required of CCAs also allows them to tailor procurement and adopt local programs to reflect local ratepayer preferences. The UCLA Luskin Report observes that a "CCA's knowledge of its community can help the effectiveness of investments by targeting programs that support community preferences."[17] For example, Peninsula Clean Energy's (PCE's) strategic goals include stimulating development of new renewable energy projects and clean-tech innovation in San Mateo County, in part by procuring 20 megawatts ("MW") of new local power by 2025.[18] MCE Clean Energy has several local renewable projects in operation and underway, including some targeted at reducing local pollution.[19] These examples demonstrate the ways in which CCAs are not like other LSEs.

CCAs are fully committed to serving low-income customers.

Unlike some other LSEs, CCAs are not able to selectively serve the most profitable customers and must offer service to all residential customers within their territories, including low-income and hard-to-reach customers. The best and most direct way to serve low-income customers is to ensure rates are as low as possible. Many CCAs offer lower rates than their incumbent IOUs. When tallied up across CCAs, these rate discounts produce substantial savings for families and businesses across the State. The Center for Climate Protection projects that California ratepayers will save $188 million annually by the end of 2020 assuming CCAs offer at least a 1% rate discount compared to the incumbent IOU.[20]

Expansion of retail choice should not harm CCA efforts that advance State policy goals.

Any discussion around expansion of caps on direct access providers and their responsibilities must first recognize the value CCAs have in advancing state policy goals and any proposed changes in state policy must not harm CCAs.

In addition, CCAs were specifically created in the wake of the electricity crisis of the early 2000s to give residential and other customers an option for an alternative supplier without the problems that resulted from broader retail competition. Any expansion of retail choice should be carefully considered to ensure that the problems that resulted from extensive retail choice in the early 2000 are avoided.

Consumer protection is of critical importance to CCAs.

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17 *Id.* p. 10.

18 https://www.peninsulacleanenergy.com/learn-more/goals-and-policies

19 https://www.mcecleanenergy.org/local-projects/

20 Center for Climate Protection, "Community Choice Energy Programs in California: Greenhouse Gas and Customer Cost Savings," p. 6. https://climateprotection.org/wp-content/uploads/2017/06/Forecast-of-CCA-Impacts-in-CA-2016-2020-June-2-2017.pdf

CCAs are required by statute to develop an implementation plan that addresses the rights and responsibilities of program participants, including, but not limited to, consumer protection.[21] CalCCA is not aware of any deficiencies related to consumer protection procedures established by CCAs in California that merit State mandated consumer protection requirements. CCAs are focused on serving their local customers fairly and in a high-quality, professional manner. As such, CCAs strongly support consumer protection and providing superior customer experiences.[22]

CCAs are very sensitive to customers' understanding of their rates. CCAs conduct broad customer education campaigns and develop rate structures that often mirror IOUs' own rate structures in order to minimize customer confusion. In addition, CCAs, which are governed by a public board of directors, a city council or a commission, are easily accessible to their customers. CCA customers also may opt out of CCA programs, which provides further assurance that CCA customers are fully protected with regard to rates. For these reasons, CalCCA believes the Commission should continue to focus its resources on the oversight of IOUs rather than CCAs.

III. STATE OF CUSTOMER CHOICE IN CALIFORNIA

Panelists were asked: "What are important authorities that the CPUC should maintain or gain in the future to regulate the supply and resource adequacy portfolios as heavily for the non-IOU suppliers as it does for IOUs?" Panelists were also asked: "Who should be the provider of last resort in any particular area?"

CalCCA believes the necessary framework for regulating supply and resource adequacy is already in place, but it needs to be adjusted, as explained below.

CCA expansion is fully compatible with current planning and procurement processes.

CalCCA believes much of the necessary framework is already in place to address the Commission's concerns with regard to aligning the expansion of CCAs with the planning and procurement processes at different California agencies, but work remains to improve that alignment. There are two critical issues the Commission has identified, both in the Staff White Paper and its En Banc questions. The first is how to ensure remaining customers are indifferent to the departure of CCA customers, and the second is how to ensure reliability and appropriate resource planning as "non-IOU LSEs serve an ever-greater percentage of load."[23]

Geof Syphers with SCP squarely addressed the first issue at the En Banc when he said *solving the exit fee is the key*. Ensuring ratepayer indifference for all customers is the right goal, the equitable goal, and one that CalCCA supports. However, equitable treatment should extend to both departed and remaining customers. The existing mechanisms to ensure indifference, such as the Power Charge Indifference Adjustment ("PCIA"), are opaque, unfair and create significant, short-term pricing risks for departed customers. This unfairness and lack of certainty needs to be fixed as discussed further below.

On ensuring reliability and appropriate resource planning, the Staff White Paper raises concerns regarding planning and procurement, but it appears to stop short of identifying clear gaps in the State's oversight. Rather, it notes CCAs "might be less willing" to assist with reliability concerns, and the emergence of

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21 Cal. Pub. Util. Code § 366.2(c)(3)(E).

22 https://www.peninsulacleanenergy.com/learn-more/goals-and-policies

23 Staff White Paper at 7.

CCAs "could diminish the long-term effectiveness" of integrated resource planning ("IRP"), and that CCAs may need to provide new types of data to the CEC.

It has not been demonstrated that the regulatory framework the Legislature has constructed fails to provide the oversight necessary to minimize the risks listed in the Staff White Paper. For example, CCAs contract with, or employ, scheduling coordinators to ensure a balanced supply of energy in their service territory. CCAs are subject to the same resource adequacy (RA) obligations as the IOUs, meet the same environmental mandates (e.g., renewable portfolio standard) and the same energy storage requirements applicable to CPUC-jurisdictional LSEs .[24] On planning, while a CCA board appropriately determines *how* to meet SB 350's integrated resource planning mandate, the CPUC still has the authority to determine *if* CCAs meet the mandate.[25] Finally, as the Staff White Paper notes, CCAs are already required to "support CEC demand forecasting" because they are LSEs "currently subject to data and forecast reporting requirements."[26] These examples demonstrate how a framework to ensure reliability and appropriate planning on a statewide basis already exists. If individual agencies or stakeholders identify clear gaps in this framework, CalCCA is certainly open to discussing the best way to fill them.

CalCCA welcomes a discussion of what entity is appropriate to be the POLR.

The incumbent IOU serves as the POLR for CCAs under current rules. POLR is operative (1) when a CCA customer opts-out, (2) if a CCA elects to cease operations, or (3) when a CCA customer fails to pay for CCA service. The CPUC has already developed rules for customers who voluntarily return to IOU service and recently, R.03-10-003 was reopened to consider CCA bonding to cover CCA customers in the unlikely event that CCA customers are *involuntarily* returned to IOU service.[27] Collectively, these safeguards should meet the goals of ensuring reliable service and ratepayer indifference. Longer-term, CalCCA is open to a broader discussion of who should provide POLR services, including the possibility of CCAs assuming this role in their jurisdictions.

IV. CURRENT STATE OF RETAIL ELECTRICITY MARKET AND COMING CHANGES

Panelists were asked: "In this 'future' retail electric system, how do you see the role for the regulated utility evolving and what, if any, functions should be preserved for the regulated utility [to] support achieving State policy goals?"

CalCCA believes the current utility business model needs fundamental reform. In particular, data access and fair access to the distribution system are important problems that need to be resolved.

The utility business model needs fundamental reform.

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[24] *See, e.g.,* Cal. Pub. Util. Code § 380(c) ("Each load-serving entity shall maintain physical generating capacity and electrical demand response adequate to meet its load requirements, including, but not limited to, peak demand and planning and operating reserves. The generating capacity or electrical demand response shall be deliverable to locations and at times as may be necessary to maintain electric service system reliability and local area reliability"); Cal. Pub. Util. Code § 380(k) (CCAs are LSEs for the purpose of RA requirements).

[25] See Joint CCA Letter to Paul Douglas, R.16-02-007, *Clarification of the Joint Community Choice Aggregators' Views On Key Integrated Resource Plan Matters* (March 15, 2017).

[26] Staff White paper at 8.

[27] "Administrative Law Judge's Ruling Setting Prehearing Conference and Requesting Prehearing Conference Statements." January 30, 2017. http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M173/K118/173118975.PDF

A 2015 Commission report, titled *Electric Utility Business and Regulatory Models,* identifies four major issues that present both challenges and opportunities regarding the application of the current business and regulatory model to the future grid.[28] They are: (1) a general consensus that the cost-of-service model is outdated because its fundamental operating principles are sales growth and large asset acquisition, both of which contradict energy conservation; (2) a blurring of the boundaries of the natural monopoly utility because energy and financial innovations are expanding market competition; (3) the transition of a centralized, one-way distribution grid toward an open, flexible network; and (4) challenges to IOUs' financial stability and credit ratings, due to diminishing profit potential.[29] According to the report, the rate of change experienced by California's IOUs could be outpacing the cost-of-service model that underpins the industry.[30]

It the Commission pursues such reforms, CalCCA supports pursuing new models that will expand customer energy choice and open doors to additional energy innovation, while also preserving distribution system reliability and integrity. Numerous other U.S. states, including New York, Maryland, Illinois and Rhode Island, are actively pursuing new business models for electric IOUs.

Data access is a foundational problem that needs to be resolved.

It is difficult to overstate the importance of useful energy data – and the need for access to such data. A report published in 2015 by the UCLA School of Law describes how energy data can be "immensely useful to a variety of audiences, including customers, policy makers, and public interest organizations, to realize both economic and environmental benefits."[31] Expanding access to energy data could bring cleaner, more efficient energy and savings to California consumers, boosting emerging clean technologies, which would help the State achieve its environmental and energy goals in a more cost-effective manner, and further benefit ratepayers by reducing the need for new investments in power plants through improved energy efficiency. [32] The report identifies the most useful types of customer- and utility-centered data, as well as key barriers to accessing energy data and solutions for overcoming those barriers.[33]

Currently, IOUs have a significant strategic advantage in California's marketplace, because they collect, harbor and largely control customer- and utility-centered data. While the Commission has for several years explored the possibility of making available to third parties certain customer-centered data,[34] significant obstacles remain in place that prevent third parties from accessing useful data. While customer privacy needs to be respected and appropriate safeguards established, CCAs must be allowed to

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28 *Electric Utility Business and Regulatory Models*; California Public Utilities Commission Policy & Planning Division; published June 8, 2015 (pp. 3-4).

29 Ibid.

30 Ibid. p. 4

31 "Knowledge is Power: How Improved Energy Data Access Can Bolster Clean Energy Technologies & Save Money;" UCLA School of Law, et al.; published January 2015 (p. 1)

32 Ibid.

33 Ibid. pp. 2-3.

34 See, for example, A.12-03-002 ("In the Matter of the Application of Pacific Gas and Electric Company for Adoption of its Customer Data Access Project (U39E)."); A.12-03-003 ("In the Matter of the Application of San Diego Gas & Electric Company (U902E) For Authority To Implement A Backhaul Program To Provide Authorized Third Parties Access To A Customer's Usage Data Based Upon Consent Of The Customer."); A.12-03-004 ("Application of Southern California Edison Company (U338E) For Approval of Proposal To Enable Automated Access of Customer Usage Data to Authorized Third Parties and Approval of Cost Recovery Mechanism."); and R.14-08-013 ("Order Instituting Rulemaking Regarding Policies, Procedures and Rules for Development of Distribution Resources Plans Pursuant to Public Utilities Code Section 769").

access customer-centered data in a simple, streamlined manner and format that enables them to offer customers new products and services that expand clean energy options and customer choice, and which may benefit the broader distribution system and other ratepayers.

Access to the Distribution System should be fair and nondiscriminatory.

The Commission must also continue progress towards ensuring that access to the distribution is fair and nondiscriminatory. The Commission has begun exploration of this issue in its proceeding on distributed energy resources.

V. FUTURE OF RETAIL ELECTRICITY SERVICE

Panelists were asked: "Are there any urgent steps that the CPUC, the CEC and/or CAISO need to take over the next 12-18 months to begin changing the role of the utility and the structure of regulation?" Panelists were also asked: "what considerations must California account for related to technological change in its regulatory framework and how is technological change impacted by the structure of the investor-owned utility."

The methodology for calculating the PCIA must be improved, as many stakeholders (including IOUs) already recognize,[35] in order to ensure costs are equitably allocated, ratepayer indifference is maintained, and to maximize transparency and minimize volatility. CalCCA offers suggestions below for goals that a PCIA replacement should accomplish, and explains why a recent IOU-proposed portfolio allocation methodology ("PAM") fails to satisfy those goals. CalCCA also explains why CCAs are well positioned to drive innovation and technology deployment and offers examples of how states are successfully incorporating a diversity of participants into their electricity markets in an effort to achieve policy goals that are similar to those in California.

Urgent steps are needed to fix the PCIA.

The PCIA is an unfair mechanism for allocating costs between IOU and non-IOU customers.

The following reforms are needed to ensure that the PCIA, or any successor fees for departing load met the following criteria:

- Transparent: CCAs, ESPs, and all interested parties need greater access to all data used to calculate exit fees to fully understand its calculation;
- Minimizing Costs/Ensuring Costs are unavoidable: A major emphasis should be on minimizing the amount of any exit fees by ensuring utility costs are reasonable, utilities are actively managing/terminating or transferring contracts as needed, utility-owned generation resources are managed efficiently, and that the utilities stop "digging the hole deeper" by continuing to procure unneeded resources;
- Reflect all value streams: Any market-based or administrative benchmarks used to calculate exit fees must identify all of the additional benefits received and costs avoided by the utilities' energy portfolios; and
- Increase Certainty/Reduce Volatility: Departing load customers should be protected from rate shock while a durable market framework is being developed. This could include use of a longer-

[35] Staff White Paper p. 9.

term forecast period (e.g. 3 years); setting a cap on the level of the PCIA; spreading under-collections over a longer-time period.

Departing load customers should have certainty regarding *both* the level of departing load changes *and* the duration of those charges. These ends can be achieved by either allowing for an upfront, lump-sum payment for each vintage of departing load, or a crystal-clear window into how departing load charges are calculated, ideally with a definitive end point for such charges. The ideal approach couples this certainty with optionality by giving CCAs a choice between (a) an upfront payment for a departing load charge and (b) a transparent calculation of such a charge, with a finite term for the charge. This optionality allows each CCA to choose the best path forward for its customers while ensuring both new and existing CCAs can finance around their obligations to remaining customers without putting obligations to departing customers at risk.

The IOU PAM proposal in A.17-04-018 is not the solution to the PCIA dilemma. CalCCA and over a dozen parties have filed protests in response to the PAM proposal, and CalCCA has moved for its dismissal.[36] The PAM proposal fails to address the problems CCAs have with the PCIA including lack of transparency, little incentive to minimize costs, failure to reflect all value streams and a lack of cost certainty. The PAM provides no "buy-out" mechanism or ability for CCAs to pay once for departing load costs associated with each vintage of departing load customer. There is no certainty on when an amendment to a power purchase agreement will constitute a new contract, and there is no certain end date for a particular vintage's need to pay the PAM. This lack of certainty, and the lack of any tools for CCAs to proactively manage departing load costs, creates significant concerns that the PAM could actually increase the volatility of the departing load charges that are passed through to departing customers via yearly adjustments and true-ups. This is untenable for CCAs that are committed to providing rate stability and rate savings to their customers.

The PAM proposal is also fundamentally flawed in its treatment of avoidable costs. It does not specify which contracts and utility plant should be included in departing load charges, and it does not contain any mechanisms to align IOU interests in minimizing unavoidable costs. The PAM proposal is not the right way to begin addressing the topic of how to allocate the cost of IOU above-market cost resources between departing and remaining customers. To the contrary, we need to clearly identify what resources are at risk of being stranded assets and discuss how to minimize cost exposure to those resources over time. The first order of business is to stop the digging. The IOUs are already over procured, and no additional procurement should be ordered until there is greater certainty on who will pay the associated costs.

CCAs are well positioned to drive innovation and technology deployment.

California should continue to lead in the development of renewable energy.[37] While operational challenges remain to its continued development, CCAs are well positioned to assist the state in working through them. In particular, the CAISO noted that periodic negative prices are a huge incentive for demand response and storage.[38] That incentive can drive innovation and technology deployment, and the most nimble organizations to test different advancements and their effectiveness likely will be CCAs, since incumbent IOUs, unlike CCAs, require CPUC approval of pilots and programs in order for the cost

36 California Community Choice Association, R.17-04-018, Motion to Dismiss Application Without Prejudice (May 30, 2017).

37 *See, e.g.,* M. Rothleder, CAISO, *Renewable Integration Presentation at the IEPR Workshop at the CEC* (May 12, 2017).

38 *See id.* at slides 9-15, 23-27 (identifying opportunities and solutions for technical challenges as the penetration of renewable energy on California's system increases).

of those programs to be included in rates. The need for such approval can delay implementation and even foreclose the IOUs' willingness to explore different technologies and advancements. Leveraging CCAs as laboratories of innovation can result in timely solutions to planning and procurement issues the State would not otherwise be able to capture.

Other states are successfully incorporating diverse participants into their markets; California can too.

Looking beyond California illustrates that electricity markets can successfully be restructured to engage a diverse array of participants. For example, both New Jersey and Massachusetts, states with operating CCAs, provide retail electric choice; participate in competitive regional wholesale markets; have fostered vibrant, top-ten-ranked solar markets[39]; and implemented portfolios of strong clean energy policies. These examples demonstrate that engaging a diverse array of participants, through mechanisms like locally controlled CCAs, is both doable and fully compatible with achieving State policy goals. CalCCA looks forward to discussing ideas for reforming California's energy markets in the rulemaking anticipated within the Staff White Paper.

CONCLUSIONS

CalCCA appreciates the opportunity to provide informal comments on the Staff White Paper and En Banc questions. CalCCA's comments highlight the unique role that CCAs play in increasing participation in energy decisions, designing local programs around customer preferences, promoting the use of new technologies, enhancing affordability, and accelerating achievement of the State's policy goals. CalCCA looks forward to working with the Commission to solve critical challenges, like fixing the PCIA and improving data access, so the opportunities presented by a "Changing Electricity Landscape" can be fully realized.

Respectfully submitted,

/s/ Barbara Hale

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[39] Solar Energy Industries Association, "Top 10 Solar States", http://www.seia.org/research-resources/top-10-solar-states.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of Energy Efficiency Rolling Portfolio Business Plan.	Application 17-01-013 (Filed January 17, 2017)
Application of San Diego Gas & Electric Company (U902M) to adopt Energy Efficiency Rolling Portfolio Business Plan Pursuant to Decision 16-08-019.	Application 17-01-014 (Filed January 17, 2017)
Application of Pacific Gas and Electric Company for Approval of 2018-2025 Rolling Portfolio Energy Efficiency Business Plan and Budget (U39M).	Application 17-01-015 (Filed January 17, 2017)
Application of SOUTHERN CALIFORNIA GAS COMPANY (U904G) for adoption of its Energy Efficiency Rolling Portfolio Business Plan and related relief.	Application 17-01-016 (Filed January 17, 2017)
In the Matter of the Application of Marin Clean Energy for Approval of its Energy Efficiency Business Plan.	Application 17-01-017 (Filed January 17, 2017)

COMMENTS OF MARIN CLEAN ENERGY ON SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES

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COMMENTS OF MARIN CLEAN ENERGY ON SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES

I. INTRODUCTION

Marin Clean Energy ("MCE") submits the following comments in response to the *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judges* ("Scoping Ruling") filed April 14, 2017. MCE provides responses to a subset of the 58 questions in Attachment B of the Scoping Ruling. The numbering of sections and questions from Attachment B are preserved in these comments. The Scoping Ruling invites all parties to respond to the questions in Attachment B to the Scoping Ruling by June 5, 2017. On June 2, 2017 Administrative Law Judge Kao issued *A1701013 et al. Email Ruling Extending Deadlines to File Comments, Motions for Evidentiary*

Hearing and/or Testimony ("Extension Ruling") extending the due date for those comments to June 22, 2017.

II. (SECTION I) GENERAL QUESTIONS REGARDING REASONABLENESS OF BUSINESS PLANS

9. Do the business plans generally implement the letter and the spirit of the new definition of "statewide program" included in D.16-08-019?

In its protest of Pacific Gas and Electric Company's ("PG&E's") Application, MCE articulated several concerns with the Statewide Administration Approach document that was included in each investor-owned utility ("IOU") application.[1] These concerns include:

- The Commission should not delegate authority to modify the list of statewide programs.[2]
- References to IOU program administrators ("PAs") should be generalized to all PAs where appropriate.[3]
- Several minor modifications should be made to reduce the administrative burden associated with statewide programs such as: (1) making the Statewide Program Council meeting attendance optional; (2) leveraging the California Energy Efficiency Coordinating Committee ("CAEECC") instead of the Statewide Program Council for discussions about changing statewide programs where possible; and (3) allowing the lead PA to file an advice letter to change statewide programs after consulting with the other PAs in lieu of requiring consensus among PAs.[4]

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[1] Protest of Marin Clean Energy to the Application of PG&E for Approval of 2018-2025 Rolling Portfolio Energy Efficiency Business Plan and Budget and Response of MCE to Other Business Plans ("MCE Protest"), filed March 3, 2017 at p. 8-12.
[2] *Id.* at 9.
[3] *Id.* at 9-10.
[4] *Id.* at 10-11.

