California Public Utilities Commission

Report to the Legislature

Issues and Progress on the Implementation of Community Choice Aggregation

Second Quarter Report
Submitted April 30, 2011

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Executive Summary

The California Public Utilities Commission (CPUC) prepared and submits this second quarter report to the Legislature in compliance with the Supplemental Report Language (SRL) of the 2010-11 Budget Act, which directs the CPUC to report its activities related to the Community Choice Aggregation (CCA) program.

Similar to the first quarter report submitted on January 31, 2011 to the legislature, this second quarter report covers all three required topics:

1. First, this report describes the rules and process established by the Commission to enable prospective and existing CCAs to obtain timely utility compliance with the statutory requirements surrounding the Legislatively-established CCA program.
2. Second, this report provides information regarding the utilities' activities and expenditures made to facilitate, or oppose, community choice aggregation.
3. Third, this report provides a detailed description of the actions taken by the Commission to ensure proper implementation of the customer "opt out" requirements established in the CCA law, as well as actions taken by the Commission to ensure full compliance by the utilities.

Most of the activities described in this report relate to the formation and launch of the first operational CCA program in California: Marin Clean Energy (MCE) which operates in parts of Marin County. MCE is administered by the Marin Energy Authority (MEA), a joint powers authority formed by several communities in Marin County for the purpose of implementing the CCA program. Thus, the majority of utility activity described in this report is that of Pacific Gas and Electric (PG&E), the distribution utility serving Marin County.

As reported in the first quarter report, the formation and launch of MCE, and PG&E's activities surrounding MCE's implementation, engendered a great deal of controversy and frustration. Before, during, and since the launch of MCE, CPUC staff has been engaged in mediating disputes, as well as modifying implementation rules, to create a level playing field and allow the potential for a fair and informed choice by Marin County customers.

As the Summary of Resolved/Outstanding Issues commencing on the next page describes, substantial progress has been made since the first quarter report was submitted on January 31, 2011. Five issues initially raised by MCE as part of the first quarter reporting process have been resolved. Three other outstanding issues are planned to be resolved once PG&E submits an advice letter(s) that includes modifications to the Community Choice Aggregation Non Disclosure Agreement and to the "Notice to Return to PG&E Bundled Service" form.

The CPUC staff continues to mediate the outstanding issues raised by MCE in an attempt to reach a fair resolution on these matters. However, we are pleased to inform that a resolution or near-resolution has been reached on 11 of the 17 issues that MCE has raised, to date. The CPUC's Energy Division staff plans to set-up conference calls with PG&E and MCE on the 15th of each month, or more frequently if necessary, until all outstanding issues are resolved. We will provide further reports of the progress made on these issues to the Legislature, as required in the 2010-2011 Budget Act.

Summary of Resolved/Outstanding Issues

To date, five issues that were initially raised by MCE as part of the first quarter reporting process have been resolved. These five issues are:

- The resolution of issue 1.2 ("Bundled rate factors showing on MCE bills") resulted in rate factors illustrated on PG&E/MCE customer bills that now reflect the exact charge for service rendered by each entity: non-generation service by PG&E and generation service by MCE.
- The resolution of issue 1.4 ("PG&E call center providing mis-information to customers") resulted in a modified PG&E Customer Service Representative script that, as of April 15, 2011, has been used by PG&E representatives to address CCA-related questions and concerns.
- The resolution of issue 1.6 ("Balanced Payment Plan customers being double billed for generation") resulted from an agreement worked out by the CPUC's Energy Division staff enabling MCE to review a subset of customers' redacted bills so the MCE could verify that MCE customers on PG&E's Balanced Payment Plan are not being charged twice for generation service.
- Issue 1.8 ("PG&E not providing usage data to MCE") was deemed to be a one-time-a-year issue that PG&E/MCE plan to flag ahead of time and prevent from recurring.
- Issue 1.10 ("New customers being opted out by PG&E") was resolved via a letter sent by CPUC Energy Division Director, Julie Fitch, to PG&E Vice President of Regulatory Relations, Brian Cherry, enabling eligible new or relocated customers in MCE's service area to remain on MCE service unless they directly contact MCE to opt out of CCA service (see Attachment 3).

In addition to the resolution of the above issues, the following three outstanding issues are planned to be "closed" once PG&E submits an advice letter(s) that includes modifications to the Community Choice Aggregation Non Disclosure Agreement and to the "Notice to Return to PG&E Bundled Service" form. At the time of the drafting of this report, the CPUC was awaiting the advice letter filing(s) containing these modifications.