- Several clarifications are necessary before approving the Statewide Administration Approach including: (1) additional detail on a number of ambiguous terms (*e.g.* "budget decision" and "program support") and (2) the budget and energy savings commitments associated with the statewide programs, including the specific contributions from each PA.[5]

IV. (SECTION II) APPROVAL PROCESS

33. Should cost-effectiveness thresholds be applicable to REN portfolios now or in the future? How should this be implemented?

The cost effectiveness thresholds should not be applicable to REN portfolios at this time. In Decision ("D.") 12-11-015, the Commission directed RENs to focus on: (1) activities that utilities cannot or do not intend to undertake; (2) pilot activities where there is no current utility program offering, and where there is potential for scalability to a broader geographic reach, if successful; and (3) pilot activities in hard to reach markets, whether or not there is a current utility program that may overlap.[6]

These restrictions make it difficult – if not impossible – to achieve cost effectiveness on a portfolio level. The Commission recognized this tension when it created the RENs.[7] In the future, if the requirement to focus on gaps in utility programs and hard-to-reach customers is lifted, then the RENs could be asked to comply with the cost-effectiveness thresholds.

36. Should the CAEECC process be modified? If so, why and how?

MCE supports the stakeholder engagement process that the California Energy Efficiency Coordinating Committee ("CAEECC") facilitates. However, the time required to participate can place a disproportionate burden on the cost effectiveness of small PAs, such as Regional Energy

[5] *Id.* at 11-12.
[6] D.12-11-015 at p. 17.
[7] D.12-11-015 at p. 18-19.

Networks ("RENs") and CCAs. MCE is working with CAEECC leadership and membership to address this burden. However, MCE recommends the Commission provide additional specific direction to the CAEECC so Commission staff and CAEECC membership have consistent expectations. MCE recommends the Commission provide the following as guidance for the CAEECC process:

(1) Each meeting agenda should be posted in advance and each agenda item should identify which PA programs are relevant to the discussion (*i.e.* All PAs, IOU PAs, non-IOU PAs, or specific PAs within one of those groups).

(2) PAs are only expected to attend the portion of the meeting that is relevant to their programs.

(3) There should be a maximum of four full CAEECC meetings each year, conducted quarterly. To the extent possible, the CAEECC should consolidate issues relevant to non-IOU PAs into two of these meetings.

(4) More frequent ad hoc or subcommittee meetings can be held for urgent matters or to develop proposals for CAEECC consideration, without requiring attendance of all CAEECC members.

37. How should the potential for overlap between CCA, REN, and utility programs be identified, planned for, and managed?

1. The Commission Should Focus on Overlap Among MCE, PG&E and BayREN

The Commission should address program overlap in the context of the existing PAs and proposals for funding. Presently, MCE is the only CCA PA with an application for funding before the Commission in the consolidated business plan proceeding.[8] Due to current program rules,

[8] Application ("A.") 17-01-013 et. al., Application of Marin Clean Energy for Approval of Its Energy Efficiency Business Plan ("MCE Application") (filed January 17, 2017).

overlap between a REN and IOU program is unlikely.[9] It is possible that a REN program may overlap with a CCA program, as is the case with MCE and BayREN. IOUs should never have overlapping programs with other IOUs due to a lack of overlapping service areas.[10] In this context, the Commission should focus on the potential for overlap between MCE, PG&E, and BayREN.

2. The Commission Should Adopt MCE's Downstream Liaison Proposal to Address Program Overlap

The Commission should adopt MCE's proposal to serve as downstream liaison within its service area[11] to identify, plan for, and manage program overlap. MCE's application to provide comprehensive energy efficiency service to its customers is based on the right afforded to CCAs by the California Public Utilities Code.[12] The downstream liaison proposal assures that right by identifying, planning for, and managing program overlap to prevent negative impacts.

The Downstream Liaison Proposal will Enable MCE to Balance a Cost-Effective Portfolio in a Shared Service Area

Relative to PG&E, MCE has a much smaller service area with less diversity in customer types and more limited options for energy savings. However, both MCE and PG&E are subject to the same cost-effectiveness standards.[13] In order to ensure cost effectiveness, MCE has proposed to administer activities in residential, commercial, industrial, and agricultural sectors.[14] PG&E also serves these sectors. Due to the relatively limited potential for cost-effective savings, MCE should

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[9] *See* D.12-11-015 at p. 17 (directing RENs to engage where utilities are not or cannot provide programs, except for pilot activities in hard to reach markets).
[10] While some IOUs have overlapping service areas, they are single-fueled utilities and operating programs in partnership with the other utilities in the same area.
[11] MCE Application at p. 14-21.
[12] Cal. Pub. Util. Code § 381.1.
[13] *See i.e.* D.14-01-033, Ordering Paragraph 3 at p. 50 (stating CCAs are subject to the same cost-effectiveness standards as IOUs after the first three years of administration).
[14] MCE Application at p. 5-7.

be able to balance its portfolio of programs before PG&E. As discussed further in the MCE Application, the downstream liaison proposal is necessary to ensure equity and cost effectiveness.[15]

The Downstream Liaison Proposal Encourages Advanced Planning to Avoid Overlap

The structure of the downstream liaison proposal is intended to encourage PAs to plan for potential overlap regardless of the proposed programs and without requiring ad hoc Commission intervention. MCE will have an important tool to protect its right to administer programs and encourage advanced planning: the ability to preclude duplicative PG&E and third party downstream programs from being delivered within MCE's service area.[16] If MCE employs this tool, PG&E will still have the ability to: (1) administer programs MCE is not administering; and (2) work with MCE to coordinate delivery of IOU administered programs in MCE's service area.[17] This structure creates a meaningful incentive for PG&E to plan for program overlap and coordinate with MCE in advance, without the need for the Commission to act on each instance of overlap.

The downstream liaison proposal addresses challenges that arise from a lack of planning for overlap. The ability for MCE to preclude duplicative downstream third party and IOU programs allows for innovation in program design, such as declining incentives over time. Customers and contractors are likely to abandon such a program if a duplicative program exists with higher incentives.[18] The proposal includes a new component of the Energy Savings Performance

[15] *Id.* at p. 19-21.
[16] *Id.* at p. 15; *see also Id.*, Table 1 at p. 21.
[17] *Id.* at p. 16.
[18] *Id.* at p. 20.

Incentive ("ESPI") to reward collaboration,[19] such as referrals and data sharing.[20] These elements will help optimize ratepayer spending in areas with overlapping program administration.

The proposal also reflects the history of successful collaboration between MCE and other local government programs. MCE has included a collaborative approach between RENs, Local Government Partnerships ("LGPs"), and MCE under the downstream liaison proposal.[21] MCE anticipates the RENs and CCAs will be able to resolve challenges related to overlap cooperatively.

The Downstream Liaison Proposal Will Help Identify Program Overlap through Early Coordination

The downstream liaison proposal will help identify program overlap through early coordination. MCE's proposal requires all programs except upstream and midstream statewide programs to coordinate with MCE prior to conducting outreach.[22] As discussed below in response to Question 44, PG&E should also coordinate with MCE during scope development for competitive solicitations. MCE engages with BayREN and relevant LGPs prior to launching programs in new areas to identify overlap. These three types of coordination are intended to comprehensively identify program overlap.

The Downstream Liaison Proposal Will Effectively Manage Overlap

The downstream liaison proposal provides a tool for MCE to actively manage program overlap. As discussed above, MCE will have the ability to preclude a duplicative third party program or downstream PG&E program. This creates an incentive for programs operating in

[19] *Id.* at p. 16.
[20] *Id.* at p. 20.
[21] *Id.* at p. 15.
[22] *Id.,* Table 1 at p. 21.

MCE's service area to coordinate with MCE to avoid overlap and provides a tool that MCE can use to manage overlap.

The structure of the downstream liaison proposal allows valuable non-MCE programs to persist. The proposal provides MCE with savings attribution for all statewide and downstream programs within MCE's service area.[23] This element addresses concerns with cost effectiveness but also removes the incentive for MCE to simply preclude all programs. The attribution creates an incentive for MCE to allow valuable and successful programs to continue serving customers in MCE's service area. By extension, those third party and downstream PG&E programs have an incentive to coordinate with MCE to ensure they are managed to avoid creating problems related to overlap.

The downstream liaison proposal does not provide MCE the ability to preclude LGP or REN programs. Where overlap is unavoidable between MCE and other local government programs, MCE will coordinate marketing and outreach to minimize customer confusion and maximize program uptake. Based on MCE's experience, this will be sufficient to manage overlap among local government programs.

MCE understands the need for stability in contracts for implementers. The Commission should adopt a transition plan to address the potential disruption for implementers if MCE exercises the ability to preclude a duplicative program. The transition plan should preserve the existing implementation contracts within MCE's service area for a period no longer than 18 months. The implementer and MCE may enter into a separate bilateral agreement governing activities in MCE's service area and supplant the original contract before the 18 months have elapsed. PG&E can always continue to work with those implementers throughout the rest of

[23] *Id.* at p. 17-19.

PG&E's service area. This will allow implementers to have a level of certainty in their contracts, even if PG&E did not appropriately plan for program overlap.

V. (SECTION III) STATEWIDE PROGRAMS - SOLICITATION STRATEGIES

38. Although the Statewide/Third Party program designs are not developed yet, the solicitation process needs to be planned ahead. Articulate clearly the design and implementation components that should be developed prior to bid, features that should be developed as part of the bid, and features that should be developed afterward.

All solicitations for implementation should reflect the existence of overlapping PAs, regardless of whether it is a Statewide or Third Party Program. The design and implementation components developed prior to bidding should include a description of each PA in the area and applicable rules for interacting with each PA. For example, the description would inform bidders of MCE's ability as the downstream liaison to preclude duplicative programs. The design and implementation components need not reference PAs that are outside the eligible geographic range of the program being put out to bid. The bidders should provide a plan to address overlap with other PAs operating in the same region within their bids. All winning bidders should be directed to coordinate with other PAs in the same region on marketing, outreach, and implementation. Including these components in all solicitation processes will help address challenges with program overlap.

39. Also, for each component: who (or what group) should be responsible for determining each of them?

As part of the design and implementation components discussed in response to Question 38 above, each PA should independently develop: (1) a description of itself; and (2) a summary of the rules governing implementers' engagement with that PA. These materials will be used by the other PAs when bidding out potentially overlapping programs. For example, MCE will develop two sets of materials: one for inclusion in PG&E's solicitations and a separate one for BayREN's solicitations. Each of these would include a description of MCE and the rules governing PG&E implementers' or BayREN implementers' engagement with MCE. The description should only reference rules related to overlap (*e.g.* MCE serving as the downstream liaison). Each description and summary of rules would be submitted to the Commission via Tier 1 Advice Letter for approval. These filings provide an opportunity for other PAs and stakeholders to provide input to these descriptions and for the Commission staff to ensure they are accurate. The descriptions could be modified at any time through submission of a subsequent Advice Letter filing.

All bidders in a solicitation should include plans that address overlap with other PAs within their bids. These plans should consider and address: (1) potential for duplication of programs; (2) coordination of marketing and outreach; and (3) coordination of implementation. The Commission should also order standard terms for use in each winning bidder's contract requiring coordination with other PAs in the same region on marketing, outreach, and implementation.

41. Specifically, what procurement review or independent evaluation structure is needed for third party solicitation, bid review and approval?

The Commission should develop a procurement review or independent evaluation structure that is used for Third Party Programs, and potentially Statewide Programs, but is not used for all solicitations. In directing parties to develop a procurement-style approach, the Commission discussed it only in the context of Third Party Programs.[24] Since Statewide programs are similar

[24] "…[Parties] suggest that the Commission adopt a "procurement style" approach to selection of third-party programs, with use of procurement review groups and/or independent evaluators such as those employed in supply-side solicitations by electric utilities under Commission oversight.

to Third Party Programs in that they are bid out for design and implementation,[25] the Commission may also determine Statewide Programs should be subject to the review structure.

The Commission should not apply this review structure on other solicitations. This review structure is new for energy efficiency programs and will require additional time and resources to complete solicitations. The Commission should avoid implementing this structure universally to limit the impact on cost effectiveness. As discussed in response to Question 43(e), local government PAs in particular have their own procurement processes in place that create transparency and accountability. The additional review structure will add costs and is not necessary for local government procurement. The Commission should limit the application of this additional review structure to Third Party and Statewide Programs.

e. What parallel or equivalent process is needed by SCG and the RENs and MCE?

Local government PAs have their own procurement policies which should be relied on for energy efficiency procurement. Local governments engage in procurement in compliance with state requirements found in statute, as well as local rules and procedures related to competitive

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This structure is designed for several purposes, including fair conduct of competitive solicitations and fair evaluation of bids.

We are inclined favorably toward a structure similar to this, but note that discussion of the details of the structure are fairly thin in the record of this proceeding, are being discussed currently in the IDER proceeding, and that a similar structure was tried for energy efficiency once before following D.05-01-055. It is not clear how we would structure the process to be different and more successful than the Program Advisory Groups and Peer Review Groups created by D.05-01-055. But we encourage stakeholders to continue to discuss these options and bring forward a workable proposal to the Commission as part of the business plans in the rolling portfolio process or the IDER proceeding, if one can be agreed upon." D.16-08-019 at p. 75.

[25] *See* D.16-08-019, Conclusion of Law 57 at p. 105 (stating third-party programs must be designed and implemented by the third-party); *see also Id.*, Ordering Paragraph 5 at p. 109-110 (stating statewide programs are designed and delivered by the implementer).

solicitations.[26] Local governments are also subject to the Public Records Act, so documents and correspondence related to procurement are available to the public. These transparency requirements are in place to protect taxpayer spending for governmental procurement and are adequate to protect ratepayer spending for energy efficiency procurement. The Commission should not impose an additional review structure on local government procurement because it is not necessary.

Local governments will be adversely and disproportionately impacted by an additional review structure. Local government PAs' budgets and internal capacity are significantly smaller than that of IOUs. Administrative burdens associated with Commission-authorized energy efficiency programs have a relatively larger impact on smaller organizations. An additional layer of oversight to the competitive solicitations of the local government PAs will reduce cost effectiveness and should be avoided, particularly in light of existing local government procurement requirements.

44. How should program administrators with either potentially or actually overlapping solicitations coordinate?

For all of PG&E's downstream solicitations that may result in programs delivered in MCE's service area, PG&E should coordinate with MCE during the formation of the scope of the solicitation and in bid selection. This coordination will be used to identify areas of overlap and help define the solicitation scope to avoid program overlap. This will also be useful to define appropriate coordination between the winning bidder and MCE on Marketing, Education, & Outreach to avoid customer confusion. Many of these details could be memorialized in a

[26] *See e.g.* MCE EE Business Plan at p. 129-130 (describing contract price thresholds that trigger a competitive solicitation process). Available at https://www.mcecleanenergy.org/2017-EE-Business-Plan.

memorandum of understanding ("MOU") between PG&E and MCE. These details should also be incorporated as standard terms in the solicitation materials or in the contracts awarded to winning bidders. MCE should have the option to participate in bid selection for solicitations of programs that will be offered in MCE's service area. The option to engage in bid selection helps ensure that MCE customers are served with well-designed high-quality programs.

III. CONCLUSION

MCE thanks Commissioner Peterman, Administrative Law Judge Fitch, and Administrative Law Judge Kao for their thoughtful consideration of these comments.

Respectfully submitted,

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June 22, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures, and Rules for the California Solar Initiative, Self-Generation Incentive Program and Other Distributed Generation Issues.	Rulemaking 12-11-005 (Filed November 8, 2012)

OPENING COMMENTS OF MARIN CLEAN ENERGY
ON ASSIGNED COMMISSIONER'S RULING ON PROPOSED REFINEMENTS TO THE SELF-GENERATION INCENTIVE PROGRAM

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June 22, 2017

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OPENING COMMENTS OF MARIN CLEAN ENERGY
ON ASSIGNED COMMISSIONER'S RULING ON PROPOSED REFINEMENTS TO THE SELF-GENERATION INCENTIVE PROGRAM

I. INTRODUCTION

Pursuant to the directions set forth in the *Assigned Commissioner's Ruling on Proposed Refinements to the Self-Generation Incentive Program* ("Ruling") issued on June 2, 2017, Marin Clean Energy ("MCE") respectfully submits the following comments on the Ruling. The comments of MCE address the proposed Self-Generation Incentive Program ("SGIP") requirements that would have anti-competitive impacts.

The Commission should not require non-residential and residential customers of Community Choice Aggregators ("CCA") to take service on the utility's Critical Peak Pricing ("CPP") rate in order to be eligible to seek SGIP incentives. This directive would make CCA customers ineligible for the SGIP incentives unless they opt out of CCA services, which would contradict the Commission's statutory responsibility to foster fair competition.[1] MCE urges the

[1] California Public Utilities Code ("PUC") Section 707(a)(4)(A) directs the Commission to "facilitate the development of community choice aggregation programs, to foster fair competition, and to protect against cross subsidization paid by ratepayers."

Commission to modify the proposal, as recommended below, to ensure that all customers in disadvantaged communities have access to SGIP incentives.

II. BACKGROUND

MCE is the first operational Community Choice Aggregation ("CCA") program in California. MCE currently serves over 250,000 customers in Marin County, Napa County, and the cities of Richmond, El Cerrito, San Pablo, Benicia, Walnut Creek, and Lafayette.

The deployment of energy storage is a critical strategy for MCE to meet its mission of reducing Greenhouse Gas ("GHG") emissions and producing cost savings for its customers. Because SB 350 directs CCAs to provide Integrated Resource Plans ("IRP") that achieve "Economic, reliability, environmental, security" and other benefits,[2] CCAs can play an instrumental role in providing grid support through their procurement strategies.

MCE also has a strong track record in supporting disadvantaged communities in its service area by developing local renewable energy resources and training local workers to implement Energy Efficiency ("EE") measures. MCE's Solar One, a 10.5 MW ground mounted solar facility, is being constructed on a Chevron Refinery brownfield site in Richmond, which is within a disadvantaged community identified by CalEnviroScreen 3.0. Since 2013, MCE has administered multifamily EE programs by deploying cost-effective EE measures in its service area. MCE recently received approval by the Commission to utilize Energy Savings Assistance Program ("ESAP") funds for its Low-Income Families and Tenants ("LIFT") pilot program for multi-family properties.[3] These programs demonstrate CCAs' ability to provide integrated programs to serve

[2] PUC Section 454.52(b)(3)(A).
[3] Decision ("D.") 16-11-022 at page 387.

disadvantaged communities and maximize Greenhouse Gas ("GHG") emissions reduction, a central goal set in D.16-06-055.

To achieve the goals of maximizing GHG emissions reduction, supporting reliable electricity services, and serving disadvantaged communities, CCA customers' access to SGIP is critical before storage resources achieve economies of scale. In D.16-01-032, the Commission determined that "credit for SGIP-funded energy storage projects should be split evenly" between an IOU and the CCA/Energy Service Provider ("ESP"). As a result, the Commission has set the precedent to support energy storage resource deployment with SGIP, regardless of the customer's Load Serving Entity ("LSEs"). The Commission should continue to support this precedent by ensuring that new policies do not create barriers to CCA customers' access to SGIP.

III. <u>THE CPP RATE REQUIREMENT HAS ANTI-COMPETITIVE IMPACTS AND SHOULD BE MODIFIED</u>

Because the Commission has the responsibility to foster fair competition in the electricity marketplace, requiring customers to be on an Investor-Owned Utility's ("IOU") CPP in order to receive the incentives for an SGIP energy storage system is inherently anti-competitive.[4] MCE recommends that the proposal be modified to allow CCA customers the access to the incentives in absence of a CCA CPP rate. Alternatively, the Commission can delay the CPP rate requirement until CCAs are provided sufficient data by the IOUs to develop their own CPP rates.

The Ruling proposed that non-residential customers seeking incentives for an SGIP storage system must either be on the IOU's CPP rate, or participate in an aggregated Demand Response ("DR") or Distributed Energy Resource ("DER") program that bids into the California

[4] Ruling at page 7.

Independent System Operator's ("CAISO") wholesale markets.[5] Similarly, these requirements are applicable to residential customers, though residential customers will also have the option to be on a Time-of-Use ("TOU") schedule.[6] These requirements will likely lead to non-residential CCA customers to opt out of CCA services.

The current data sharing infrastructure creates a significant barrier for CCAs to effectively design a CPP rate that responds to customers' loads and grid needs, based on MCE's experience. First, because Pacific Gas and Electric Company ("PG&E") only provides MCE with customer usage data for rates that mirror PG&E's rates, and because CCA customers cannot participate in PG&E's CPP rate, MCE does not receive any billing data on customers' performance during critical peak periods. Second, while CCAs do receive Advanced Metering Infrastructure ("AMI") data, there is always a lag in data delivery, and not all data are settlement quality usage data. Without adequate access to accurate AMI data, it is impossible for CCAs to designate event dates, create rates that effectively entice customers to reduce usage on event days, and provide accurate bills.

Additionally, while many CCAs are exploring the potential of creating aggregated DR and DER programs, CCAs face much larger start-up costs in creating these programs when compared to the IOUs due to smaller economies of scale. Furthermore, while the IOUs are able to recover costs for their programs from all rate components, CCAs can only fund their programs with generation revenues. These market barriers create significant challenges for CCAs to administer aggregated DR and DER programs that can bid into the CAISO wholesale markets.

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[5] *Id.*
[6] *Id.*

Because these requirements will inevitably cause non-residential customers who wish to receive incentives for SGIP energy storage systems to opt out of CCA services, the Commission should not impose these requirements on CCA customers. Furthermore, because the Commission's intention is to extend clean energy programs to disadvantaged communities, these requirements that would prevent the participation of unbundled customers in disadvantaged communities. The Commission should allow CCA customers the access to the incentives in absence of a CCA CPP rate. Alternatively, the Commission can delay the requirement for CCA non-residential customers until the IOUs can provide CCAs with billing quality usage data that can help CCAs design CPP event dates and rates, and have the ability to bill those customers accordingly.

IV. CONCLUSION

MCE thanks Assigned Commissioner Rechtschaffen for the opportunity to provide comments on the Proposed Refinements to SGIP.

Respectfully submitted,

/s/ C.C. Song

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June 22, 2017

VERIFICATION

I am authorized by Marin Clean Energy, a Community Choice Aggregator, to make this verification on its behalf. The statements in the foregoing *Opening Comments of Marin Clean Energy on Assigned Commissioner's Ruling on Proposed Refinements to the Self-Generation Incentive Program* have been prepared and read by me and are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 22, 2017, at San Rafael, California.

Respectfully submitted,

/s/ C.C. Song

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June 22, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements	))))))	Rulemaking 16-02-007 (Filed February 11, 2016)

COMMENTS OF THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION ON THE ENERGY DIVISION STAFF PROPOSAL

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June 28, 2017

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements	))))))	Rulemaking 16-02-007 (Filed February 11, 2016)

**COMMENTS OF THE
CALIFORNIA COMMUNITY CHOICE ASSOCIATION
ON THE ENERGY DIVISION STAFF PROPOSAL**

In accordance with the *Administrative Law Judge's Ruling Seeking Comment on Staff Proposal on Process for Integrated Resource Planning*, dated May 16, 2017 ("Ruling"), as modified by ruling on June 13, 2017, the California Community Choice Association ("CalCCA") respectfully submits the following comments on the Energy Division Staff Proposal ("Staff Proposal"). On June 23, 2017, CalCCA submitted a motion for party status in the instant proceeding Rulemaking ("R.")16-02-007. CalCCA's purpose in participating in this proceeding is to act as a voice for CalCCA's members, including the four Community Choice Aggregation ("CCA") programs that previously participated in this proceeding as the "CCA parties." CalCCA was granted party status in a June 26, 2017 e-mail ruling from Administrative Law Judge Fitch.

I. INTRODUCTION

CalCCA is a nonprofit organization formed in June 2016 to represent the interests of California's CCA programs in regulatory and legislative matters. Local communities are investigating and establishing CCA programs to customize and accelerate efforts to address climate change, renewable energy development, and for other important environmental and social issues. The operational CCA programs in California comprise CalCCA's current voting members: Apple Valley Choice Energy, CleanPowerSF, Lancaster Choice Energy, Marin Clean Energy ("MCE"), Peninsula Clean Energy Authority ("PCE"), Redwood Coast Energy Authority, Silicon Valley Clean Energy Authority ("SVCE"), and the Sonoma Clean Power Authority ("SCP"). In addition, CalCCA's affiliate members include Central Coast Power (counties of San Luis Obispo, Santa Barbara and Ventura), the cities of Corona, Hermosa Beach and San Jose, the counties of Los Angeles and Placer, Valley Clean Energy (city of Davis and Yolo County) and Western Riverside Council of Governments.

CalCCA appreciates the tremendous amount of effort the California Public Utilities Commission ("Commission") staff put forth in developing the Staff Proposal. CalCCA and its members share the Commission's dedication to achieving California's greenhouse gas ("GHG") emissions reduction goals, as well as California's other environmental and system-reliability goals. CalCCA views the Staff Proposal as a significant step towards an Integrated Resource Planning ("IRP") process that will assist the electric sector achieve these essential goals. At the same time, CalCCA is concerned that the Staff Proposal treats investor-owned utilities ("IOUs") and CCA programs in a nearly identical manner. This uniform approach does not acknowledge the unique character of CCA programs as local government entities, and it is inconsistent with Senate Bill ("SB 350"), which prescribes distinct IRP rules and processes for CCA programs.[1]

II. GENERAL COMMENTS ON IRP PROCESS FOR CCA PROGRAMS

A. The Staff Proposal Should Be Modified To Reflect A Balanced Approach For CCA Programs

The question of the Commission's role with respect to CCA programs' IRPs has been an issue throughout the IRP proceeding. This question has proven difficult because it involves two

[1] CalCCA's concerns regarding uniform treatment are summarized in Appendix A to these comments. CalCCA incorporates Appendix A into these comments by reference.

potentially competing sets of policy interests. On the one hand, SB 350 explicitly recognizes the exclusive right of each CCA program to determine its own procurement mix.[2] CalCCA and its member CCA programs place a high value on preserving CCA procurement responsibility and local governance. The fundamental purpose underlying CCA programs is to allow local communities to choose their own energy resources. The concept of local procurement independence is at the heart of the State's policy in favor of promoting CCA programs,[3] and is embedded in the name itself: Community *Choice* Aggregation.

On the other hand, SB 350 gave the Commission (and the Energy Division, in particular) the important task of implementing the IRP process and reducing electric sector GHG emissions. This task is to be accomplished while balancing other potentially-competing interests, including protecting ratepayers, encouraging use of renewable resources, ensuring electric system reliability and, importantly to CCA programs, ensuring local procurement autonomy for CCA programs.

CalCCA proposes the following modifications to the Staff Proposal – modifications that respect CCA procurement autonomy, meet the IRP requirements of SB 350, and provide the Energy Division with a streamlined process:

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[2] *See, e.g.,* Pub. Util. Code § 454.52(b)(3) ("The plan of a community choice aggregator shall be submitted to its governing board for approval and provided to the commission for certification, consistent with paragraph (5) of subdivision (a) of Section 366.2, ….") *See also* Pub. Util. Code § 366.2(a)(5) ("A community choice aggregator shall be solely responsible for all generation procurement activities on behalf of the community choice aggregator's customers, except where other generation procurement arrangements are expressly authorized by statute.") All further statutory references are to the Public Utilities Code unless otherwise noted.

[3] *See, e.g.,* D.04-12-046 at 3 ("The state Legislature has expressed the state's policy to permit and promote CCAs by enacting AB 117….").

- In accordance with Section 454.52(b)(3), CCA programs would provide their IRPs to the Commission as an implementation plan, presumably through an advice letter not through an application.

- The Commission would recognize that each CCA program's governing board has final approval authority over that program's IRP, and that under Section 454.52(b)(3), it is up to each program's governing board to determine whether its IRP achieves benefits and characteristics that are consistent with the Section 454.52(a)(1) criteria, including GHG emissions target compliance.

- The Commission would certify CCA program IRPs pursuant to Section 454.52(b)(3) by following a process that mirrors the Commission's process for certifying other CCA submittals, adapted to reflect the unique needs of the IRP process.

- CCA Customers could be subject to non-bypassable costs for IOU procurement of "net incremental renewable energy integration resources" only after the CCA program is given the option to self-provide its share of the renewable integration need pursuant to Section 454.51(d).

B. The Staff Proposal Does Not Address The SB 350 Renewable Integration Self-Provision Process

The Staff Proposal does not include a specific process for identifying each CCA program's share of the renewable integration need, nor does it set forth a process allowing for CCA self-provision of renewable integration resources. Under Section 454.51(c), the net costs of any incremental renewable energy integration resources procured by an IOU to satisfy a need identified in the Commission's portfolio must be allocated on a fully non-bypassable basis. However, Section 454.51(d) allows CCA programs to self-provide their share of renewable integration resources in lieu of the NBC. The Commission is required to approve CCA programs' self-provision requests if they meet specific criteria set forth at Section 454.51(d)(1-3).

CalCCA proposes that the Commission specifically describe a process whereby the system-wide renewables integration need is identified and each LSE's respective share of that need is specified in the reference system plan. This will allow CCA programs to self-provide their share of this requirement.

III. RESPONSES TO SPECFIC QUESTIONS

<u>Question 1</u>:

> *<u>Guiding principles</u>. Are the guiding principles for IRP articulated in Chapter 1 of the Staff Proposal adequate and appropriate for Commission policy purposes? What changes would you recommend and why?*

<u>Response to Question 1</u>:

CalCCA recommends changes to guiding principles 1, 7, and 8. In addition, CalCCA urges the Commission to adopt three additional guiding principles (guiding principles 9, 10, and 11) that directly addresses CCA programs. CalCCA supports guiding principles 2-6 as currently worded in the Staff Proposal.

Guiding principle 1 currently states:

> The structure and design of the IRP process should reduce greenhouse gas emissions and ensure electric grid reliability while meeting the state's other policy goals in a cost-effective manner.[4]

Guiding principle 1 should be revised to read (changes in *italics*):

> The structure and design of the IRP process should *facilitate the reduction of* greenhouse gas emissions and ensure electric grid reliability while meeting the state's other policy goals in a cost-effective manner.

The revised wording emphasizes the role of the Commission's IRP process, namely, providing a framework to coordinate and synthesize LSE's efforts to reduce GHG emissions.

Guiding principle 7 currently states:

> The IRP process should recognize that filing entities have different governing bodies, procurement processes, and statutory obligations, while also ensuring that the content and format of their Plans are consistent and actionable despite those differences.[5]

Guiding principle 7 should be revised to read (changes in *italics*):

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4 Staff Proposal at 19.

> The IRP process should recognize that filing entities have different governing bodies, procurement processes, and statutory obligations, while also *encouraging and facilitating the development of plans that are* consistent and actionable despite those differences.

This revision reflects distinct and clearly defined the roles played by CCA programs' governing boards and the Commission's in reviewing CCA IRP programs.

Guiding principle 8 currently states:

> Any costs resulting from procurement directed by the IRP process should be allocated in a fair and equitable manner to LSE customers, and there should be no cost shifting between customers of different LSEs.[6]

Guiding principle 8 should be revised to read (changes in *italics*):

> Any costs resulting from procurement directed by the IRP process should be allocated in a fair and equitable manner to LSE customers, and there should be no cost shifting between customers of different LSEs. *CCA programs should be given the opportunity to self-provide their respective shares of legislatively authorized procurement included in the IRP process*

This revision is consistent with the Staff Proposal's position on CCA self-provision,[7] and, more broadly, is supportive of the principles of customer choice and CCA procurement autonomy at the core of the state's CCA policy.

CalCCA recommends the adoption of an additional guiding principle (guiding principle 9) that directly addresses CCA programs:

> The IRP process should provide an opportunity for CCA programs to contribute to broader statewide GHG mitigation planning efforts while respecting each CCA program's governing board's IRP approval authority and supporting CCA programs' statutorily protected autonomy and procurement authority.

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5 Staff Proposal at 19.

6 Staff Proposal at 19.

7 Staff Proposal at 65, 75.

The addition of guiding principle 9 is necessary to ensure that CCA procurement independence and SB 350's distinct procedural and substantive requirements for CCA programs are considered in the development of the IRP process.

CalCCA recommends the adoption of a second additional guiding principle (guiding principle 10) that addresses procurement on behalf of reasonably expected future departing load:

> As part of the IRP process, the Energy Division should develop reasonable estimates of expected future departing load for each IOU. In order to prevent over-procurement and preserve communities' rights to select their own resources, the IRP process should not authorize or require IOUs to procure resources to serve load that is reasonably expected to depart.

The addition of guiding principle 10 is necessary to prevent IOUs from engaging in unreasonable over-procurement in light of expected load departure, and to protect communities from having their future procurement options restricted by IOU procurement on their behalf.

CalCCA recommends the adoption of a third additional guiding principle (guiding principle 11):

> *Voluntary efforts of LSEs to exceed applicable environmental standards should not excuse other LSEs from meeting their obligations.*

Guiding principle 11 is necessary to ensure that LSEs continue to have an incentive to exceed their minimum environmental obligations without the benefits of their efforts being offset by reduced efforts of other LSEs.

<u>Question 2</u>:

> *<u>Disadvantaged Communities Objectives</u>. Are the objectives for addressing disadvantaged communities in IRP in Chapter 1 of the Staff Proposal adequate and appropriate in light of the statutory requirements? What changes would you recommend and why? Please make reference to the specific objectives and statutory requirements in your response.*

Response to Question 2:

As pointed out in the Staff Proposal, requirements for making investments to prioritize disadvantaged communities will vary for LSEs. The disadvantaged communities' requirements are set forth at Sections 454.52(a)(1)(F) and 454.52(a)(1)(H).[8] One of the goals of the IRP process is to minimize localized air pollutants and other GHG emissions, with early priority on disadvantaged communities. CCA programs promote this goal. Although CCA programs currently do not own fossil-fuel generation, they actively promote the development of GHG-free resources and thereby indirectly reduce emissions from existing fossil-fuel generation by displacing the need for such generation.

Section 454.52(b)(3) makes clear that it is each CCA program's governing board that has the authority and responsibility to review and approve/deny each CCA program's IRP based, in part, on whether the IRP achieves "benefits and characteristics" that are "consistent with" this goal. Through their IRPs, CCA programs will provide information about their policies and programs regarding their own disadvantaged communities, and welcome dialogues and discussions between the Commission and their boards on this matter.

Question 3:

> *Overall IRP process. Comment on the overall IRP process proposed in Chapter 2 of the Staff Proposal, beginning with the California Air Resources Board (CARB) establishing greenhouse gas planning targets for the electricity sector and ending with the Commission procurement and policy implementation. What changes would you recommend and why?*

[8] Section 454.52(a)(1)(F) only applies to "bulk transmission and distribution systems" and thus is not generally applicable to CCA programs.

Response to Question 3:

There is an inappropriate lack of distinction between IOUs and CCAs *with over 700 GWh* of annual usage. The magnitude of annual usage demand is irrelevant to the fundamental organizational differences between electrical corporations and CCAs, such as the transparency laws that apply to all local government agencies through the Brown Act and the Public Records Act. A CCA program with over 700 GWh of annual usage has the same degree of local accountability and the same right to local governance as a smaller CCA program. The final IRP procedure should respect the local governance of all CCA programs.

Question 4:

> *2017-2018 IRP process. Do you support the Staff Proposal's characterization of the purpose and outcomes of the first round of IRP in 2017-2018? Why or why not?*

Response to Question 4:

Subject to the CCA program-specific comments provided above and in Appendix A to CalCCA's Comments, CalCCA is generally supportive of the Staff Proposal's characterization of the purpose and outcomes of the first round of IRP in 2018-2019.

Question 5:

> *Electric sector 2030 GHG emissions targets. Do you support using the [California Air Resources Board ("CARB")] Scoping Plan as the starting point for setting the electric sector GHG emissions target or range for 2030? Why or why not?*

Response to Question 5:

CalCCA conditionally supports the use of the CARB Scoping Plan as the starting point for the electric sector GHG target. As a general matter, it is good to have consistent data sources and targets across the various planning efforts and proceedings. Using the CARB Scoping Plan is consistent with Section 454.52(a)(1)(A), which designates CARB as the lead agency responsible for developing electricity-sector and LSE-specific GHG targets is the most comprehensive mitigation planning document the state government has produced.

The structure of the CARB Scoping Plan also provides useful guidance for the IRP process. The targets for each control measure are given as a range, representing the inherent uncertainty of any long-term plan. Similarly, the scenarios put forth in the CARB Scoping Plan were designed by CARB as a demonstration of possible feasible mitigation strategies recognizing that other possible mitigation portfolios that might achieve the same goals. However, the electric sector mitigation target in the CARB Scoping Plan does not have a direct basis in statute, and should thus be eligible for reconsideration as the IRP implementation process is refined.

Question 6:

LSE-specific GHG emissions targets.

a. *Do you support dividing electric sector responsibility between publicly-owned utilities (POUs) and LSEs regulated by the Commission, as suggested in the Staff Proposal? Why or why not?*
b. *Is further differentiation of GHG emissions responsibility by LSE based on an overall sectoral marginal GHG abatement cost curve or planning price reasonable? Why or why not?*
c. *What challenges might individual LSEs encounter in preparing their portfolios based on a marginal GHG abatement planning price? How might those challenges be overcome?*
d. *If you recommend a different approach to setting LSE-specific GHG emissions targets, please describe it in detail.*

Response to Question 6:

CalCCA supports the Commission deciding, in conjunction with CARB, the share of GHG emission reductions allocated to Commission-regulated LSEs. This process should ensure that the targets reflect the various types of LSE, some of which, like CCA programs, are subject to distinct substantive and procedural IRP requirements. CalCCA notes that under Section 454.52(b)(3), CCA programs' IRPs are required to achieve results "consistent with" achieving the LSE-specific GHG targets adopted by CARB, and that each CCA program's governing board, not the Commission, is responsible for determining whether that CCA program's IRP meets this requirement.

Any approach for applying GHG targets must holistically evaluate LSE impacts. For example, a simple mass-based GHG cap on the electric sector would punish LSEs who facilitate increased adoption of electric vehicles in their territories, as electric sector demand (and GHGs) would increase. In this example, the GHG framework should reflect GHG reductions from reduced fuel use.

In response to Question 6(b) and 6(c), the Staff Proposal does not provide enough information about how the marginal GHG abatement planning price would be calculated and used for CalCCA to provide a meaningful response to specific questions. It appears that this methodology may conflict with internal processes involving GHG pricing at individual CCAs if they are using a different price from the one the Commission selects. Its relationship to the cap-and-trade allowance price, which itself represents a proxy GHG abatement price is also unclear. Moreover, it is unclear to CalCCA how this proposal could be implemented in a manner that does not infringe upon each CCA program's jurisdiction over its own rates and resource costs. SB 350 does not provide a basis for requiring that CCA programs develop their IRPs using the Commission's abatement price. As such, the Commission will have to rely on CCA programs' voluntary adoption and use of the abatement price.

Note Regarding Questions 7-14:

CalCCA does not offer responses to Questions 7-14 at this time, but reserves the right to address these issues going forward.

<u>Question 15</u>:

<u>*Disadvantaged communities [“DAC”] definition*</u>.

a. *Are the objectives for addressing disadvantaged communities in IRP in Chapter 1 of the Staff Proposal adequate and appropriate in light of the statutory requirements? What changes would you recommend and why? Please make reference to the specific objectives and statutory requirements in your response.*

b. *Are there any other analyses that could better inform the development of metrics to account for the costs and benefits of prioritizing disadvantaged communities?*

<u>Response to Question 15</u>:

In response to Question 15(a), CalCCA supports the Staff Proposal’s objectives for addressing DACs in IRPs, especially objective 4, which acknowledges that due to the varying nature of the Commission’s jurisdictional oversight, DAC-related requirements may vary by LSE. As stated in CalCCA’s response to Question 2, above, each CCA program’s governing board has sole responsibility for developing and implementing programs to address the needs of DACs and for determining whether its IRP adequately addresses DACs.

In response to Question 15(b), the Commission should coordinate with the California Energy Commission (“<u>CEC</u>”) to refine equity metrics to assess the impacts of procurement on disadvantaged communities. The Commission should share these metrics with CCA programs so that they have the option of using them to develop their own programs to address DACs.

<u>Question 16</u>:

<u>*Demand-side resources.*</u>

a. Is the treatment of these resources in the staff’s recommended approach reasonable? What changes would you suggest and why?

b. *What additional information, other than modeling, might materially affect these resources? Provide specific sources of publicly available information, what question(s) the additional information would help address, and why you think the information should be used.*

c. *What market, regulatory, or other barriers could prevent or impede an optimal level of procurement for each resource area and type of LSE, and what solutions would you recommend to address the identified barriers?*

Explain your answer clearly and provide quantitative support using publicly available information wherever feasible.

Response to Question 16:

In response to Question 16(a), CalCCA understands that the development of a methodology to reflect each distributed energy resource's ("DER") net location specific costs and benefits is underway. If the RESOLVE model is intended to help each LSE determine its renewable investment, locational, demand-side impact needs to be part of the tool. The incorporation of this methodology is especially important to reflect the value of distribution upgrade deferral projects. If the IOUs are going to use demand-side resources to offset any substation upgrades, the locational value of those upgrades needs to be reflected to send clear market signals to LSEs, such as CCAs.

In response to Question 16(c), lack of access to data can impede optimal procurement of demand-side resources for non-IOU LSEs.[9] The Commission should broaden the data access discussion in the distribution resources planning proceeding to continue to examine this issue, especially in the context of emerging changes to the retail energy market structure.

Question 17:

Supply-side resources.

a. *Is the treatment of these resources in the staff's recommended approach reasonable? What changes would you suggest and why?*
b. *What additional information, other than modeling, might materially affect these resources? Provide specific sources of publicly available information, what question(s) the additional information would help address, and why you think the information should be used.*
c. *What market, regulatory, or other barriers could prevent or impede an optimal level of procurement for each resource area and type of LSE, and what solutions would you recommend to address the identified barriers?*

[9] This includes issues such as grid and advanced meter infrastructure, individual customer's historical participation, avoided cost of deploying DER to defer or replace infrastructure upgrade.

Explain your answer clearly and provide quantitative support using publicly available information wherever feasible.

Response to Question 17:

In response to Question 17(a), the Staff Proposal's reliance on the RESOLVE model does not account for some of RESOLVE's key deficiencies. RESOLVE models do not optimize loads and resources outside of the California Independent System Operator ("CAISO") balancing area. Below are some examples of resources and studies that should be considered and optimized in the RESOLVE model:

- Federal Hydropower projects (Central Valley Project), which are outside the CAISO and comprise 11 hydroelectric power plants with a total maximum generating capacity of 2,074 megawatts.[10]

- The Western Wind and Solar Integration Study, which investigated the benefits and challenges of integrating up to 35% wind and solar energy in the WestConnect sub-region and, more broadly, the Western Interconnection, in 2017.[11]

- The State Water Project, which has a maximum pumping capacity of 2,600 MW (and 1500 MW of installed hydropower generation) and uses an average of 6 to 9.6 million megawatt hours (MWh) of electricity per year.