- Issue 1.3 ("Need for third-party viewing of customer bills): The proposed resolution to this issue would enable MCE staff to view MCE customers' bills while providing customer service support.
- Issue 1.5 ("CARE data not being provided to MCE"): The proposed resolution to this issue would enable MCE to receive ongoing updates from PG&E regarding MCE's CARE customer eligibility status.
- Issue 1.7 ("Return to Bundled Service' form): The proposed resolution to this issue would result in a revised process, involving MCE, that MCE customers must follow when requesting to return to PG&E bundled service.

Our efforts related to the resolution of issue 1.0 ("Phone banking impact verification"), issue 1.1 ("No differentiation between generation and non-generation charges on bill"), issue 1.9 ("Net energy metering: bill presentation"), and issue 1.11 ("Invoice

cancellation transaction support"), which were formally raised as part of the first quarter reporting process are still work-in-progress, as described further in Attachment 2.

Issue 1.12, dealing with the "Conservation Incentive Adjustment", is a ratemaking issue that was deemed to be outside the scope of this legislative reporting process; PG&E's Conservation Incentive Adjustment proposal is currently being considered in CPUC Application 10-03-014, with a proposed decision on this matter scheduled to be voted on soon.

Issues 2.1 through 2.4 were raised by MCE after the submittal of the first quarter report. Issue 2.1, dealing with the data-sharing of accounts that have set up payment arrangements with PG&E for late bills, should be resolved by virtue of the revision made to the Community Choice Aggregation Non Disclosure Agreement; again, this Non Disclosure Agreement will be reviewed and likely approved via the CPUC formal advice letter process. Issue 2.2, regarding customers CARE rate/discount, has been adequately addressed and explained in PG&E's response detailed in Attachment 2; as such, this issue is also deemed resolved. Issues 2.3 and 2.4 remain "open".

Introduction

The California Public Utilities Commission prepared and submits this report to the Legislature in compliance with 2010-2011 Budget Act Supplemental Report Language (SRL) that directs the CPUC to report as follows:

> *On or before January 31, 2011, and quarterly thereafter, the California Public Utilities Commission shall submit to the relevant fiscal and policy committees of each house of the Legislature, a report on its activities related to Community Choice Aggregation. The report shall include detailed information on the formal procedures established by the Commission in order to monitor and ensure compliance by electrical corporations with Chapter 838, Statutes of 2002.* (the entire SRL language is provided in Attachment 1)

The SRL requires information covering three broad areas:

a. A detailed description of the commission's process for enabling communities interested in becoming community choice aggregators, communities currently in the process of becoming community choice aggregators, and existing community choice aggregators to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2, which, among other things, requires the utility to "cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs."

b. A detailed description of information obtained by the commission from the electrical corporations in order to monitor the electrical corporations' activities and expenditures made to facilitate, or oppose, community choice aggregation.

c. A detailed description of the actions taken by the commission to ensure customer "opt out" requirements established pursuant to the Public Utilities Code Section 366.2 are properly implemented and to ensure full compliance by an incumbent electrical corporation.

In order to comply with the requirements listed above, the CPUC staff has taken the following actions in order to establish processes and obtain information from the investor-owned utilities (IOUs or utilities) that interact with prospective or existing CCAs:

1. established a standardized process to enable prospective and existing CCAs to obtain timely utility compliance (pursuant to part (a) of the SRL);
2. obtained information about the IOU's activities and expenditures made to facilitate, or oppose, community choice aggregation (pursuant to part (b) of the SRL);
3. compiled data summarizing all opt-out activity with respect to CCAs that have commenced operation (pursuant to part (c) of the SRL).

This second quarter report provides updates to part “a”, “b”, and “c” of the 2010-2011 Budget Act SRL requirement.[1]

[1] The two remaining reports will be provided by July 31 and October 31, 2011.

Background

This section of the report provides a brief background on the CCA statute and the actions taken by the CPUC to implement the law.

AB 117 was passed by the legislature and signed by the Governor in August and September 2002, respectively. At that time, AB 117 was either supported, or not opposed, by all investor-owned utilities under the regulatory authority of the CPUC.

AB 117 added several sections to the Public Utilities Code requiring the Commission to take certain actions. After spending the first half of 2003 taking informal short-term actions to support CCAs, the CPUC opened a formal Rulemaking in October, 2003 to complete the actions necessary to implement the law.

The Commission issued major implementing decisions in 2003, 2004, and 2005, following several informal public workshops that supported its Rulemaking activity. The Commission believed by the end of 2005 that its efforts to implement AB 117 were essentially complete.

In 2006 and 2007, the San Joaquin Valley Power Authority (SJVPA) began efforts to implement a CCA program. During the course of those efforts, in June 2007, SJVPA filed a formal Complaint with the Commission, alleging that PG&E was acting in violation of Decision 05-12-041 in its efforts to address the formation of a CCA by SJVPA. That complaint was eventually the subject of a settlement between SJVPA and PG&E, which was adopted by the Commission in June 2008.

The Complaint proceeding was the first indication received by the CPUC that PG&E intended to oppose the formation of CCAs in an organized manner and that PG&E had formally changed its corporate stance with respect to the CCA program. As mentioned above, when the CCA law was passed, PG&E did not oppose the CCA program. However, by the time period of April or May 2007, public statements by PG&E indicated its intent to view CCAs as competitors and to actively campaign against them.[2] However, after adoption of the settlement agreement between SJVPA and PG&E, Commission staff concluded from the outcome of the complaint proceeding that PG&E's efforts to oppose CCA would be conducted in an above-board manner, and would be conducted at shareholder expense.

As to the efforts of SJVPA to form a CCA, the Commission certified its CCA implementation plan in April, 2007. In June, 2009 SJVPA announced the temporary suspension of its CCA program activities. Along with the tight credit market, the volatility in energy prices, and the uncertainty with California's

[2] See Commission Decision 08-06-016 June 12, 2008, page 4 citing Settlement Agreement in Attachment A, Article 3 and Section 4.1, http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/84216.htm

energy regulations, SJVPA cited strong opposition from PG&E as one of the factors leading to its decision to suspend the program.[3]

Another issue emerged in March, 2009, when SJVPA raised a concern with CPUC staff regarding PG&E efforts to convince customers in the SJVPA area to "opt out" of CCA service, even though SJVPA had neither notified these customers that CCA service was beginning, nor offered them the terms and conditions of that service. Although there was no formal tariff or other rule prohibiting this activity, these activities appeared to Commission staff to be contrary to the spirit of AB117, which requires CCA notification of terms of service prior to processing opt out requests from individual consumers. PG&E declined to implement some, but not all, informal Commission staff requests to halt or amend this activity, arguing, correctly, that there was nothing in the existing tariffs that prohibited their activity.

In order to clarify the opt-out rules, CPUC staff prepared a Resolution for the Commission's consideration and approval. However, due to the complexity and controversial nature of the topic, a total of 13 months passed between the time the issue was first raised by SJVPA in March 2009 and the adoption of Resolution E-4250 (see Attachment 4) by the Commission in April, 2010.

Consideration of this resolution coincided with the efforts of MEA to commence operations of a CCA program for parts of Marin County. Beginning in late 2009, Commission staff held numerous meetings with MEA and PG&E to try to resolve implementation issues in order to allow MEA to commence CCA service by May of 2010.

This was also the period in which PG&E was conducting its public relations campaign in support of Proposition 16, which was on the statewide ballot in June 2010 and would have required a 2/3 vote of the residents of each community prior to forming a CCA. Consequently, the convergence of these activities made for a great deal of controversy and acrimony between PG&E and MEA, as well as other communities exploring CCA formation including the City and County of San Francisco (CCSF).

During this period, in order to help clarify the requirements of AB 117 and the implementation rules developed by the CPUC, and at the request mainly of MEA, Commission staff began attending community events in Marin County where the CCA program was being discussed.

In March and April, 2010, in an effort to mediate ongoing disputes between MEA and PG&E, CPUC senior staff, including the Executive Director and General Counsel, initiated several informal negotiating sessions designed to reach resolution on the servicing agreement required to be signed by PG&E and MEA prior to commencement of CCA service. These sessions resulted in successful resolution of those disputes and a servicing agreement was signed on February 16,

[3] "PG&E's marketing and lobbying efforts continue unabated, creating obstacles and demands upon our limited resources." July 1, 2009 letter from SJVPA General Manager David Orth to CPUC Executive Director Paul Clanon.

2010. Marin Clean Energy began serving customers on May 7, 2010. However, a number of MEA-PG&E implementation issues remained unresolved.

In May 2010, the Commission issued Decision 10-05-050, in response to a petition by CCSF for modification to one of the original Commission implementation decisions for AB 117. This decision mainly clarified the permissible extent of utility marketing with regard to CCA programs. The Decision also allowed CCAs to manage their customer opt-out processes[4] and clarified the Commission's authority regarding IOU violations of Commission policy.