In response to Question 17(b), CalCCA notes the existence of new resources that are being developed because of CCA efforts and should be incorporated into the modeling process to increase the accuracy of the model. In addition, MCE and SCP submitted their supply resources data to the CEC in compliance with IEPR 2017 and new CCAs, such as PCE and SVCE,[12] can provide their non-confidential supply resource data directly to Commission staff in a mutually agreeable format.

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10 Source: https://www.wapa.gov/regions/SN/Operations/Documents /FinalGreenbook2004.pdf

11 Source: https://www.nrel.gov/grid/wwsis.html

12 These are CCAs serving annual load greater than 700 GWh.

In response to Question 17(c), CalCCA is aware of several barriers to optimal procurement. First, the modeling does not currently account for changes to the retail market structure. Potential regionalization can also impact market pricing, and it is unclear how that could be reflected by the model. Second, assuming that a growing proportion of the State's consumers are going to be served by CCA programs, the unique procurement policies of CCAs, typically encouraged by their governing boards to seek local, zero-GHG, or RPS-eligible generation, could result in a different mix of generation resources and capacity. Third, optimal outcomes will vary by LSEs, and therefore it is important to figure out how to allow LSEs to compete and innovate. If LSEs are directed to model all their IRPs after the Reference System Plan, this may create an opportunity for suppliers to manipulate market prices. Fourth, Cost Allocation Methodology ("CAM") treatment of resources is a significant barrier to non-IOU optimal procurement decisions.

Question 18:

> *Short-term investments, actions, or procurement. Has staff identified the correct areas for analysis to determine the need for short-term investment or procurement activities, including: bulk storage, out of state wind, and geothermal resources? What changes or additions would you recommend and why?*

Response to Question 18:

The Energy Division's geothermal resources assumptions may not be correct unless they are categorized as flexible resources. It is also unclear whether the model includes: 1) all pumped storage resources; and 2) constrained transmission lines (with the ability to import and export). Additionally, incentives should be optimized to be technologically agnostic, and each LSE may have different preferences for resources. Staff should clarify that these analyses will not necessarily determine the procurement decisions of individual LSEs. Ideally, the analysis will identify potential resource opportunities that LSEs will want to voluntarily explore as part of meeting their own procurement needs.

Question 19:

Transportation electrification.

a. *Do you support the Staff Proposal's approach to characterizing transportation electrification and the uncertainties and impacts associated with it? Explain.*
b. *What tools and/or data could be used to assess how electric vehicle deployment could maximize benefits to disadvantaged communities?*

Response to Question 19:

In response to Question 19(a), it is unclear whether the Energy Division plans on modeling bi-directional electric vehicle ("EV") charging in the future, or whether bi-directional EV charging will be modeled as a demand-side resource or supply-side resource. This would require more locational specific data, since it will impact charging timing/location and load needs. Because the location of the deployment can potentially reduce air pollution, the Energy Division should consider building that into the model, which can help determine the benefits to disadvantaged communities.

Question 20:

Reference System Plan development.

a. *What methodology should staff use to develop a recommendation for the portfolio to include in the Reference System Plan?*
b. *If you recommend a scorecard-style approach, what weight should be given to each state goal in Table 4.4 of the Staff Proposal?*
c. *Are there any additional criteria, apart from the goals listed in Table 4.4 of the Staff Proposal, that staff should also include? If so, why?*
d. *Are there any additional questions or studies that staff should address in the Reference System Plan? If so, describe each question or study and explain why you think it should be included, considering the limited time and resources available.*

Response to Question 20:

In response to Question 20(a), the Reference System Plan should begin by aggregating all the existing resources and those included in individual LSE's IRPs. With that as an input, the Reference System Plan should then evaluate the suite of incremental resources needed to meet State goals. It is important to use an 8760-hour forecasting methodology, which is industry standard. For CCA programs, compliance with the Reference System Plan is voluntary

In response to Question 20(b), CalCCA does not make specific recommendations regarding the merits of a scorecard-style approach. All LSEs have the responsibility to ensure system and local reliability, minimize impact on ratepayers, and meet the State's environmental policies. The plans submitted by LSEs should satisfy reliability requirements, achieve GHG emissions reductions, and do so at the lowest cost, with all other priorities secondary to those three.

In response to Question 20(d), the Staff Proposal should provide more clarity on how CAISO's evaluations of reliability will interact with the development of the Reference System Plan.

Question 21:

> *LSE Filing Process. Do you support the approach to LSE IRP filing outlined in Chapter 5 of the Staff Proposal? Why or why not?*

Response to Question 21:

As stated above, CalCCA proposes that the Commission adopt a CCA-specific IRP template and requirements that fall between the Staff Proposal's standard and alternative plans in terms of thoroughness. This mid-point plan would apply to CCA programs with over 700 GWh of load. All CCA programs' IRPs should be provided as informal implementation plans instead of formal applications. The Commission should recognize that each CCA program's governing board has the ultimate approval authority over its IRP and determine whether the IRP achieves GHG reduction and reliability compliance. The Commission should adopt a certification process for CCAs' IRPs, as well as a renewable integration self-provision process.

In addition, requiring individual LSEs to run a scenario using the Reference System Plan assumptions will be onerous for all but the largest CCA programs, and even then the value of the information resulting from this process is unclear as the Reference System Plan is comprised of an "ideal" portfolio instead of what is known about existing procurement and planned procurement in IRPs. Consideration should also be given to using an iterative process rather than requiring LSEs to use the Reference System Plan from the beginning of the process.

Question 22:

General LSE filing requirements.

a. *Are there any additional general requirements that the Commission should require LSEs to include in their IRPs?*
b. *Are any of the general requirements proposed by staff infeasible to provide? If so, explain what barriers make providing the information infeasible, what the risks of not requiring the information might be for both bundled and unbundled customers, and how that risk could be mitigated in another, more feasible way.*

Response to Question 22:

In response to Question 22(a), CalCCA emphasizes that as each CCA program's governing board has final approval authority over that program's IRP, all substantive IRP requirements should be left to the discretion of each CCA's board of directors. The Commission should limit the adoption of filing requirements for CCAs to: 1) mandatory procedural requirements regarding the informal process by which CCA programs are to "provide" their IRPs to the Commission "for certification" and 2) procedural and substantive requirements that CCA programs may elect to comply with on a voluntary basis.

<u>Question 23</u>:

> <u>*Technical LSE filing requirements*</u>.
>
> a. *Are there any additional technical requirements that the Commission should require LSEs to include in their LSE Plans? Describe in detail.*
> b. *Are there any staff-recommended technical requirements that should be omitted or consolidated? Specify.*
> c. *Are any of the technical requirements proposed by staff infeasible to provide? If so, explain the barriers that make providing the information infeasible, the risks of not requiring the information (for bundled and unbundled customers) and how the risks could be mitigated in another, more feasible way.*

<u>Response to Question 23</u>:

In response to Question 23(b), the 8760-hour forecast methodology needs to be used in place of the 37-day RESOLVE model. The data are old and archaic, making the findings irrelevant to today's forecasting.

<u>Question 24</u>:

> <u>*LSE IRP filing template*</u>. *Describe any changes you recommend to the Staff-recommended template in Appendix C and explain why.*

<u>Response to Question 24</u>:

CalCCA has several questions and comments on the template, as follows:

- As discussed above, CCA the Commission should offer a third plan type specifically for CCAs. A separate template should be developed for that plan.

- For CCA programs, compliance with the template should be understood to be voluntary, although it would be appropriate for the Commission to incentivize the template's use, as described above by CalCCA.

- Based on the current (non-CCA) template it is unclear whether a CCA's planned generation projects should be entered into the Candidate_Gen or the All_Gen_Energy tabs. The staff should provide more guidance on the differences between the two tabs so LSEs know how to enter their projects accordingly.

- It is unclear if generation projects would be included in the Candidate_Gen tab. For instance, it is possible that an LSE may anticipate a need for more Bucket 1 renewable energy resources but do not yet have specific resources identified or under contract. CalCCA assumes that an LSE would break down the overall need into anticipated resource categories, and the staff should confirm whether this assumption is correct.

- Pacific Northwest Hydro is not included in the dropdown list. The staff should either add the resource into the dropdown list or clarity how LSEs should incorporate those contracts in the template.

- It is unclear how Bucket 2 contracts would be entered into the template. Should the out-of-state renewable category be selected for these contracts even though the power is not imported into California?

- The template asks LSEs to specify the region for each resource, which should generally be a function of the RESOLVE_Type_Candidate. This should be automatically mapped based on the dropdown RESOLVE_Type_Candidate selection to avoid the potential for mismatch errors.

- Fixed costs need to be defined so LSEs know what to provide for contracts and owned generation.

- It is unclear whether the RESOLVE model is capturing CCA renewable generation projects that are under development in the baseline set of resources since Section 3.2 only lists new generation projects of the IOUs and the POUs.

- The levelized solar costs in Table 20 on page 35 appears quite high relative to the current market.

Question 25:

> *Standard and Alternative IRPs. Do you support the staff proposal for standard and alternative IRP filings? What changes would you suggest, either to the overall approach or to the specific requirements for each, and why?*

Response to Question 25:

As described above, there is an inappropriate lack of distinction between IOUs and CCAs *with over 700 GWh* of annual usage. Magnitude of annual usage demand is irrelevant to the fundamental organizational differences between electrical corporations and CCAs. A CCA program with over 700 GWh of annual usage has the same degree of local accountability and the same right to procurement autonomy as a smaller CCA program. The final IRP procedure should respect the procurement authority of all CCAs. CalCCA has described a process, above, that respects procurement authority of all CCA programs, while also making reasonable accommodations for smaller CCA programs.

<u>Question 26</u>:

> *<u>For individual LSEs</u>.*
> a. *Do you support the staff recommendation for the type of IRP you should file? Why or why not?*
> b. *If you have an alternative recommendation, please describe it in detail.*

<u>Response to Question 26</u>:

Please see CalCCA's general comments on the IRP process for CCA programs. CCA programs should provide their IRPs to the Commission for certification, and as a means of sharing information to inform future planning. The Staff Proposal's assertive interpretation of "certify" seeks to expand the CPUC's authority, which undermines CCAs' procurement autonomy, and may lead to conflicts between CCA governing boards and the Commission. Consideration should also be given to an "iterative" process that would minimize the administrative burden on CCAs with IRPs that obviously meet GHG reduction goals. Recognition should also be given to the fact that CCA programs do not have the extensive, costly staff resources that IOUs have, and that work done by IOUs on their IRPs is largely work that they would have to do in any event to obtain Commission approval for procurement. The relative incremental cost burdens of the IRP process as proposed by Staff thus fall much more heavily on CCA programs than on IOUs, and, unlike IOUs, CCA programs are not guaranteed recovery of procurement-related costs. The Commission should bear these differences in mind.

<u>Question 27</u>:

> *<u>Individual LSE Load Determination</u>. How should the Commission determine what load to assign to each LSE for IRP filing purposes? Describe your preferred method in detail, such that it can be readily reproduced using publicly available information.*

Response to Question 27:

Each CCA program's governing board has the authority to determine its own load projections for use in developing its IRP. The Commission should incentivize CCA programs to use standardized load projections developed by the Commission. CCAs that choose not to use the Commission's load projections should provide their independent projections to the Commission to be used as an input. All load projections developed by the Commission should use the 8760-hour forecast methodology.

Question 28:

For individual LSEs.

a. *What load should you be assigned for 2017-2018 IRP purposes?*
b. *Describe in detail the methodology associated with your proposed load obligation.*

Response to Question 28:

In response to Question 28(a), the load individual LSEs submit to the CEC for the IEPR should be used to provide consistency with the forecast, and to provide transparency with publicly available data. New CCA programs that have not submitted load data to the CEC can submit their load data directly to the Commission in a mutually agreeable format.

In response to Question 28(b), the 8760-hour methodology should be used based on historical usage, and take into consideration of the growth of distributed generation, energy efficiency, and demand response.

Question 29:

Marginal GHG abatement cost/planning price. Is it appropriate and feasible for the Commission to use the results of the IRP analysis to inform the inputs for certain cost-effectiveness analysis, such as in the Integrated Distributed Energy Resource proceeding evaluation of the societal cost test for demand-side resources? Why or why not?

Response to Question 29:

CalCCA does not have a response to Question 29 at this time, but reserves the right to address this issue in the future.

Question 30:

Relationship between IRPs and procurement.

a. *Describe your reaction to the Staff Proposal's characterization of how IRP development and approval will lead to actual resource procurement in the next few years.*
b. *Are there any alternative approaches to IRP-based procurement that the Commission should consider? If so, describe the approach in detail and explain which specific problems it would address with reference to the statutory requirements for IRP, while not conflicting with other Commission non-IRP statutory requirements.*
c. *What existing rules should the Commission consider studying to improve the ability of the IRP process to achieve its goals (e.g., Renewable Energy Credit banks, Renewables Portfolio Standard content categories, etc.)? What approaches or methodologies should the Commission consider using to study the costs and benefits of your proposals?*
d. *How should the Commission ensure that LSEs comply with their approved IRPs? Describe your preferred approach in detail, with reference to the IRP statutory requirements.*

Response to Question 30:

In response to Question 30(a), CalCCA offers the following reactions to the Staff Proposal's characterization of future IRP development:

- For the 2017-18 IRP cycle, staff should assume no procurement will be necessary and should only consider revising that assumption in the case of needs to ensure reliability. IOUs are currently contracted for an average of 43% RPS by 2020 with no additional procurement.[13] Given low or declining load growth due to aggressive DER programs and policies it is unlikely that additional RPS would be needed to deliver the same 43% of retail sales by 2020. Most significantly, as noted in the Staff White Paper, the amount of load served by non-IOU providers could more than triple from

[13] Current RPS under contract for 2020: PG&E (43.0%), SCE (41.4%), and SDG&E (45.2%). Source: CPUC RPS Renewable Procurement Status, accessed online at: http://www.cpuc.ca.gov/RPS_Homepage/

25% at the end of 2017 to 85% in the mid 2020's.[14] If non-IOU load grew at a much lower rate, to just 50% by 2020, the collective RPS content of existing IOU portfolios would bring them to 86%.[15] Any load departure of over 60% (much lower than the 85% highlighted) would bring the existing IOU portfolio to over 100% renewable.[16]

- The Commission should modify IOU load estimates to reflect expected CCA load growth. The Commission should not authorize or require IOU procurement on behalf of load that is reasonably expected to depart, and any IOU procurement in excess of future load estimates that reasonably take into account expected departing load should not qualify for recovery through non-bypassable charges.

- The need for system capacity to meet reliability in the coming decades is exceptionally low. The 2017 Long Term Procurement Plan Assumptions show a 41% planning reserve margin at the end of the 20-year time horizon, in 2036.[17] This indicates that the system could tolerate the unexpected retirement of over 9,000 MW and still maintain the 15% planning reserve margin (PRM) used to ensure reliability.[18]

- The Staff Proposal is reasonable, but should recognize that the need for additional RPS and resources for system reliability is very unlikely in the near or even medium term. Given the amount of excess resources already on the system, magnitude of uncertainties regarding the success of demand-side measures and proliferation of load departure, and sharply increasing amount of curtailment - entering into additional procurement would not just be imprudent but would increase risk and cost with little to no benefit.

In response to Question 30(b), CalCCA supports using GHG reduction as the primary metric as opposed to correlated metrics (*e.g.*, RPS percentages). This would enable LSEs to

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14 CPUC White Paper "Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework." Accessed online at: http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/News_Room/News_and_Updates/Retail%20Choice%20White%20Paper%205%208%2017.pdf

15 (43% RPS by 2020 under existing contracts / 50% remaining bundled load = 86% RPS for remaining bundled load in 2020).

16 (43% RPS by 2020 under existing contracts / 40% remaining bundled load = 108% RPS for remaining bundled load in 2020).

17 ALJ Ruling on Assumptions for Long Term Planning in 2017, available online at: http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M172/K519/172519400.PDF

18 2036 Supply of 50,350 MW / Demand of 35,827 MW = 41% PRM. Reducing Supply by 9,100 MW results in 41,250 MW / Demand of 35,827 MW = 15% PRM.

achieve the required reductions in the most efficient manner for their customers, while also balancing other priorities.

In response to Question 30(c), IRP should focus on providing information to, and aggregating information from, all LSEs. Evaluating the costs and benefits of specific IRPs should only be done for the IOUs, which a) have a profit motive, b) are subject to Commission oversight of rates, and c) are guaranteed rate-recovery for expenses.

In response to Question 30(d), LSEs that rely on Commission authorization for procurement and in return receive guaranteed rate recovery should be required to procure their share of resources identified in the Reference System Plan as the optimal mix to achieve State goals.

Question 31:

Relationship between IRPs and bundled procurement plans.

a. *Does the Staff Proposal appropriately characterize the relationship? What changes would you recommend to the approach and why?*
b. *What interactions between the IRP process and the bundled procurement practices and policies should be considered in future IRP cycles? Identify specific bundled plan requirements that may need to be changed to facilitate coordination with IRP in the future.*

Response to Question 31:

CalCCA does not offer a response to Question 31 at this time, but reserves the right to address these issues going forward.

Question 32:

Disadvantaged communities impacts in procurement.

a. *Do you support the Staff Proposal's approach to assessment of the impacts of procurement on disadvantaged communities? What changes would you recommend and why?*
b. *What specific quantitative or qualitative showings should LSEs be required to provide to demonstrate how disadvantaged communities were considered in the development of their IRPs?*
c. *How should the Commission utilize the information provided by LSEs to assess the impacts of procurement on disadvantaged communities?*

Response to Question 32:

Under the Staff Proposal, LSEs, including CCA programs, would be required to identify disadvantaged communities within their service territories, defined as both the top 25% of census tracks in California that are located within their service territory, and the top 25% of impacted tracts located solely within each LSE's service territory.[19] LSEs would then be required to use the "broader" of the two options to identify disadvantaged communities, and to include in their IRPs an assessment of the air quality impacts of their selected portfolios on their disadvantaged communities.[20]

This approach has several flaws. First, as discussed in CalCCA's response to Question 2, above, each CCA program's governing board, not the Commission, has the authority over that CCA program's efforts to address disadvantaged communities, and has sole authority to determine whether the CCA program's IRP adequately addresses the needs of disadvantaged communities. Under SB 350, it is not the Commission's role to adopt compulsory requirements regarding how CCA programs define disadvantaged communities or how they measure their impacts on disadvantaged communities. However, CalCCA does not oppose the general methodology proposed by the Staff Proposal if it is made clear that, as applied to CCAs, the methodology is voluntary.

Second, it is unclear what the Staff Proposal means by the term "broader" with regard to the proposal that LSEs use the broader of the two options for identifying disadvantaged communities within their service territories.

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19 Staff Proposal at 63-64.

20 *Id.*

Third, CCA programs are supportive of driving statewide investments to the top 25% most disadvantaged communities in the *state*. It is unclear why each LSE has to conduct an additional analysis to determine the top 25% most disadvantaged communities within its own service area. The Energy Division should clarify that the information produced by the latter analysis would not drive the investment strategies of statewide resources, otherwise the resources may not be distributed to communities that are the most in need.

For CalCCA's response to Question 32(b), please see CalCCA's response to question 15(b), above.

For CalCCA's response to Question 32(c), please see CalCCA's response to question 2, above.

Question 33:

Cost allocation and cost recovery.

a. *Is the Staff Proposal approach to these issues workable? What changes would you recommend and why?*
b. *How important is it for the Commission to allocate responsibility for deficiencies in the aggregate portfolio (of all LSE plans) to individual LSEs?*
c. *How should the Commission address the situation where one LSE's IRP is identifiably the cause of a gap in meeting the Reference System Plan GHG target for the electric sector (e.g., if one LSE does not appropriately factor the GHG Planning Price into its IRP)?*
d. *How should the Commission assign responsibility for procurement of system or flexibility resources when an overall deficiency is identified?*

Response to Question 33:

In response to Question 33(a), CalCCA fully supports the Staff Proposal's recommendation that CCA programs' IRPs that demonstrate their achievement of GHG and reliability requirements should be exempt from NBCs. The Staff Proposal states: "if the CCAs and ESPs submit Plans that meet reliability and GHG reduction requirements at the LSE level … then staff recommends that only IOU bundled ratepayers cover the costs of additional IOU procurement identified in the individual IOU Plans."[21] In the future contemplated in the recent Staff White Paper on Consumer and Retail Choice, where IOUs may only serve 10% of load within a decade, it may not be prudent to enshrine the IOUs as the procurement backstop agency for the State. Instead, the Energy Division should develop a reasonable estimate of future departing load for each IOU, and should neither require nor authorize IOU procurement in excess of each IOU's estimated future load minus its estimated future departing load.

In response to Questions 33(b) and (c), as a general matter there is no statutory basis for the Commission to require that CCA programs' IRPs pass the Commission's aggregate portfolio analysis. The authority to determine whether a CCA program's IRP is "consistent with" SB 350's GHG reduction and system reliability goals is vested in each CCA program's governing board,[22] and SB 350 does not require that CCA programs' IRPs comply with the Commission's portfolio. However, CalCCA believes that it is appropriate for the Commission to require that CCA programs' IRPs pass the aggregate analysis, or agree to self-provide any deficiencies identified by the Commission after review of the first-level IRP, as a condition of qualifying for second-level certification (*i.e.*, automatic exemption from IRP-related NBCs).

If the Commission identifies a deficiency in its aggregate analysis, CCA programs that have demonstrated that their IRPs satisfy their GHG and system reliability requirements (either through second-level certification or demonstration of self provision) should be viewed as having fully provided their shares of all required procurement, and should be exempt from NBCs for procurement to meet the deficiency.

In response to Question 33(d), the Commission should use its existing RA authority. Assignments should be made as a percentage of an LSE's contribution to capacity needs. To

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[21] Staff Proposal at 65.

prevent LSEs from merely achieving minimum compliance, the Commission should also consider assigning benefits to LSEs with portfolios that cause minimal strain on the system. For example, if a particular LSE's portfolio reduces the integration needs of the system portfolio, the Commission should consider methods to reward that LSE. This will encourage a network of LSEs with assigned incentives.

Question 34:

> *Alignment of IRP process with other Commission resource proceedings*.
> a. *Are there obvious opportunities for alignment across Commission proceedings that the staff should consider in developing a process alignment workplan?*
> b. *What would be the benefits to coordinating proceedings to align based on these opportunities?*
> c. *Identify any barriers to coordination.*

Response to Question 34:

CalCCA is strongly in favor of any steps by the Commission to integrate existing legislatively mandated procurement requirements, such as RPS, Energy Storage, and RA, into the IRP proceeding and potentially integrate these reporting requirements into the Commission's certification of CCA programs.

Question 37:

> *Regional planning. How should the IRP process and analysis take into account the potential for CAISO regionalization?*

Response to Question 37:

Because of large potential impact of CAISO reorganization, the Commission should leave its possibilities open and not be too prescriptive about procurement.

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[22] Section 454.52(b)(3)

IV. CONCLUSION

CalCCA thanks the Commission for taking the time to consider these comments on the Staff Proposal. CalCCA and its member CCA programs look forward to working closely with the Commission to ensure that SB 350's goals are met.

Dated: June 28, 2017

Respectfully submitted,

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Appendix A: Summary of Concerns Related to Uniform Treatment of CCA Programs

APPENDIX A
TO THE

COMMENTS OF THE
CALIFORNIA COMMUNITY CHOICE ASSOCIATION
ON THE ENERGY DIVISION STAFF PROPOSAL

SUMMARY OF CONCERNS RELATED
TO UNIFORM TREATMENT OF
COMMUNITY CHOICE AGGREGATION PROGRAMS

SB 350 establishes distinct procedural and substantive IRP requirements for CCA programs. For instance:

- While IOUs are required to include a strategy for procuring best-fist and least cost resources identified in the Commission's (preferred) portfolio in their IRPs,[1] SB 350 specifically excludes CCA programs from this requirement, and neither SB 350 nor any other statute requires that CCA program IRPs be based on the Commission's portfolio or associated rules and guidance.[2]

- IOUs are required to "file" their IRPs with the Commission. In contrast, Section 454.52(b)(3) clearly states that CCA programs are required to *informally* "provide" their IRPs to the Commission "for certification" and *formally* "submit" their IRPs to their governing boards "for approval."[3]

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1 Section 454.51(b).

2 Section 454.51(a) requires that the Commission "identify a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy in a cost-effective manner." This requirement applies only to the Commission. Section 454.51(b) requires that *electrical corporations* (a category which includes IOUs but not CCA programs) include a strategy for procuring best-fist and least cost resources identified in the Commission's portfolio in their IRPs. By using the term "electrical corporation" the legislature specifically excluded CCA programs from this requirement. There is no statutory requirement that CCA programs' IRPs include, reflect, or otherwise comply with the portfolio of resources identified by the Commission.

3 The IOUs have previously asserted that SB 350 gives the Commission broad authority to adopt formal procedural and substantive requirements for CCA programs IRPs, specifically citing two requirements from SB 350. First, Section 454.52(a)(1) requires that the Commission "adopt a process for each load-serving entity... to file an [IRP] and a schedule of periodic updates to the [IRPs} to ensure that load serving entities" satisfy the criteria set forth at 454.52(a)(1)(A-H). Second, Section 454.52(b)(1) states that "each [LSE] shall prepare and file an [IRP]... on a time schedule directed by the Commission and subject to Commission review." CCA programs are LSEs, and, absent any other provision, would be subject to Sections 454.52(a)(1) and 454.52(b)(1). However, these *general provisions* (which have broad applicability to all LSEs) are subject to the exception carved out by the *CCA-specific* Section 454.52(b)(3), which states that CCA programs are required to "provide" (not "file") their IRPs with the Commission for "certification" (not "approval"), and makes clear that formal approval authority, including authority to determine whether a CCA's IRP complies with sections 454.52(a)(1)(A-H), is vested solely in each CCA program's governing board. *See Sterling Park, L.P. v. City of Palo Alto* (2013) 57 Cal. 4th 1193, 1199–1200; *Hopkins v. Superior Court* (2016) 2 Cal. App. 5th 1275, 1283 (a special provision dealing with a particular subject controls and takes priority over a general provision if the provisions conflict).

- The Commission is required to ensure that IOU procurement plans satisfy the eight criteria specified at Section 454.52, subsections (a)(1)(A) through (a)(1)(H). These criteria include meeting GHG emissions reductions targets established by the State Air Resources Board, ensuring system and local reliability, meeting renewable energy targets, and minimizing impacts on ratepayer bills. In contrast, CCA procurement plans are required to "achieve" economic, reliability, environmental, security, and other benefits and characteristics that are "consistent with" the Section 454.52(a)(1) criteria.[4] These terms clearly establish that CCA programs to have more flexibility in satisfying these criteria than IOUs.

- The Commission has final authority to approve, deny or modify IOU IRPs.[5] In contrast, for CCA programs, SB 350 vests final approval authority in each CCA program's governing board, and the Commission's role is defined as "certifying" CCA program IRPs.[6] Thus, under SB 350, the formal process by which a CCA program's IRP undergoes a substantive review and is approved or denied is the process adopted by each CCA program's governing board, not the Commission's IRP process.

- Under SB 350, the Commission has the authority to authorize and/or require IOU procurement based on the outcome of the IRP process. This authority applies to "electrical corporations" and does not extend to CCA programs.[7]

The Staff Proposal sets forth a single IRP process for all types of load-serving entities ("<u>LSEs</u>"), that treats CCA programs and IOUs in a virtually identical manner. CalCCA is concerned that, as applied to CCA programs, some of the Staff Proposal's uniform procedural and substantive IRP requirements are inconsistent with SB 350, as well as the requirement for CCA procurement independence codified at Section 366.2(a)(5).[8] For instance:

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4 Although Section 454.52(a)(1) applies to "LSEs," a term that includes CCA programs, for CCA programs this general provision is modified by the CCA-specific Section 454.52(b)(3).

5 This authority is implied by Section 454.52, subsections (a)(1) and (b)(1). In addition, the Commission has authority to approve, deny, or modify IOU IRPs through its general jurisdiction over IOUs. CCA programs, in contrast, are not subject to the Commission's general jurisdiction, and under Section 366.2(a)(5) Commission jurisdiction over CCA procurement is limited to jurisdiction specifically granted by statute.

6 Section 454.52(b)(3).

7 Section 454.52(a)(2).

8 Section 366.2(a)(5) states: "A community choice aggregator shall be solely responsible for all generation procurement activities on behalf of the community choice aggregator's

- The requirement that CCA programs *file* their IRPs as formal applications to the Commission (subject to procedural requirements adopted by the Commission)[9] is inconsistent with Section 454.52(b)(3), which states that CCA IRPs are to be informally "provided" to the Commission "for certification," and formally "submitted" to the CCA's governing board "for approval."

- The Staff Proposal would require that CCA programs develop their IRPs in accordance with substantive guidance and filing requirements adopted by the Commission in the Reference System Plan,[10] using a standardized template provided by the Commission[11] and providing detailed content and data specified by the Commission.[12] These requirements, while for the most part reasonable, do not have a clear basis in SB 350, and are inconsistent with Section 454.52(b)(3), which makes clear that each CCA program's governing board is responsible for the substantive review/approval process for that CCA's IRP, and Section 366.2(a)(5), which codifies the principle of CCA procurement independence.

- The Staff Proposal would require that CCA programs submit IRPs that include and address one or more mandatory scenarios identified by the Commission.[13] Again, this substantive requirement does not have a basis in SB 350 and is inconsistent with CCA programs' boards' substantive 454.52(b)(3) role and approval authority and Section 366.2(a)(5) procurement independence.

- Develop their IRPs to meet the load level assigned to them by the Commission in the Reference System Plan.[14] SB 350 does not require that CCA programs develop their IRPs to meet the load-level assigned to them by the Commission. Under Sections 454.52(b)(3) and 366.2(a)(5), this is a procurement question that falls within the discretion of each CCA's governing board.

- Under the Staff Proposal, CCA programs would be required to develop their IRPs by selecting and documenting which RESOLVE resources (either from the Commission's reference system portfolio or new resources selected in the CCA's IRP) they plan to use to meet their Commission-assigned load level over the IRP planning horizon.[15] Under SB 350 and Section 366.2(a)(5), substantive control over

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customers, except where other generation procurement arrangements are expressly authorized by statute.

9 Staff Proposal at 52.

10 Staff Proposal at 22.

11 Staff Proposal at 55.

12 Staff Proposal at 56.

13 Staff Proposal at 60.

14 Staff Proposal at 60.

15 Staff Proposal at 60.

which resources a CCA program includes in its plan is retained by each program's governing board, and to the extent that the Staff Proposal would limit a CCA program's ability to build a portfolio with the resources of its own choosing, the Staff Proposal is inconsistent with these provisions.

- Under the Staff Proposal, CCA programs would be required to develop their IRPs using the GHG planning price assigned by the Commission when calculating the costs of their IRP portfolios.[16] This is inconsistent with Section 454.52(b)(3), which clearly vests in each CCA program's governing board the authority and responsibility to "approve" that program's IRP based, in part, on whether the IRP achieves "benefits and characteristics" that are "consistent with" the eight criteria set forth at Section 454.52(a)(1). This includes the Section 454.52(a)(1)(A) GHG reduction target criterion.

- Under the Staff Proposal, the Commission would then *approve or deny* each LSE's IRP based on the following criteria: (1) whether the LSE's IRP includes each of the sections and components required by the Commission;[17] (2) whether the IRP provides all types of data required by the Commission, and whether the data meets the Commission's formatting requirements;[18] (3) whether all IRP portfolios, in aggregate, meet the Commission's operational performance requirements (emissions, reliability, and operating cost, as compared to the Commission's Reference System Portfolio) under production cost simulations; and (4) whether the LSE's individual IRP meets its GHG emissions requirements.[19] This is inconsistent with Section 454.52(b)(3), which vests approval authority in each CCA program's governing board

16 Staff Proposal at 60.

17 Staff Proposal at 62.

18 Staff Proposal at 62.

19 Staff Proposal at 62.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of Energy Efficiency Rolling Portfolio Business Plan.	Application 17-01-013 (Filed January 17, 2017)
Application of San Diego Gas & Electric Company (U902M) to adopt Energy Efficiency Rolling Portfolio Business Plan Pursuant to Decision 16-08-019.	Application 17-01-014 (Filed January 17, 2017)
Application of Pacific Gas and Electric Company for Approval of 2018-2025 Rolling Portfolio Energy Efficiency Business Plan and Budget (U39M).	Application 17-01-015 (Filed January 17, 2017)
Application of SOUTHERN CALIFORNIA GAS COMPANY (U904G) for adoption of its Energy Efficiency Rolling Portfolio Business Plan and related relief.	Application 17-01-016 (Filed January 17, 2017)
In the Matter of the Application of Marin Clean Energy for Approval of its Energy Efficiency Business Plan.	Application 17-01-017 (Filed January 17, 2017)

REPLY COMMENTS OF MARIN CLEAN ENERGY ON SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES

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June 29, 2017

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REPLY COMMENTS OF MARIN CLEAN ENERGY ON SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES

I. INTRODUCTION

Marin Clean Energy ("MCE") submits the following reply comments pursuant to the *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judges* ("Scoping Ruling") filed April 14, 2017. MCE replies to the comments of the Bay Area Regional Energy Network ("BayREN"), the California Efficiency and Demand Side Management Council ("CEDMC"), the Natural Resources Defense Council ("NRDC"), the Office of Ratepayer Advocates ("ORA"), Pacific Gas & Electric Company ("PG&E"), San Diego Gas and Electric Company ("SDG&E"), Southern California Gas Company ("SoCalGas"), and Southern

California Regional Energy Network ("SoCalREN") filed on June 22 in responses to the 58 questions in Attachment B of the Scoping Ruling. The Scoping Ruling invites all parties to provide reply comments by June 19, 2017. On June 2, 2017, Administrative Law Judge Kao issued *A1701013 et al. Email Ruling Extending Deadlines to File Comments, Motions for Evidentiary Hearing and/or Testimony* ("Extension Ruling") extending the due date for those reply comments to June 29, 2017.

II. MCE'S GAS FUNDING IS NOT AND SHOULD NOT BE LIMITED TO INCIDENTAL GAS SAVINGS

The Commission articulated MCE's right to receive gas funding for gas savings.[1] PG&E expresses concern that MCE includes measures that provide gas-only savings.[2] The Commission should not modify MCE's right to gas funds to limit it to only those measures with dual-fuel savings. To do so would reduce MCE's ability to save energy for customers who are already undertaking projects. The Commission should continue its policy to maximize energy savings by allowing MCE to continue to offer gas savings measures that complement MCE's electric savings measures.

SoCalGas cited its protest of MCE's application and reiterated its opposition to MCE receiving gas savings.[3] MCE addressed SoCalGas' arguments in its reply to the protest[4] and does not reiterate them here.

[1] *See i.e.* D.14-10-046 Ordering Paragraph 26 at p. 168 (providing MCE approval to administer gas funding transferred under contract from PG&E); *see also Id.* at p. 119-120 (describing MCE's right to pursue projects that involve gas savings with no mention of a restriction to duel-fuel measures).
[2] PG&E Comments at p. 3-4.
[3] SoCalGas Comments at p. 25.
[4] Reply to Protests of and a Response to the Application of Marin Clean Energy for Approval of its Energy Efficiency Business Plan, filed March 10, 2017, at p. 8-10.

III. MCE'S PROPOSAL TO SERVE AS DOWNSTREAM LIAISON WILL HELP ACHIEVE CALIFORNIA'S ENERGY EFFICIENCY GOALS

PG&E states that only investor-owned utilities ("IOUs") are assigned energy savings goals and are statutorily required to achieve energy efficiency. This narrow perspective ignores the Commission's decision for MCE's energy savings to roll up to PG&E's energy savings for the purposes of counting achievements toward state goals.[5] As such, MCE's accomplishments contribute to, and do not diminish, CPUC mandated energy targets. Additionally, MCE's own mission statement includes achievement of energy efficiency as a top priority. MCE does not need a statutory mandate to achieve energy efficiency and its accomplishments will still count toward progress on California's energy efficiency goals.

PG&E asserts that California's energy efficiency goals cannot be met if MCE's downstream liaison proposal is authorized such that MCE could preclude duplicative PG&E programs.[6] However, PG&E provides no analysis or factual support for this claim. MCE's downstream liaison proposal seeks authority to preclude only duplicative programs, not all IOU programs, from its service area.[7] PG&E will still be able to administer all programs outside MCE's service area and non-duplicative programs within MCE's service area. The downstream liaison proposal will avoid duplicative programs helping to reduce customer confusion and improve cost-effectiveness by limiting duplicative administrative structure, which will help achieve California's energy efficiency goals.

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[5] *See i.e.* D.15-10-028 at p. 8 (noting that current data limitations require goals by IOU instead of by PA and that CCA savings are embedded within the IOU savings).
[6] PG&E Comments at p. 57.
[7] Application of Marin Clean Energy for Approval of its Energy Efficiency Business Plan, filed January 17, 2017 ("MCE Application"), Table 1 at p. 21.

IV. MCE'S PROPOSAL TO SERVE AS DOWNSTREAM LIAISON SHOULD INCLUDE A TRANSITION PLAN FOR EXISTING CONTRACTS

CEDMC expressed concern about the impact of the downstream liaison proposal on existing contracts.[8] MCE agrees with CEDMC that stability in contracts for implementers is important. MCE provided a recommendation in opening comments that the Commission adopt a transition plan to address this issue.[9] If MCE precludes a duplicative third party program, the transition plan would preserve existing implementation contracts for a maximum of 18 months. During that time, the implementer may seek to enter into a separate bilateral agreement with MCE to continue implementation in MCE's service area. Regardless of the timing, the implementer would be able to continue implementing programs outside of MCE's service area. The limited geographic area and transition plan both limit the risk of disruption for existing contracts.

V. THE COMMISSION SHOULD MAINTAIN ITS DECISION TO LIMIT THE THIRD PARTY PROGRAM SOLICITATION PROCESS TO UTILITY PROGRAM ADMINISTRATORS

The CEDMC suggested applying third party program rules to CCAs "or exploring a commensurate path by which CCAs allow for a significant private market opportunity."[10] The Commission generally applies the same rules to CCAs as to IOUs, unless an exception is warranted.[11] The Commission decided to apply the third party program rules exclusively to utilities.[12] CEDMC does not provide sufficient justification for reversing this recent decision. Additionally, MCE intends to provide a significant private market opportunity through direct

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[8] CEDMC Comments at p. 16-17.
[9] MCE Comments, filed June 22, 2017, at p. 8-9.
[10] CEDMC Comments at p. 17.
[11] *See i.e.* D.14-01-033 at p. 31 (stating "there may be particular instances where it is inappropriate for a rule developed in the context of IOU administration to apply to a CCA").
[12] *See i.e.* D.16-08-019 at p. 67 (stating the third party definition was not intended to apply to non-utility program administrators).

contracting and competitive solicitations.[13] There is no need to apply the third party rules to MCE at this time.

PG&E called for MCE to bid out any contract that involved implementation of gas efficiency as a "third-party" contract.[14] It is unclear whether PG&E is requesting the Commission impose the third party solicitation process or all third party program rules on MCE. The Commission should maintain the exception it established for non-utility PAs when it created the new third party program rules.[15] PG&E's bare assertion that MCE should be subject to the third party rules is insufficient to justify departure from the Commission's decision.

The Commission suggested a procurement review group ("PRG") and independent evaluator ("IE") could be used to review third party program solicitations.[16] ORA called for all energy efficiency solicitations to utilize a procurement review group and an independent evaluator[17] with all winning contracts submitted via advice letter.[18] BayREN,[19] SoCalREN,[20] and MCE[21] provided an explanation of the transparency requirements inherent to local government solicitations. These transparency requirements are intended to protect taxpayers and are sufficient to protect ratepayers. Introducing a PRG, an IE, or an advice letter process to MCE solicitations is unnecessary, will extend the solicitation process, and reduce the cost effectiveness

[13] *See e.g.* MCE EE Business Plan at p. 129-130 (describing contract price thresholds that trigger a competitive solicitation process). Available at https://www.mcecleanenergy.org/2017-EE-Business-Plan.
[14] PG&E Comments at p. 4.
[15] D.16-08-019 at p. 67.
[16] D.16-08-019 at p. 75.
[17] ORA Comments at p. 15.
[18] ORA Comments at p. 15-16.
[19] BayREN Comments at p. 9-10.
[20] SoCalREN Comments at p. 31-34.
[21] MCE Comments at p. 11-12.

of MCE's programs. The Commission should not impose additional and unnecessary requirements on local government solicitations.

NRDC recognized that local government contracting processes are sufficiently transparent.[22] NRDC suggested the Commission establish a review of MCE solicitations to ensure they are consistent with MCE's BP and Commission policy.[23] Additional review of solicitations or winning contracts is not necessary as the Commission will have already reviewed and approved MCE's business plan for consistency with Commission policy[24] and can act on issues related to MCE's implementation plans as needed.[25] It is MCE's responsibility as a program administrator to ensure it is conducting solicitations that accomplish the approaches in its business plan and are consistent with Commission policy. There is no evidence to suggest local governments would procure contrary to their business plans or Commission policy. The Commission should not introduce a policy review of MCE's solicitations.

VI. THE COMMISSION SHOULD CLARIFY THE DEFINITION OF HARD TO REACH CUSTOMERS

It is unclear how to satisfy the definition for hard to reach customers when the geographic component is not met.[26] BayREN commented on the stranded savings and difficulty of serving customers in areas excluded from the geographic component.[27] PG&E claims that the Commission defined hard to reach to require three criteria when the geographic component is not

[22] NRDC Comments at p. 15.
[23] NRDC Comments at p. 15.
[24] D.15-10-028 at p. 43.
[25] The Commission may act on its own authority at any time to address issues in implementation plans. Separately, any party may file a "Motion for Implementation Plan Dispute Resolution" to raise an issue to the Commission's attention. D.15-10-028 at p. 65.
[26] *See i.e.* Commission Resolution G-3510 (issued December 7, 2015) at p. 58 (providing the criteria for hard to reach customers). *See also Id.* (describing the geographic component as the areas outside the San Francisco Bay Area, the Greater Los Angeles Area, the Greater Sacramento Area, and San Diego County).
[27] BayREN Comments at p. 5-7.

met.[28] However, the Commission's definition is not that specific and only provides clarity in the event a customer meets the geographic component.[29] It provides no information about how to satisfy the definition in the event a customer does not meet the geographic component.