On January 31, 2011, the CPUC submitted the first quarter report to the Legislature pursuant to the Supplemental Report Language included in the 2010-2011 Budget Act. This second quarter report updates the status of the outstanding issues initially raised by MCE in the first quarter report process, while addressing four new issues that have been raised by MCE since January 31, 2011. As in the first quarter report, the remainder of this report provides additional detail regarding this brief history, the actions taken in response by the CPUC, and the CPUC's ongoing efforts to implement the CCA law.

[4] As a result of D.10-05-050, made effective on May 20, 2010, MCE took over its customer opt-out processes on June 1, 2010.

Report Section (a): "Timely IOU compliance"

Part (a) of the Budget Act Supplemental Report Language requires detailed information on the following:

> ***"A detailed description of the commission's process for enabling communities interested in becoming community choice aggregators, communities currently in the process of becoming community choice aggregators, and existing community choice aggregators to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2, which requires the utility to "cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs."***
>
> ***The description shall include the process provided by the commission to allow prospective or existing community choice aggregators to identify specific matters on which the utility is not considered to be cooperating fully. For each identified matter, the prospective or existing community choice aggregator shall detail in writing the issue, the lack of full cooperation, and the personnel at the utility with whom the community choice aggregator is working. The utility shall be required to respond in writing by providing a specific solution to the matter raised by the prospective or existing community choice aggregator, including a date-specific timeline for accomplishing the solution, and the names of personnel responsible for providing the solution.***
>
> ***The commission's report to the Legislature shall provide a detailed summary of each matter identified and initiated by the community choice aggregator, and a detailed verification of the utility's actions taken to address and resolve these issues, including verification of the satisfaction of the community choice aggregator. The report shall also itemize any matters that have been improperly raised by the community choice aggregator using this process."***

As described in the Background section above, the early efforts of Commission staff to implement the CCA law and to facilitate the formation of CCAs in California relied heavily on informal collaborative efforts, and were premised on the assumption that the utilities would cooperate fully in any such activities initiated by Commission staff. The expectation that utilities would do so is reflected in Commission decisions on CCA implementation, which in turn reflect the fact that the IOUs either supported or did not oppose the CCA law when originally passed.[5]

However, as the first CCA (Marin Clean Energy) took steps to become operational, it became clear that informal and collaborative approaches alone are not as effective when the issues at hand involve directly competing interests or behaviors. What occurred, over the course of the past several years, was that PG&E, as an institution, took the position of viewing the CCAs as competitors, rather than partners with

[5] See, e.g., D.05-12-041, page 18.

customers in common. This approach was not contemplated in the law or in the CPUC decisions originally implementing the law. Thus, when issues arose, there was no clear framework within which to view the activities of the utilities or the CCAs.

Specifically regarding the contents of this section of the report, part (a) of the SRL requires:

> *"A detailed description of the commission's process for enabling communities interested in becoming community choice aggregators, communities currently in the process of becoming community choice aggregators, and existing community choice aggregators to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2, which requires the utility to 'cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs.'"*

To comply with this section of the SRL, the CPUC staff developed a three-step process and met with PG&E and MCE (the only currently operating CCA) and obtained their agreement to follow the process. Briefly, the process is structured as follows:

Step 1 The CCA is required to submit a form that identifies each specific matter on which the utility is not considered to be cooperating fully with the CCA.

Step 2 The utility is required to respond to each issue identified by the CCA, providing a solution and a timeline for implementing that solution.

Step 3 The Commission staff verifies that the solution is acceptable to the CCA.

Beginning on December 10, 2010, MCE submitted a total of 13 outstanding issues as part of the first quarter SRL reporting process (see Attachment 5). PG&E responded to each of these 13 issues and CPUC staff has reviewed and considered these responses. On April 6, 2011, MCE submitted four new issues – labeled 2.1 through 2.4 – which CPUC staff has also reviewed and considered.

Those first and second quarter issues whose resolution is still outstanding as of the date of this report are labeled as "open" in the status column below. Please refer to Attachment 2 for a complete discussion of each outstanding first quarter issue and for the four new second quarter issues.

As initially noted in the first quarter report, the one basic challenge of the CCA implementation process is that as new market entrants the CCAs must depend on the well-established market participant, in this case a monopoly utility, to act in good faith to facilitate its commencement of service. This good-faith cooperation is clearly contemplated by AB 117 and has been the focus of the CPUC while attempting to solve the issues raised by MCE.