MCE agrees with SDG&E and BayREN that the Commission should clarify or improve its definition of hard to reach customers[30] and recommends two specific improvements. First, the Commission should define a customer as hard to reach if they meet two components, regardless of which components are satisfied. This will provide sufficient clarity to utilize the definition of hard to reach customers – especially for those PAs that operate within the area defined in the geographic component. Second, the Commission should expand the "lease or rented facilities" component for commercial customers to include residential customers. This will allow single family renters, who also meet a second criterion, to be classified as hard to reach. These improvements will provide needed clarity to PAs about when to a customer is considered hard to reach. The Commission should adopt a clear definition of hard to reach customer to increase the ability of programs to serve customers that otherwise might not be served.

VII. STRATEGIC ENERGY MANAGEMENT SHOULD NOT BE A STATEWIDE PROGRAM

The Commission should avoid classifying Strategic Energy Management ("SEM") as a statewide program to allow a diversity in SEM programs to meet customer needs. PG&E suggested SEM could be a candidate for statewide delivery, but should be administered on a local level first to determine customer needs.[31] It is inappropriate to assume, as PG&E does, that SEM customer needs identified in the short term will remain fixed in the long-term. CEDMC

[28] PG&E Comments at p. 22.
[29] *See i.e.* Commission Resolution G-3510 (issued December 7, 2015) at p. 58 (stating that "Two criteria are considered sufficient if one of the criteria met is the geographic criteria").
[30] SDG&E Comments at p. 14-15; BayREN Comments at p. 5-7.
[31] PG&E Comments at p. 35.

cautioned against taking a single approach to SEM and encouraged the Commission to consider SEM as a general approach and not a narrowly defined program.[32] MCE supports a diversity of SEM programs to explore a range of potential applications for an SEM approach. While elements of the approach may be appropriately consistent throughout the state, it is important to continue local administration of SEM programs to allow for local tailoring to meet varied and changing customer needs.

VIII. THE COMMISSION SHOULD ADDRESS COST-EFFECTIVENESS ASSUMPTIONS TO ADVANCE THE 2030 GOAL OF DOUBLING ENERGY EFFICIENCY

MCE supports three of PG&E's proposals to modify cost-effectiveness assumptions to create more energy savings opportunities. These proposals are to: (1) remove participant costs not associated with energy savings; (2) allow effective useful lives ("EULs") for long-term measures to exceed 20 years; and (3) exclude non-resource costs where benefits have not been quantified.[33] While PG&E calls for excluding non-resource "programs," MCE recommends the Commission instead exclude non-resource "activities." Separating the tracking of resource/non-resource spending in a combined program to analyze cost-effectiveness was recommended in a recent impact evaluation[34] and will avoid the need to structure or restructure programs to be exclusively resource or non-resource. These policies will increase available energy savings and maintain the ability to serve customers cost-effectively.

[32] CEDMC Comments at p. 13.
[33] PG&E Comments at p. 12-13.
[34] 2013-2014 REN and CCA Programs Impact Assessment: Final Report and Appendices. Itron, Inc. (January 7, 2017), at p. ES-8.

IX. CONCLUSION

MCE thanks Commissioner Peterman, Administrative Law Judge Fitch, and Administrative Law Judge Kao for their thoughtful consideration of these comments.

Respectfully submitted,

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements.	Rulemaking 13-09-011 (Filed September 19, 2013)

REPLY OF MARIN CLEAN ENERGY TO RESPONSES TO QUESTIONS REGARDING IMPLEMENTATION OF THE COMPETITIVE NEUTRALITY COST CAUSATION PRINCIPLE

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements.	)))))	Rulemaking 13-09-011 (Filed September 19, 2013)

RESPONSE OF MARIN CLEAN ENERGY
TO QUESTIONS REGARDING IMPLEMENTATION OF THE
COMPETITIVE NEUTRALITY COST CAUSATION PRINCIPLE

Pursuant to the *Administrative Law Judge's Ruling Requesting Responses to Questions Regarding the Pathways to New Models of Demand Response, Implementation of the Competitive Neutrality Cost Causation Principle, and Remaining Barriers to the Integration of Demand Response into CAISO Markets* ("Ruling"), issued on May 22, 2017, Marin Clean Energy ("MCE"), respectfully submits the following reply to responses filed on June 19, 2017 to the questions listed in Attachment A of the Ruling regarding implementation of the Demand Response ("DR") competitive neutrality cost causation principle.[1] MCE files this reply in accordance with the revised filing date for reply established by Administrative Law Judges Kelly A. Hymes and Nilgun Atamturk in a ruling by electronic mail on May 31, 2017.

I. The Definition Of "Similar" Should Not Include Requirements To Meet State Clean Energy Policies Or DR Goals.

The Investor-Owned Utilities[2] ("IOUs"), Office of Ratepayer Advocates[3] ("ORA") and OhmConnect, Inc.[4] argue that the DR program of a Community Choice Aggregator ("CCA") or

[1] Ruling, Appendix A, pp. 5-6.
[2] IOUs, pp. 4-5.
[3] ORA, pp. 4-5, 6-7 and 8.
[4] OhmConnect, pp. 2-3 and 7.

Electric Service Provider ("ESP") cannot be deemed "similar" unless that program meets or contributes to the state's "clean energy" and DR "goals." As MCE explained in its June 19th comments, such a requirement is completely unnecessary and, by adding ambiguity, would undermine the very principle the Commission intends to implement.[5]

First, California has not established any state-mandated DR goals. In fact, the California Large Energy Consumers Association ("CLECA") noted that the reference to the "State's demand response goals" was unclear.[6] The only "DR goals" established thus far were adopted for the IOUs through settlements and are thus not applicable to CCAs or ESPs.[7] Second, the references to the state's "clean energy policies" or DR "goals" are vague. Ambiguous terms should never be incorporated into a definition, because it provides uncertainties for non-IOU Load Serving Entities ("LSEs") and thus creates even greater market barriers. If a CCA could not determine in advance if its program could meet such an ambiguous requirement, a CCA would likely be disinclined to develop a program in the first instance. Third, as MCE explained in its June 19th comments,[8] DR resources are designated as preferred resources in California and, thus, by their very nature, meet California's "clean energy policies" and contribute to any DR "goals." Therefore, imposing such a requirement would be redundant and unnecessary.

In addition, MCE agrees with CLECA that the Commission's jurisdiction differs for CCAs and ESPs compared to the IOUs and that imposing a "state" goal determined by the Commission would extend the Commission's jurisdiction.[9] Applying IOU mandates to CCAs would inappropriately extend the Commission's authority and violate the CCAs' procurement autonomy

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[5] MCE, pp. 5-7.
[6] CLECA, p. 7.
[7] See, for example, D. 14-12-024, pp. 10 and 19.
[8] MCE, p. 5.
[9] CLECA, p. 6.

pursuant to Public Utilities Code Section 366.2(a)(5).

In fact, the competitive neutrality cost allocation principle is intended to promote fair competition among all LSEs and effectively reduce the competitive barriers CCA and other providers face in providing their own DR programs. The Commission has the responsibility to foster fair competition by providing fair cost allocation. It is not the Commission's responsibility to exercise its authority over non-IOU DR programs, such as the programs of the CCAs and the ESPs. This is especially true considering that CCAs and ESPs are not receiving Commission-approved funding for their DR programs with guaranteed cost recovery like the IOUs.

In its June 19th comments, MCE proposed a clear, simple definition of "similar" DR program.[10] Adding ambiguity and unnecessary requirements to that definition undermines the principle the Commission is intending to promote – competitive neutrality. MCE urges the Commission to adopt MCE's proposal and exclude any reference to the state's "clean energy policies" or DR "goals" in the definition of "similar DR program."

II. The IOUs Cannot Impose Their Reporting Requirements On Other LSEs.

The Commission has broad jurisdiction over the IOUs' DR programs precisely because those programs are funded by ratepayers. In return for guaranteed cost recovery, the IOUs are required to comply with extensive reporting obligations justifying the cost-effectiveness of their DR programs. CCAs and ESPs have no such ratepayer-funded programs. Thus, the IOUs' proposal that the Commission should impose "a comparable reporting mechanism" on CCAs and ESPs "offering DR programs"[11] should be rejected. CCAs and ESPs have no "comparable" funding and thus have no

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[10] MCE, pp. 3-5.
[11] IOUs, p. 5.

obligation for "comparable reporting." The IOUs' proposal is simply another attempt to discourage non-utility LSEs from pursuing their own DR programs.

III. The IOU's "Customer Classes" Are Not Directly Applicable To CCAs.

The IOUs and CLECA both suggest that eligibility by "customer class" be included in the definition of "similar." The IOUs state that the CCA/ESP DR program should be available to the same "customer groups" to which the IOU's program were available.[12] CLECA provides a bit more detail, proposing that the CCA/ESP "customer is not only eligible to participate in the program, but it is also a suitable program for the customer's class based on the class characteristics."[13] MCE does not necessarily disagree with these proposals, but believes they require additional clarity, as offered by MCE in its June 19th comments.[14] There, MCE explained that (a) the CCA's "similar" DR program should not be required to be offered to the *same* customer class or subset of the class as the IOU's DR program, because a CCA may have very different customer class composition from an IOU and (b) the CCA program should be deemed "similar" if was offered to the same *type* of customers.[15] MCE requests that the definition adopted by the Commission not be tied to the IOU's customer classes, but be broader, as proposed by MCE, to recognize the differences in customers class identification between the IOUs and other LSEs.

III. "Similar" DR Programs Provide "Similar" Grid Benefits.

The IOUs propose that the CCA/ESP DR programs provide "similar grid benefits as the utility DR program," including "similar Time-of-Use periods, Resource Adequacy (RA)

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[12] IOUs, p. 2.
[13] CLECA, p. 4.
[14] MCE, p. 3.
[15] MCE, p. 3.

requirements, and market integration capabilities (e.g., supply-side resource)."[16] MCE disagrees. Such a requirement is unnecessary and would add significant uncertainty to the approval process, thereby dissuading CCAs and ESPs from pursuing their own DR programs.

As explained by MCE in its June 19th comments, a "similar" DR program should provide the same type of DR program as the IOU's DR program.[17] So, if the IOUs' DR program is categorized as "Load Modifying," then the CCA's "similar" DR program must be Load Modifying and meet the applicable requirements for such DR resources. Likewise, if the IOUs' DR program is categorized as "Supply Side," then the CCA's "similar" DR program must be Supply Side and meet the applicable requirements for such DR resources. Thus, any "grid benefits" attributed to the IOU's Load-Modifying and Supply-Side DR resource would also apply to the CCA's similar DR program. Therefore, it would be redundant and unnecessary to impose an additional requirement for the CCA/ESP DR program to provide "similar grid benefits," when such benefits are already provided by the fact that the same type of DR resource is being deployed by the CCA or ESP.

In addition, the IOUs' propose, as part of the "grid benefits" test, that CCA/ESP programs be required to adopt "similar Time-of-Use periods."[18] MCE disagrees. As explained previously, a CCA may have a different load profile from the IOUs and different energy management objectives it desires to achieve;therefore, the CCA should not be required to use the identical hours of operation as the IOU's DR program.[19] Moreover, a CCA's rate-setting authority rests with the CCA's board of directors and implementing this requirement would undermine a CCA's local governance.

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[16] IOUs, p. 2.
[17] MC, pp. 4-5.
[18] IOUs, Attachment, p. 2.
[19] MCE, p. 4.

Further, a requirement to "provide similar grid benefits" is vague and subjective – adding an undefined term to a definition creates uncertainty and discourages non-IOU LSEs from developing their own DR programs. For example, a CCA could develop a Supply-Side DR program that meets all of the established requirements for Supply-Side resources, including being bid into the CAISO, but would have no assurance that its proposed program would be deemed "similar." In short, there is no need to add this redundant requirement to the definition of "similar" and no rationale for adding the confusion and uncertainty that would be accompany it.

IV. Conclusion.

The Commission should focus on implementing the competitive neutrality cost allocation principle without further delay and without saddling the principle with unfair, unnecessary or unworkable requirements. When fair competition exists, CCAs will develop their own programs tailored to their local customer needs. MCE continues to believe that interpreting and implementing the principle defined in Decision 14-12-024 is and should be simple and straightforward. MCE looks forward to working with the Commission to finalize and implement the principle as quickly as possible.

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Respectfully submitted,

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CALIFORNIA COMMUNITY CHOICE ASSOCIATION (CalCCA)
COMMENTS ON
THE CUSTOMER AND RETAIL CHOICE EN BANC AND WHITE PAPER

The California Community Choice Association ("CalCCA")[1] appreciates the opportunity to provide informal comment on the Staff White Paper titled "Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework," published May 9, 2017 ("Staff White Paper"), and on the questions posed to the panelists at the En Banc on The Changing Nature of Consumer and Retail Choice in California, held on May 19, 2017 ("En Banc").

The Staff White Paper and En Banc open a discussion regarding several important trends that are currently driving significant change within California's electricity sector and the overall clean-energy economy. CalCCA's responses to the Staff White Paper and the En Banc highlight the many ways in which the changing electricity landscape presents opportunities for furthering the State's "reliability, affordability, equity and carbon reduction imperatives while recognizing [the] important role that technology and customer preferences will play in shaping this future."[2]

In particular, CalCCA highlights the many ways in which community choice aggregators ("CCAs") are crucial partners in achieving the State's policy goals. For example, CCAs increase participation in energy decisions, design local programs around customer preferences, promote the use of new technologies, enhance affordability, and accelerate achievement of the State's greenhouse-gas goals. CalCCA elaborates on these CCA efforts in the comments below and explains the ways in which CCAs differ from other types of service providers. CalCCA also proposes several solutions for better incorporating CCAs into the State's planning and procurement processes.

I. STAFF WHITE PAPER

"California's Changing Electricity Landscape"[3] presents an opportunity.

California has an enormous task in front of it in effectuating its laudable energy policy goals. As the Staff White Paper explains:

> "California has set itself on the path to reducing statewide greenhouse gas emissions by 40% below 1990 levels by 2030, using tools such as a 50% renewable portfolio standard, doubling of existing energy efficiency savings for both electricity and natural gas usage and putting well over 1.5 million zero emission vehicles on the road."[4]

There are currently eight operational CCAs in California with several more set to launch in 2017 and another 20 being explored across the state.[5] During the En Banc, Geof Syphers, the Chief Executive

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[1] CalCCA, the California Community Choice Association, is a trade association representing the interests of its members .CalCCA's operational members are Apple Valley Clean Energy, CleanPowerSF, Lancaster Choice Energy, MCE, Peninsula Clean Energy Authority, Silicon Valley Clean Energy, Redwood Coast Energy Authority, and Sonoma Clean
Power.

[2] Staff White Paper p. 5.

[3] *Id.* pp. 3-5.

[4] *Id.* p. 3 (internal citations omitted).

[5] UCLA Luskin Report p. 6.

Officer of Sonoma Clean Power ("SCP") noted that nearly $2 billion in new generating facility investment has been facilitated by CCA procurement.[6]

The University of California, Los Angeles Luskin Center for Innovation recently issued a report on "The Promises and Challenges of Community Choice Aggregation in California" ("UCLA Luskin Report" or "Report"). The Report identifies a number of benefits that CCAs provide to Californians and their ratepayers, including significant financial benefits. In fact, the Report finds that "all CCAs provide their customers with more competitive rates (for a comparable service) than do their affiliated [investor-owned utilities ("IOUs")].[7] The Report also finds that "CCAs offer ratepayers a more accessible decision-making process compared to IOUs' ratepayers" and that CCAs provide "their ratepayers with enhanced local community participation in governance decisions."[8]

With respect to environmental benefits, the UCLA Luskin Report concludes:

> "Thus far, all CCAs in operation in California generally offer a larger share of renewable energy than do their affiliated IOU, up to 25 percentage points more. We estimate that these efforts resulted in emission reductions of approximately 600,000 metric tons of carbon dioxide (CO2) equivalent in the past twelve months. With the statewide carbon market pricing a ton of carbon at $12.73 in 2016, this translates to $7.5 million in annual savings for electricity ratepayers. Through our analysis, we found that continued development of CCAs may enable California to surpass its 2020 renewable targets by up to four percentage points."[9]

The Report also points out that reducing the use of fossil fuels in California's power mix "may also disproportionately benefit low- and moderate-income households who generally live closer to natural gas power plants than wealthier households."[10]

The UCLA Luskin Report reconfirms the important opportunities that a changing electricity landscape can provide for advancing State policy goals and the crucial role that CCAs are currently playing in harnessing these opportunities.

CCAs are crucial partners in achieving State policy goals.

The Staff White Paper acknowledges: "the three IOUs and 34 POUs have been the dominant parties on whom policy makers have relied as enablers of a number of key public policy initiatives, ranging from the procurement of renewable energy to providing low-income Californians with subsidized electricity."[11] The Commission should also see CCAs as a strong partner in helping the State achieve its environmental policy objectives.

The Commission has effectuated State policy through its oversight of the State's IOUs. While CCAs are not subject to the Commission's oversight unless explicitly directed by statutes, CCAs' goals and objectives are entirely consistent with the Commission's and the State's policy objectives. For example, many CCAs offer net energy metering programs with stronger financial incentives for local customers to invest in on-site renewables. CCAs are also aligned with the Commission's desire to enhance

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6 Retail Choice En Banc, Recording at approximately 142:10 to 142:30.
7 UCLA Luskin Report p. 14.
8 *Id.* p. 21.
9 *Id.* p. 1.
10 *Id.* p. 15.
11 Staff White Paper p. 4.

affordability by offering competitive generation rates. Some CCAs are taking additional measures to ensure even greater affordability. For example, PCE is also developing a rate stabilization fund to protect its customers from potential, future rate shocks.

CCAs are also highly aligned with the Commission's desire to accelerate achievement of the State's greenhouse-gas ("GHG") reduction goals. Many CCAs plan to be 100% GHG free before 2030, and some have set renewable procurement goals much higher than currently mandated by the State. Most CCAs currently offer their customers a default renewable energy offering, and a 100% renewable energy offering. The UCLA Luskin Report concludes that several CCAs' current power mixes already produce 50% less greenhouse-gas emissions than that of PG&E.[12] In addition, many CCAs are committed to the development of a sustainable workforce, including support for local businesses, union labor, and apprenticeship and pre-apprenticeship programs that create employment opportunities and build and sustain healthy communities.[13] [14]

II. WHAT CUSTOMERS WANT

Panelists were asked, in protecting consumers from "bad actors:" "Should consumer protections be limited to for-profit entities and not CCAs?" Panelists were also asked: "Should residential customers have access to alternative retail suppliers other than CCAs?"

California Law already has consumer protections related to CCAs. For example, Public Utilities Code Sections 366.2 requires CCA implementation plans to provide for customer protection procedures, universal access, reliability and equitable treatment of all customer classes (Section 366.2(3) and (4)). For the reasons explained below, consumer protections should be limited to for-profit entities.

CCAs are unique load serving entities ("LSEs") that are responsive to local consumers, including low-income and hard-to-serve customers. This is due to the local governance structure required of CCAs and the statutory requirement that CCAs must offer service to all residential customers in their territories. CCAs were specifically created to give residential and other customers options for alternative suppliers. Any expansion of retail choice should be carefully considered to ensure that the problems that resulted from extensive retail choice in the early 2000s are avoided. Any discussion of market reform needs to take into account the unique role CCAs play in achieving State policy goals, the alternatives they already provide to customers, and that no harm must be done to those efforts.

CCAs are not like other LSEs.

CCAs are public agencies that are governed by a public board of directors, a city council, or a commission.[15] Boards of directors are comprised of elected or appointed officials from the member communities, including in almost all cases county chairs and vice chairs, mayors, and city or town council members and supervisors.[16] As such, the elected and appointed officials who control CCAs have an obligation, enforced through the ballot box, to make sure the interests of their customers are represented and protected. This distinguishes CCAs from other LSEs.

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12 UCLA Luskin Report p. 16.
13 http://www.peninsulacleanenergy.com/wp-content/uploads/2017/01/PCE-Policy-10-final-1.pdf
14 MCE's Community Power Coalition was formed to cultivate a relationship with ratepayer advocates and community-based organizations to focus on the interests of underrepresented and historically marginalized constituencies. https://www.mcecleanenergy.org/community-power-coalition/
15 UCLA Luskin Report p. 12.
16 *Id.*

Transparency is another benefit of CCAs. CCAs are local non-profit public entities overseen by elected officials responsive to the clean energy needs of the communities they serve. As local government agencies, all CCA board meetings are open to the public and must be properly noticed. Board meetings are subject to the Brown Act and any local sunshine ordinances that may apply. Additionally, CCA records are subject to the Public Records Act. CCA customers are CCA constituents, and thus have a direct line to their locally elected board member to engage in CCA issues. This transparency is in stark contrast to the operations of the IOUs, which require a complex regulatory system in order to provide input into their operations.

The local governance structure required of CCAs also allows them to tailor procurement and adopt local programs to reflect local ratepayer preferences. The UCLA Luskin Report observes that a "CCA's knowledge of its community can help the effectiveness of investments by targeting programs that support community preferences."[17] For example, Peninsula Clean Energy's (PCE's) strategic goals include stimulating development of new renewable energy projects and clean-tech innovation in San Mateo County, in part by procuring 20 megawatts ("MW") of new local power by 2025.[18] MCE Clean Energy has several local renewable projects in operation and underway, including some targeted at reducing local pollution.[19] These examples demonstrate the ways in which CCAs are not like other LSEs.

CCAs are fully committed to serving low-income customers.

Unlike some other LSEs, CCAs are not able to selectively serve the most profitable customers and must offer service to all residential customers within their territories, including low-income and hard-to-reach customers. The best and most direct way to serve low-income customers is to ensure rates are as low as possible. Many CCAs offer lower rates than their incumbent IOUs. When tallied up across CCAs, these rate discounts produce substantial savings for families and businesses across the State. The Center for Climate Protection projects that California ratepayers will save $188 million annually by the end of 2020 assuming CCAs offer at least a 1% rate discount compared to the incumbent IOU.[20]

Expansion of retail choice should not harm CCA efforts that advance State policy goals.

Any discussion around expansion of caps on direct access providers and their responsibilities must first recognize the value CCAs have in advancing state policy goals and any proposed changes in state policy must not harm CCAs.

In addition, CCAs were specifically created in the wake of the electricity crisis of the early 2000s to give residential and other customers an option for an alternative supplier without the problems that resulted from broader retail competition. Any expansion of retail choice should be carefully considered to ensure that the problems that resulted from extensive retail choice in the early 2000 are avoided.

Consumer protection is of critical importance to CCAs.

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17 *Id.* p. 10.
18 https://www.peninsulacleanenergy.com/learn-more/goals-and-policies
19 https://www.mcecleanenergy.org/local-projects/
20 Center for Climate Protection, "Community Choice Energy Programs in California: Greenhouse Gas and Customer Cost Savings," p. 6. https://climateprotection.org/wp-content/uploads/2017/06/Forecast-of-CCA-Impacts-in-CA-2016-2020-June-2-2017.pdf

CCAs are required by statute to develop an implementation plan that addresses the rights and responsibilities of program participants, including, but not limited to, consumer protection.[21] CalCCA is not aware of any deficiencies related to consumer protection procedures established by CCAs in California that merit State mandated consumer protection requirements. CCAs are focused on serving their local customers fairly and in a high-quality, professional manner. As such, CCAs strongly support consumer protection and providing superior customer experiences.[22]

CCAs are very sensitive to customers' understanding of their rates. CCAs conduct broad customer education campaigns and develop rate structures that often mirror IOUs' own rate structures in order to minimize customer confusion. In addition, CCAs, which are governed by a public board of directors, a city council or a commission, are easily accessible to their customers. CCA customers also may opt out of CCA programs, which provides further assurance that CCA customers are fully protected with regard to rates. For these reasons, CalCCA believes the Commission should continue to focus its resources on the oversight of IOUs rather than CCAs.

III. STATE OF CUSTOMER CHOICE IN CALIFORNIA

Panelists were asked: "What are important authorities that the CPUC should maintain or gain in the future to regulate the supply and resource adequacy portfolios as heavily for the non-IOU suppliers as it does for IOUs?" Panelists were also asked: "Who should be the provider of last resort in any particular area?"

CalCCA believes the necessary framework for regulating supply and resource adequacy is already in place, but it needs to be adjusted, as explained below.

CCA expansion is fully compatible with current planning and procurement processes.

CalCCA believes much of the necessary framework is already in place to address the Commission's concerns with regard to aligning the expansion of CCAs with the planning and procurement processes at different California agencies, but work remains to improve that alignment. There are two critical issues the Commission has identified, both in the Staff White Paper and its En Banc questions. The first is how to ensure remaining customers are indifferent to the departure of CCA customers, and the second is how to ensure reliability and appropriate resource planning as "non-IOU LSEs serve an ever-greater percentage of load."[23]

Geof Syphers with SCP squarely addressed the first issue at the En Banc when he said *solving the exit fee is the key*. Ensuring ratepayer indifference for all customers is the right goal, the equitable goal, and one that CalCCA supports. However, equitable treatment should extend to both departed and remaining customers. The existing mechanisms to ensure indifference, such as the Power Charge Indifference Adjustment ("PCIA"), are opaque, unfair and create significant, short-term pricing risks for departed customers. This unfairness and lack of certainty needs to be fixed as discussed further below.

On ensuring reliability and appropriate resource planning, the Staff White Paper raises concerns regarding planning and procurement, but it appears to stop short of identifying clear gaps in the State's oversight. Rather, it notes CCAs "might be less willing" to assist with reliability concerns, and the emergence of

[21] Cal. Pub. Util. Code § 366.2(c)(3)(E).
[22] https://www.peninsulacleanenergy.com/learn-more/goals-and-policies
[23] Staff White Paper at 7.

CCAs "could diminish the long-term effectiveness" of integrated resource planning ("IRP"), and that CCAs may need to provide new types of data to the CEC.

It has not been demonstrated that the regulatory framework the Legislature has constructed fails to provide the oversight necessary to minimize the risks listed in the Staff White Paper. For example, CCAs contract with, or employ, scheduling coordinators to ensure a balanced supply of energy in their service territory. CCAs are subject to the same resource adequacy (RA) obligations as the IOUs, meet the same environmental mandates (e.g., renewable portfolio standard) and the same energy storage requirements applicable to CPUC-jurisdictional LSEs .[24] On planning, while a CCA board appropriately determines *how* to meet SB 350's integrated resource planning mandate, the CPUC still has the authority to determine *if* CCAs meet the mandate.[25] Finally, as the Staff White Paper notes, CCAs are already required to "support CEC demand forecasting" because they are LSEs "currently subject to data and forecast reporting requirements."[26] These examples demonstrate how a framework to ensure reliability and appropriate planning on a statewide basis already exists. If individual agencies or stakeholders identify clear gaps in this framework, CalCCA is certainly open to discussing the best way to fill them.

CalCCA welcomes a discussion of what entity is appropriate to be the POLR.

The incumbent IOU serves as the POLR for CCAs under current rules. POLR is operative (1) when a CCA customer opts-out, (2) if a CCA elects to cease operations, or (3) when a CCA customer fails to pay for CCA service. The CPUC has already developed rules for customers who voluntarily return to IOU service and recently, R.03-10-003 was reopened to consider CCA bonding to cover CCA customers in the unlikely event that CCA customers are *involuntarily* returned to IOU service.[27] Collectively, these safeguards should meet the goals of ensuring reliable service and ratepayer indifference. Longer-term, CalCCA is open to a broader discussion of who should provide POLR services, including the possibility of CCAs assuming this role in their jurisdictions.

IV. CURRENT STATE OF RETAIL ELECTRICITY MARKET AND COMING CHANGES

Panelists were asked: "In this 'future' retail electric system, how do you see the role for the regulated utility evolving and what, if any, functions should be preserved for the regulated utility [to] support achieving State policy goals?"

CalCCA believes the current utility business model needs fundamental reform. In particular, data access and fair access to the distribution system are important problems that need to be resolved.

The utility business model needs fundamental reform.

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24 *See, e.g.,* Cal. Pub. Util. Code § 380(c) ("Each load-serving entity shall maintain physical generating capacity and electrical demand response adequate to meet its load requirements, including, but not limited to, peak demand and planning and operating reserves. The generating capacity or electrical demand response shall be deliverable to locations and at times as may be necessary to maintain electric service system reliability and local area reliability"); Cal. Pub. Util. Code § 380(k) (CCAs are LSEs for the purpose of RA requirements).

25 See Joint CCA Letter to Paul Douglas, R.16-02-007, *Clarification of the Joint Community Choice Aggregators' Views On Key Integrated Resource Plan Matters* (March 15, 2017).

26 Staff White paper at 8.

27 "Administrative Law Judge's Ruling Setting Prehearing Conference and Requesting Prehearing Conference Statements." January 30, 2017. http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M173/K118/173118975.PDF

A 2015 Commission report, titled *Electric Utility Business and Regulatory Models,* identifies four major issues that present both challenges and opportunities regarding the application of the current business and regulatory model to the future grid.[28] They are: (1) a general consensus that the cost-of-service model is outdated because its fundamental operating principles are sales growth and large asset acquisition, both of which contradict energy conservation; (2) a blurring of the boundaries of the natural monopoly utility because energy and financial innovations are expanding market competition; (3) the transition of a centralized, one-way distribution grid toward an open, flexible network; and (4) challenges to IOUs' financial stability and credit ratings, due to diminishing profit potential.[29] According to the report, the rate of change experienced by California's IOUs could be outpacing the cost-of-service model that underpins the industry.[30]

It the Commission pursues such reforms, CalCCA supports pursuing new models that will expand customer energy choice and open doors to additional energy innovation, while also preserving distribution system reliability and integrity. Numerous other U.S. states, including New York, Maryland, Illinois and Rhode Island, are actively pursuing new business models for electric IOUs.

Data access is a foundational problem that needs to be resolved.

It is difficult to overstate the importance of useful energy data – and the need for access to such data. A report published in 2015 by the UCLA School of Law describes how energy data can be "immensely useful to a variety of audiences, including customers, policy makers, and public interest organizations, to realize both economic and environmental benefits."[31] Expanding access to energy data could bring cleaner, more efficient energy and savings to California consumers, boosting emerging clean technologies, which would help the State achieve its environmental and energy goals in a more cost-effective manner, and further benefit ratepayers by reducing the need for new investments in power plants through improved energy efficiency. [32] The report identifies the most useful types of customer- and utility-centered data, as well as key barriers to accessing energy data and solutions for overcoming those barriers.[33]

Currently, IOUs have a significant strategic advantage in California's marketplace, because they collect, harbor and largely control customer- and utility-centered data. While the Commission has for several years explored the possibility of making available to third parties certain customer-centered data,[34] significant obstacles remain in place that prevent third parties from accessing useful data. While customer privacy needs to be respected and appropriate safeguards established, CCAs must be allowed to

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28 *Electric Utility Business and Regulatory Models*; California Public Utilities Commission Policy & Planning Division; published June 8, 2015 (pp. 3-4).

29 Ibid.

30 Ibid. p. 4

31 "Knowledge is Power: How Improved Energy Data Access Can Bolster Clean Energy Technologies & Save Money;" UCLA School of Law, et al.; published January 2015 (p. 1)

32 Ibid.

33 Ibid. pp. 2-3.

34 See, for example, A.12-03-002 ("In the Matter of the Application of Pacific Gas and Electric Company for Adoption of its Customer Data Access Project (U39E)."); A.12-03-003 ("In the Matter of the Application of San Diego Gas & Electric Company (U902E) For Authority To Implement A Backhaul Program To Provide Authorized Third Parties Access To A Customer's Usage Data Based Upon Consent Of The Customer."); A.12-03-004 ("Application of Southern California Edison Company (U338E) For Approval of Proposal To Enable Automated Access of Customer Usage Data to Authorized Third Parties and Approval of Cost Recovery Mechanism."); and R.14-08-013 ("Order Instituting Rulemaking Regarding Policies, Procedures and Rules for Development of Distribution Resources Plans Pursuant to Public Utilities Code Section 769").

access customer-centered data in a simple, streamlined manner and format that enables them to offer customers new products and services that expand clean energy options and customer choice, and which may benefit the broader distribution system and other ratepayers.

Access to the Distribution System should be fair and nondiscriminatory.

The Commission must also continue progress towards ensuring that access to the distribution is fair and nondiscriminatory. The Commission has begun exploration of this issue in its proceeding on distributed energy resources.

V. FUTURE OF RETAIL ELECTRICITY SERVICE

Panelists were asked: "Are there any urgent steps that the CPUC, the CEC and/or CAISO need to take over the next 12-18 months to begin changing the role of the utility and the structure of regulation?" Panelists were also asked: "what considerations must California account for related to technological change in its regulatory framework and how is technological change impacted by the structure of the investor-owned utility."

The methodology for calculating the PCIA must be improved, as many stakeholders (including IOUs) already recognize,[35] in order to ensure costs are equitably allocated, ratepayer indifference is maintained, and to maximize transparency and minimize volatility. CalCCA offers suggestions below for goals that a PCIA replacement should accomplish, and explains why a recent IOU-proposed portfolio allocation methodology ("PAM") fails to satisfy those goals. CalCCA also explains why CCAs are well positioned to drive innovation and technology deployment and offers examples of how states are successfully incorporating a diversity of participants into their electricity markets in an effort to achieve policy goals that are similar to those in California.

Urgent steps are needed to fix the PCIA.

The PCIA is an unfair mechanism for allocating costs between IOU and non-IOU customers.

The following reforms are needed to ensure that the PCIA, or any successor fees for departing load met the following criteria:

- Transparent: CCAs, ESPs, and all interested parties need greater access to all data used to calculate exit fees to fully understand its calculation;
- Minimizing Costs/Ensuring Costs are unavoidable: A major emphasis should be on minimizing the amount of any exit fees by ensuring utility costs are reasonable, utilities are actively managing/terminating or transferring contracts as needed, utility-owned generation resources are managed efficiently, and that the utilities stop "digging the hole deeper" by continuing to procure unneeded resources;
- Reflect all value streams: Any market-based or administrative benchmarks used to calculate exit fees must identify all of the additional benefits received and costs avoided by the utilities' energy portfolios; and
- Increase Certainty/Reduce Volatility: Departing load customers should be protected from rate shock while a durable market framework is being developed. This could include use of a longer-

35 Staff White Paper p. 9.

term forecast period (e.g. 3 years); setting a cap on the level of the PCIA; spreading under-collections over a longer-time period.

Departing load customers should have certainty regarding *both* the level of departing load changes *and* the duration of those charges. These ends can be achieved by either allowing for an upfront, lump-sum payment for each vintage of departing load, or a crystal-clear window into how departing load charges are calculated, ideally with a definitive end point for such charges. The ideal approach couples this certainty with optionality by giving CCAs a choice between (a) an upfront payment for a departing load charge and (b) a transparent calculation of such a charge, with a finite term for the charge. This optionality allows each CCA to choose the best path forward for its customers while ensuring both new and existing CCAs can finance around their obligations to remaining customers without putting obligations to departing customers at risk.

The IOU PAM proposal in A.17-04-018 is not the solution to the PCIA dilemma. CalCCA and over a dozen parties have filed protests in response to the PAM proposal, and CalCCA has moved for its dismissal.[36] The PAM proposal fails to address the problems CCAs have with the PCIA including lack of transparency, little incentive to minimize costs, failure to reflect all value streams and a lack of cost certainty. The PAM provides no "buy-out" mechanism or ability for CCAs to pay once for departing load costs associated with each vintage of departing load customer. There is no certainty on when an amendment to a power purchase agreement will constitute a new contract, and there is no certain end date for a particular vintage's need to pay the PAM. This lack of certainty, and the lack of any tools for CCAs to proactively manage departing load costs, creates significant concerns that the PAM could actually increase the volatility of the departing load charges that are passed through to departing customers via yearly adjustments and true-ups. This is untenable for CCAs that are committed to providing rate stability and rate savings to their customers.

The PAM proposal is also fundamentally flawed in its treatment of avoidable costs. It does not specify which contracts and utility plant should be included in departing load charges, and it does not contain any mechanisms to align IOU interests in minimizing unavoidable costs. The PAM proposal is not the right way to begin addressing the topic of how to allocate the cost of IOU above-market cost resources between departing and remaining customers. To the contrary, we need to clearly identify what resources are at risk of being stranded assets and discuss how to minimize cost exposure to those resources over time. The first order of business is to stop the digging. The IOUs are already over procured, and no additional procurement should be ordered until there is greater certainty on who will pay the associated costs.

CCAs are well positioned to drive innovation and technology deployment.

California should continue to lead in the development of renewable energy.[37] While operational challenges remain to its continued development, CCAs are well positioned to assist the state in working through them. In particular, the CAISO noted that periodic negative prices are a huge incentive for demand response and storage.[38] That incentive can drive innovation and technology deployment, and the most nimble organizations to test different advancements and their effectiveness likely will be CCAs, since incumbent IOUs, unlike CCAs, require CPUC approval of pilots and programs in order for the cost

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[36] California Community Choice Association, R.17-04-018, Motion to Dismiss Application Without Prejudice (May 30, 2017).

[37] *See, e.g.,* M. Rothleder, CAISO, *Renewable Integration Presentation at the IEPR Workshop at the CEC* (May 12, 2017).

[38] *See id.* at slides 9-15, 23-27 (identifying opportunities and solutions for technical challenges as the penetration of renewable energy on California's system increases).

of those programs to be included in rates. The need for such approval can delay implementation and even foreclose the IOUs' willingness to explore different technologies and advancements. Leveraging CCAs as laboratories of innovation can result in timely solutions to planning and procurement issues the State would not otherwise be able to capture.

Other states are successfully incorporating diverse participants into their markets; California can too.

Looking beyond California illustrates that electricity markets can successfully be restructured to engage a diverse array of participants. For example, both New Jersey and Massachusetts, states with operating CCAs, provide retail electric choice; participate in competitive regional wholesale markets; have fostered vibrant, top-ten-ranked solar markets[39]; and implemented portfolios of strong clean energy policies. These examples demonstrate that engaging a diverse array of participants, through mechanisms like locally controlled CCAs, is both doable and fully compatible with achieving State policy goals. CalCCA looks forward to discussing ideas for reforming California's energy markets in the rulemaking anticipated within the Staff White Paper.

CONCLUSIONS

CalCCA appreciates the opportunity to provide informal comments on the Staff White Paper and En Banc questions. CalCCA's comments highlight the unique role that CCAs play in increasing participation in energy decisions, designing local programs around customer preferences, promoting the use of new technologies, enhancing affordability, and accelerating achievement of the State's policy goals. CalCCA looks forward to working with the Commission to solve critical challenges, like fixing the PCIA and improving data access, so the opportunities presented by a "Changing Electricity Landscape" can be fully realized.

Respectfully submitted,

/s/ Barbara Hale

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39 Solar Energy Industries Association, "Top 10 Solar States", http://www.seia.org/research-resources/top-10-solar-states.

CALIFORNIA COMMUNITY CHOICE ASSOCIATION (CalCCA)
COMMENTS ON
THE CUSTOMER AND RETAIL CHOICE EN BANC AND WHITE PAPER

The California Community Choice Association ("CalCCA")[1] appreciates the opportunity to provide informal comment on the Staff White Paper titled "Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework," published May 9, 2017 ("Staff White Paper"), and on the questions posed to the panelists at the En Banc on The Changing Nature of Consumer and Retail Choice in California, held on May 19, 2017 ("En Banc").

The Staff White Paper and En Banc open a discussion regarding several important trends that are currently driving significant change within California's electricity sector and the overall clean-energy economy. CalCCA's responses to the Staff White Paper and the En Banc highlight the many ways in which the changing electricity landscape presents opportunities for furthering the State's "reliability, affordability, equity and carbon reduction imperatives while recognizing [the] important role that technology and customer preferences will play in shaping this future."[2]

In particular, CalCCA highlights the many ways in which community choice aggregators ("CCAs") are crucial partners in achieving the State's policy goals. For example, CCAs increase participation in energy decisions, design local programs around customer preferences, promote the use of new technologies, enhance affordability, and accelerate achievement of the State's greenhouse-gas goals. CalCCA elaborates on these CCA efforts in the comments below and explains the ways in which CCAs differ from other types of service providers. CalCCA also proposes several solutions for better incorporating CCAs into the State's planning and procurement processes.

I. STAFF WHITE PAPER

"California's Changing Electricity Landscape"[3] presents an opportunity.

California has an enormous task in front of it in effectuating its laudable energy policy goals. As the Staff White Paper explains:

> "California has set itself on the path to reducing statewide greenhouse gas emissions by 40% below 1990 levels by 2030, using tools such as a 50% renewable portfolio standard, doubling of existing energy efficiency savings for both electricity and natural gas usage and putting well over 1.5 million zero emission vehicles on the road."[4]

There are currently eight operational CCAs in California with several more set to launch in 2017 and another 20 being explored across the state.[5] During the En Banc, Geof Syphers, the Chief Executive

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1 CalCCA, the California Community Choice Association, is a trade association representing the interests of its members .CalCCA's operational members are Apple Valley Clean Energy, CleanPowerSF, Lancaster Choice Energy, MCE, Peninsula Clean Energy Authority, Silicon Valley Clean Energy, Redwood Coast Energy Authority, and Sonoma Clean
Power.

2 Staff White Paper p. 5.

3 *Id.* pp. 3-5.

4 *Id.* p. 3 (internal citations omitted).

5 UCLA Luskin Report p. 6.

Officer of Sonoma Clean Power ("SCP") noted that nearly $2 billion in new generating facility investment has been facilitated by CCA procurement.[6]

The University of California, Los Angeles Luskin Center for Innovation recently issued a report on "The Promises and Challenges of Community Choice Aggregation in California" ("UCLA Luskin Report" or "Report"). The Report identifies a number of benefits that CCAs provide to Californians and their ratepayers, including significant financial benefits. In fact, the Report finds that "all CCAs provide their customers with more competitive rates (for a comparable service) than do their affiliated [investor-owned utilities ("IOUs")].[7] The Report also finds that "CCAs offer ratepayers a more accessible decision-making process compared to IOUs' ratepayers" and that CCAs provide "their ratepayers with enhanced local community participation in governance decisions."[8]

With respect to environmental benefits, the UCLA Luskin Report concludes:

> "Thus far, all CCAs in operation in California generally offer a larger share of renewable energy than do their affiliated IOU, up to 25 percentage points more. We estimate that these efforts resulted in emission reductions of approximately 600,000 metric tons of carbon dioxide (CO2) equivalent in the past twelve months. With the statewide carbon market pricing a ton of carbon at $12.73 in 2016, this translates to $7.5 million in annual savings for electricity ratepayers. Through our analysis, we found that continued development of CCAs may enable California to surpass its 2020 renewable targets by up to four percentage points."[9]

The Report also points out that reducing the use of fossil fuels in California's power mix "may also disproportionately benefit low- and moderate-income households who generally live closer to natural gas power plants than wealthier households."[10]

The UCLA Luskin Report reconfirms the important opportunities that a changing electricity landscape can provide for advancing State policy goals and the crucial role that CCAs are currently playing in harnessing these opportunities.

CCAs are crucial partners in achieving State policy goals.

The Staff White Paper acknowledges: "the three IOUs and 34 POUs have been the dominant parties on whom policy makers have relied as enablers of a number of key public policy initiatives, ranging from the procurement of renewable energy to providing low-income Californians with subsidized electricity."[11] The Commission should also see CCAs as a strong partner in helping the State achieve its environmental policy objectives.

The Commission has effectuated State policy through its oversight of the State's IOUs. While CCAs are not subject to the Commission's oversight unless explicitly directed by statutes, CCAs' goals and objectives are entirely consistent with the Commission's and the State's policy objectives. For example, many CCAs offer net energy metering programs with stronger financial incentives for local customers to invest in on-site renewables. CCAs are also aligned with the Commission's desire to enhance

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6 Retail Choice En Banc, Recording at approximately 142:10 to 142:30.
7 UCLA Luskin Report p. 14.
8 *Id.* p. 21.
9 *Id.* p. 1.
10 *Id.* p. 15.
11 Staff White Paper p. 4.

affordability by offering competitive generation rates. Some CCAs are taking additional measures to ensure even greater affordability. For example, PCE is also developing a rate stabilization fund to protect its customers from potential, future rate shocks.

CCAs are also highly aligned with the Commission's desire to accelerate achievement of the State's greenhouse-gas ("GHG") reduction goals. Many CCAs plan to be 100% GHG free before 2030, and some have set renewable procurement goals much higher than currently mandated by the State. Most CCAs currently offer their customers a default renewable energy offering, and a 100% renewable energy offering. The UCLA Luskin Report concludes that several CCAs' current power mixes already produce 50% less greenhouse-gas emissions than that of PG&E.[12] In addition, many CCAs are committed to the development of a sustainable workforce, including support for local businesses, union labor, and apprenticeship and pre-apprenticeship programs that create employment opportunities and build and sustain healthy communities.[13] [14]

II. WHAT CUSTOMERS WANT

Panelists were asked, in protecting consumers from "bad actors:" "Should consumer protections be limited to for-profit entities and not CCAs?" Panelists were also asked: "Should residential customers have access to alternative retail suppliers other than CCAs?"

California Law already has consumer protections related to CCAs. For example, Public Utilities Code Sections 366.2 requires CCA implementation plans to provide for customer protection procedures, universal access, reliability and equitable treatment of all customer classes (Section 366.2(3) and (4)). For the reasons explained below, consumer protections should be limited to for-profit entities.

CCAs are unique load serving entities ("LSEs") that are responsive to local consumers, including low-income and hard-to-serve customers. This is due to the local governance structure required of CCAs and the statutory requirement that CCAs must offer service to all residential customers in their territories. CCAs were specifically created to give residential and other customers options for alternative suppliers. Any expansion of retail choice should be carefully considered to ensure that the problems that resulted from extensive retail choice in the early 2000s are avoided. Any discussion of market reform needs to take into account the unique role CCAs play in achieving State policy goals, the alternatives they already provide to customers, and that no harm must be done to those efforts.

CCAs are not like other LSEs.

CCAs are public agencies that are governed by a public board of directors, a city council, or a commission.[15] Boards of directors are comprised of elected or appointed officials from the member communities, including in almost all cases county chairs and vice chairs, mayors, and city or town council members and supervisors.[16] As such, the elected and appointed officials who control CCAs have an obligation, enforced through the ballot box, to make sure the interests of their customers are represented and protected. This distinguishes CCAs from other LSEs.

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12 UCLA Luskin Report p. 16.
13 http://www.peninsulacleanenergy.com/wp-content/uploads/2017/01/PCE-Policy-10-final-1.pdf
14 MCE's Community Power Coalition was formed to cultivate a relationship with ratepayer advocates and community-based organizations to focus on the interests of underrepresented and historically marginalized constituencies. https://www.mcecleanenergy.org/community-power-coalition/
15 UCLA Luskin Report p. 12.
16 *Id.*

Transparency is another benefit of CCAs. CCAs are local non-profit public entities overseen by elected officials responsive to the clean energy needs of the communities they serve. As local government agencies, all CCA board meetings are open to the public and must be properly noticed. Board meetings are subject to the Brown Act and any local sunshine ordinances that may apply. Additionally, CCA records are subject to the Public Records Act. CCA customers are CCA constituents, and thus have a direct line to their locally elected board member to engage in CCA issues. This transparency is in stark contrast to the operations of the IOUs, which require a complex regulatory system in order to provide input into their operations.

The local governance structure required of CCAs also allows them to tailor procurement and adopt local programs to reflect local ratepayer preferences. The UCLA Luskin Report observes that a "CCA's knowledge of its community can help the effectiveness of investments by targeting programs that support community preferences."[17] For example, Peninsula Clean Energy's (PCE's) strategic goals include stimulating development of new renewable energy projects and clean-tech innovation in San Mateo County, in part by procuring 20 megawatts ("MW") of new local power by 2025.[18] MCE Clean Energy has several local renewable projects in operation and underway, including some targeted at reducing local pollution.[19] These examples demonstrate the ways in which CCAs are not like other LSEs.

CCAs are fully committed to serving low-income customers.

Unlike some other LSEs, CCAs are not able to selectively serve the most profitable customers and must offer service to all residential customers within their territories, including low-income and hard-to-reach customers. The best and most direct way to serve low-income customers is to ensure rates are as low as possible. Many CCAs offer lower rates than their incumbent IOUs. When tallied up across CCAs, these rate discounts produce substantial savings for families and businesses across the State. The Center for Climate Protection projects that California ratepayers will save $188 million annually by the end of 2020 assuming CCAs offer at least a 1% rate discount compared to the incumbent IOU.[20]

Expansion of retail choice should not harm CCA efforts that advance State policy goals.

Any discussion around expansion of caps on direct access providers and their responsibilities must first recognize the value CCAs have in advancing state policy goals and any proposed changes in state policy must not harm CCAs.

In addition, CCAs were specifically created in the wake of the electricity crisis of the early 2000s to give residential and other customers an option for an alternative supplier without the problems that resulted from broader retail competition. Any expansion of retail choice should be carefully considered to ensure that the problems that resulted from extensive retail choice in the early 2000 are avoided.

Consumer protection is of critical importance to CCAs.

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17 *Id.* p. 10.

18 https://www.peninsulacleanenergy.com/learn-more/goals-and-policies

19 https://www.mcecleanenergy.org/local-projects/

20 Center for Climate Protection, "Community Choice Energy Programs in California: Greenhouse Gas and Customer Cost Savings," p. 6. https://climateprotection.org/wp-content/uploads/2017/06/Forecast-of-CCA-Impacts-in-CA-2016-2020-June-2-2017.pdf

CCAs are required by statute to develop an implementation plan that addresses the rights and responsibilities of program participants, including, but not limited to, consumer protection.[21] CalCCA is not aware of any deficiencies related to consumer protection procedures established by CCAs in California that merit State mandated consumer protection requirements. CCAs are focused on serving their local customers fairly and in a high-quality, professional manner. As such, CCAs strongly support consumer protection and providing superior customer experiences.[22]

CCAs are very sensitive to customers' understanding of their rates. CCAs conduct broad customer education campaigns and develop rate structures that often mirror IOUs' own rate structures in order to minimize customer confusion. In addition, CCAs, which are governed by a public board of directors, a city council or a commission, are easily accessible to their customers. CCA customers also may opt out of CCA programs, which provides further assurance that CCA customers are fully protected with regard to rates. For these reasons, CalCCA believes the Commission should continue to focus its resources on the oversight of IOUs rather than CCAs.

III. STATE OF CUSTOMER CHOICE IN CALIFORNIA

Panelists were asked: "What are important authorities that the CPUC should maintain or gain in the future to regulate the supply and resource adequacy portfolios as heavily for the non-IOU suppliers as it does for IOUs?" Panelists were also asked: "Who should be the provider of last resort in any particular area?"

CalCCA believes the necessary framework for regulating supply and resource adequacy is already in place, but it needs to be adjusted, as explained below.

CCA expansion is fully compatible with current planning and procurement processes.

CalCCA believes much of the necessary framework is already in place to address the Commission's concerns with regard to aligning the expansion of CCAs with the planning and procurement processes at different California agencies, but work remains to improve that alignment. There are two critical issues the Commission has identified, both in the Staff White Paper and its En Banc questions. The first is how to ensure remaining customers are indifferent to the departure of CCA customers, and the second is how to ensure reliability and appropriate resource planning as "non-IOU LSEs serve an ever-greater percentage of load."[23]

Geof Syphers with SCP squarely addressed the first issue at the En Banc when he said *solving the exit fee is the key*. Ensuring ratepayer indifference for all customers is the right goal, the equitable goal, and one that CalCCA supports. However, equitable treatment should extend to both departed and remaining customers. The existing mechanisms to ensure indifference, such as the Power Charge Indifference Adjustment ("PCIA"), are opaque, unfair and create significant, short-term pricing risks for departed customers. This unfairness and lack of certainty needs to be fixed as discussed further below.

On ensuring reliability and appropriate resource planning, the Staff White Paper raises concerns regarding planning and procurement, but it appears to stop short of identifying clear gaps in the State's oversight. Rather, it notes CCAs "might be less willing" to assist with reliability concerns, and the emergence of

21 Cal. Pub. Util. Code § 366.2(c)(3)(E).
22 https://www.peninsulacleanenergy.com/learn-more/goals-and-policies
23 Staff White Paper at 7.

CCAs "could diminish the long-term effectiveness" of integrated resource planning ("IRP"), and that CCAs may need to provide new types of data to the CEC.

It has not been demonstrated that the regulatory framework the Legislature has constructed fails to provide the oversight necessary to minimize the risks listed in the Staff White Paper. For example, CCAs contract with, or employ, scheduling coordinators to ensure a balanced supply of energy in their service territory. CCAs are subject to the same resource adequacy (RA) obligations as the IOUs, meet the same environmental mandates (e.g., renewable portfolio standard) and the same energy storage requirements applicable to CPUC-jurisdictional LSEs .[24] On planning, while a CCA board appropriately determines *how* to meet SB 350's integrated resource planning mandate, the CPUC still has the authority to determine *if* CCAs meet the mandate.[25] Finally, as the Staff White Paper notes, CCAs are already required to "support CEC demand forecasting" because they are LSEs "currently subject to data and forecast reporting requirements."[26] These examples demonstrate how a framework to ensure reliability and appropriate planning on a statewide basis already exists. If individual agencies or stakeholders identify clear gaps in this framework, CalCCA is certainly open to discussing the best way to fill them.

CalCCA welcomes a discussion of what entity is appropriate to be the POLR.

The incumbent IOU serves as the POLR for CCAs under current rules. POLR is operative (1) when a CCA customer opts-out, (2) if a CCA elects to cease operations, or (3) when a CCA customer fails to pay for CCA service. The CPUC has already developed rules for customers who voluntarily return to IOU service and recently, R.03-10-003 was reopened to consider CCA bonding to cover CCA customers in the unlikely event that CCA customers are *involuntarily* returned to IOU service.[27] Collectively, these safeguards should meet the goals of ensuring reliable service and ratepayer indifference. Longer-term, CalCCA is open to a broader discussion of who should provide POLR services, including the possibility of CCAs assuming this role in their jurisdictions.

IV. CURRENT STATE OF RETAIL ELECTRICITY MARKET AND COMING CHANGES

Panelists were asked: "In this 'future' retail electric system, how do you see the role for the regulated utility evolving and what, if any, functions should be preserved for the regulated utility [to] support achieving State policy goals?"

CalCCA believes the current utility business model needs fundamental reform. In particular, data access and fair access to the distribution system are important problems that need to be resolved.

The utility business model needs fundamental reform.

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[24] *See, e.g.,* Cal. Pub. Util. Code § 380(c) ("Each load-serving entity shall maintain physical generating capacity and electrical demand response adequate to meet its load requirements, including, but not limited to, peak demand and planning and operating reserves. The generating capacity or electrical demand response shall be deliverable to locations and at times as may be necessary to maintain electric service system reliability and local area reliability"); Cal. Pub. Util. Code § 380(k) (CCAs are LSEs for the purpose of RA requirements).

[25] See Joint CCA Letter to Paul Douglas, R.16-02-007, *Clarification of the Joint Community Choice Aggregators' Views On Key Integrated Resource Plan Matters* (March 15, 2017).

[26] Staff White paper at 8.

[27] "Administrative Law Judge's Ruling Setting Prehearing Conference and Requesting Prehearing Conference Statements." January 30, 2017. http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M173/K118/173118975.PDF

A 2015 Commission report, titled *Electric Utility Business and Regulatory Models,* identifies four major issues that present both challenges and opportunities regarding the application of the current business and regulatory model to the future grid.[28] They are: (1) a general consensus that the cost-of-service model is outdated because its fundamental operating principles are sales growth and large asset acquisition, both of which contradict energy conservation; (2) a blurring of the boundaries of the natural monopoly utility because energy and financial innovations are expanding market competition; (3) the transition of a centralized, one-way distribution grid toward an open, flexible network; and (4) challenges to IOUs' financial stability and credit ratings, due to diminishing profit potential.[29] According to the report, the rate of change experienced by California's IOUs could be outpacing the cost-of-service model that underpins the industry.[30]

It the Commission pursues such reforms, CalCCA supports pursuing new models that will expand customer energy choice and open doors to additional energy innovation, while also preserving distribution system reliability and integrity. Numerous other U.S. states, including New York, Maryland, Illinois and Rhode Island, are actively pursuing new business models for electric IOUs.

Data access is a foundational problem that needs to be resolved.

It is difficult to overstate the importance of useful energy data – and the need for access to such data. A report published in 2015 by the UCLA School of Law describes how energy data can be "immensely useful to a variety of audiences, including customers, policy makers, and public interest organizations, to realize both economic and environmental benefits."[31] Expanding access to energy data could bring cleaner, more efficient energy and savings to California consumers, boosting emerging clean technologies, which would help the State achieve its environmental and energy goals in a more cost-effective manner, and further benefit ratepayers by reducing the need for new investments in power plants through improved energy efficiency. [32] The report identifies the most useful types of customer- and utility-centered data, as well as key barriers to accessing energy data and solutions for overcoming those barriers.[33]

Currently, IOUs have a significant strategic advantage in California's marketplace, because they collect, harbor and largely control customer- and utility-centered data. While the Commission has for several years explored the possibility of making available to third parties certain customer-centered data,[34] significant obstacles remain in place that prevent third parties from accessing useful data. While customer privacy needs to be respected and appropriate safeguards established, CCAs must be allowed to

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28 *Electric Utility Business and Regulatory Models*; California Public Utilities Commission Policy & Planning Division; published June 8, 2015 (pp. 3-4).

29 Ibid.

30 Ibid. p. 4

31 "Knowledge is Power: How Improved Energy Data Access Can Bolster Clean Energy Technologies & Save Money;" UCLA School of Law, et al.; published January 2015 (p. 1)

32 Ibid.

33 Ibid. pp. 2-3.

34 See, for example, A.12-03-002 ("In the Matter of the Application of Pacific Gas and Electric Company for Adoption of its Customer Data Access Project (U39E)."); A.12-03-003 ("In the Matter of the Application of San Diego Gas & Electric Company (U902E) For Authority To Implement A Backhaul Program To Provide Authorized Third Parties Access To A Customer's Usage Data Based Upon Consent Of The Customer."); A.12-03-004 ("Application of Southern California Edison Company (U338E) For Approval of Proposal To Enable Automated Access of Customer Usage Data to Authorized Third Parties and Approval of Cost Recovery Mechanism."); and R.14-08-013 ("Order Instituting Rulemaking Regarding Policies, Procedures and Rules for Development of Distribution Resources Plans Pursuant to Public Utilities Code Section 769").

access customer-centered data in a simple, streamlined manner and format that enables them to offer customers new products and services that expand clean energy options and customer choice, and which may benefit the broader distribution system and other ratepayers.

Access to the Distribution System should be fair and nondiscriminatory.

The Commission must also continue progress towards ensuring that access to the distribution is fair and nondiscriminatory. The Commission has begun exploration of this issue in its proceeding on distributed energy resources.

V. FUTURE OF RETAIL ELECTRICITY SERVICE

Panelists were asked: "Are there any urgent steps that the CPUC, the CEC and/or CAISO need to take over the next 12-18 months to begin changing the role of the utility and the structure of regulation?" Panelists were also asked: "what considerations must California account for related to technological change in its regulatory framework and how is technological change impacted by the structure of the investor-owned utility."

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[35] Staff White Paper p. 9.

term forecast period (e.g. 3 years); setting a cap on the level of the PCIA; spreading under-collections over a longer-time period.

Departing load customers should have certainty regarding *both* the level of departing load changes *and* the duration of those charges. These ends can be achieved by either allowing for an upfront, lump-sum payment for each vintage of departing load, or a crystal-clear window into how departing load charges are calculated, ideally with a definitive end point for such charges. The ideal approach couples this certainty with optionality by giving CCAs a choice between (a) an upfront payment for a departing load charge and (b) a transparent calculation of such a charge, with a finite term for the charge. This optionality allows each CCA to choose the best path forward for its customers while ensuring both new and existing CCAs can finance around their obligations to remaining customers without putting obligations to departing customers at risk.

The IOU PAM proposal in A.17-04-018 is not the solution to the PCIA dilemma. CalCCA and over a dozen parties have filed protests in response to the PAM proposal, and CalCCA has moved for its dismissal.[36] The PAM proposal fails to address the problems CCAs have with the PCIA including lack of transparency, little incentive to minimize costs, failure to reflect all value streams and a lack of cost certainty. The PAM provides no "buy-out" mechanism or ability for CCAs to pay once for departing load costs associated with each vintage of departing load customer. There is no certainty on when an amendment to a power purchase agreement will constitute a new contract, and there is no certain end date for a particular vintage's need to pay the PAM. This lack of certainty, and the lack of any tools for CCAs to proactively manage departing load costs, creates significant concerns that the PAM could actually increase the volatility of the departing load charges that are passed through to departing customers via yearly adjustments and true-ups. This is untenable for CCAs that are committed to providing rate stability and rate savings to their customers.

The PAM proposal is also fundamentally flawed in its treatment of avoidable costs. It does not specify which contracts and utility plant should be included in departing load charges, and it does not contain any mechanisms to align IOU interests in minimizing unavoidable costs. The PAM proposal is not the right way to begin addressing the topic of how to allocate the cost of IOU above-market cost resources between departing and remaining customers. To the contrary, we need to clearly identify what resources are at risk of being stranded assets and discuss how to minimize cost exposure to those resources over time. The first order of business is to stop the digging. The IOUs are already over procured, and no additional procurement should be ordered until there is greater certainty on who will pay the associated costs.

CCAs are well positioned to drive innovation and technology deployment.

California should continue to lead in the development of renewable energy.[37] While operational challenges remain to its continued development, CCAs are well positioned to assist the state in working through them. In particular, the CAISO noted that periodic negative prices are a huge incentive for demand response and storage.[38] That incentive can drive innovation and technology deployment, and the most nimble organizations to test different advancements and their effectiveness likely will be CCAs, since incumbent IOUs, unlike CCAs, require CPUC approval of pilots and programs in order for the cost

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36 California Community Choice Association, R.17-04-018, Motion to Dismiss Application Without Prejudice (May 30, 2017).

37 *See, e.g.,* M. Rothleder, CAISO, *Renewable Integration Presentation at the IEPR Workshop at the CEC* (May 12, 2017).

38 *See id.* at slides 9-15, 23-27 (identifying opportunities and solutions for technical challenges as the penetration of renewable energy on California's system increases).

of those programs to be included in rates. The need for such approval can delay implementation and even foreclose the IOUs' willingness to explore different technologies and advancements. Leveraging CCAs as laboratories of innovation can result in timely solutions to planning and procurement issues the State would not otherwise be able to capture.

Other states are successfully incorporating diverse participants into their markets; California can too.

Looking beyond California illustrates that electricity markets can successfully be restructured to engage a diverse array of participants. For example, both New Jersey and Massachusetts, states with operating CCAs, provide retail electric choice; participate in competitive regional wholesale markets; have fostered vibrant, top-ten-ranked solar markets[39]; and implemented portfolios of strong clean energy policies. These examples demonstrate that engaging a diverse array of participants, through mechanisms like locally controlled CCAs, is both doable and fully compatible with achieving State policy goals. CalCCA looks forward to discussing ideas for reforming California's energy markets in the rulemaking anticipated within the Staff White Paper.

CONCLUSIONS

CalCCA appreciates the opportunity to provide informal comments on the Staff White Paper and En Banc questions. CalCCA's comments highlight the unique role that CCAs play in increasing participation in energy decisions, designing local programs around customer preferences, promoting the use of new technologies, enhancing affordability, and accelerating achievement of the State's policy goals. CalCCA looks forward to working with the Commission to solve critical challenges, like fixing the PCIA and improving data access, so the opportunities presented by a "Changing Electricity Landscape" can be fully realized.

Respectfully submitted,

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39 Solar Energy Industries Association, "Top 10 Solar States", http://www.seia.org/research-resources/top-10-solar-states.