Issues Raised by Marin Clean Energy and the CPUC Staff's Analysis and Follow up on these Issues

Issue	Subject - formally raised prior to January 31, 2011	Status
1.0	Phone banking impact verification	**open**
1.1	No differentiation between generation & non-generation charges on bill	**open**
1.2	Bundled rate factors showing up on MCE bills	resolved
1.3	Need for third-party viewing of customer bills	pending tariff approval
1.4	PG&E call center providing mis-information to customers	resolved
1.5	CARE data not being provided to MCE	pending tariff approval
1.6	Balanced Payment Plan customers being double billed for generation	resolved
1.7	"Return to Bundled Service" form directs customer to PG&E for opt out	pending tariff approval
1.8	PG&E not providing usage to MCE	resolved
1.9	Net energy metering: bill presentment	**open**
1.10	New customers being opted out by PG&E	resolved
1.11	Invoice cancellation transaction support	**Open**
1.12	Conservation Incentive Adjustment	proposed decision [6]

Issue	Subject - formally raised after January 31,	Status
2.1	Billing arrangements not disclosed	pending tariff approval
2.2	CARE discount not fully covered	resolved
2.3	Usage data submitted late: CAISO compliance issue	**Open**
2.4	Code of Conduct	**Open**

[6] Issue 1.12, dealing with the Conservation Incentive Adjustment, is a ratemaking issue that was deemed to be outside the scope of this legislative reporting process; PG&E's Conservation Incentive Adjustment proposal is currently being considered in CPUC Application 10-03-014, with a proposed decision on this matter scheduled to be voted on soon.

Report Section (b): "IOU activities and expenditures"

Part (b) of the SRL requires detailed information on the following:

> ***"A detailed description of information obtained by the commission from the electrical corporations in order to monitor the electrical corporations' activities and expenditures made to facilitate, or oppose, community choice aggregation. The information shall include an itemization of all activities undertaken by an electrical corporation, as identified by the commission or by a community pursuing community choice aggregation, the costs of those activities, and whether the costs were paid by ratepayers or shareholders of the electrical corporation. For each activity, the commission shall provide a detailed explanation as to whether the activity or expenditure is legally permissible, and, if not, of the actions taken by the commission in response."***

In order to comply with this part of the SRL requirement, CPUC staff has requested information from each utility regarding its expenditures to either facilitate, or oppose, community choice aggregation.

In general, if the Commission orders a utility to undertake activity to implement a law or a program, and that activity creates new, incremental costs for the utility, that utility is allowed to seek funding for this activity by requesting an increase in its revenue requirement, which is subsequently collected in rates from all ratepayers. Such funding requests are processed in each utility's General Rate Case.

On the other hand, if a utility undertakes activities that are not required by normal operations, the Commission requires that utility shareholders pay these costs.

This distinction is summarized in PG&E's publication entitled "***Below The Line Accounting Procedures"***: [7]

> In general, expenses attributable to normal utility operations are "above the line" (ATL) and recoverable in rates. The California Public Utilities Commission requires that certain other costs be borne solely by shareholders, not customers, and therefore those costs are classified "below the line." (The terms "above the line" and "below the line" refer to whether an income or expense item appears above or below the operating income line on a utility's regulatory income statement.) Examples of below-the-line activities/expenses include:
>
> Political activities and contributions
> Charitable contributions
> Brand image advertising
>
> Source: PG&E "***Below The Line Accounting Procedure",*** Updated: 10/16/2007 Obtained by CPUC Energy Division, November 2009

[7] As indicated in the first quarter report, a separate but related category of PG&E expenditures were made in 2010 to support Proposition 16, a ballot measure that would have made it much more difficult for CCAs to form, had it been approved by voters. Proposition 16 was defeated in the June 2010 election. This report takes no position on the ballot measure itself, but simply notes that PG&E reports spending $46 million on Proposition 16.

With the above distinction in mind, the CPUC staff sought information from each utility that summarized both its "above the line" CCA-related GRC-approved expenses (a proxy for expenditures to facilitate Community Choice Aggregation) and its "below the line" expenditures funded by shareholders related to the CCA program. This information has been obtained by means of a standardized "data request" issued to PG&E, SCE, and SDG&E by CPUC staff.

PG&E Expenditures to Facilitate Community Choice Aggregation

PG&E's reported "above the line" (ATL) expenses funded by ratepayers are provided in the table below. As this table illustrates in the "unclassified" column, a substantial part of these expenses are not attributable to a specific CCA but rather apply to PG&E's CCA-related activities in general.

The first quarter report included labor and labor related ATL spending through November 2010 of $5,757,535; this second quarter report includes an additional $153,717 of "unclassified" ATL spending that occurred in December of 2010. The second quarter update brings the total 2010 labor and labor related spending to $5,911,252.

During the first two months of 2011, PG&E has recorded a total of $19,239 of Marin County-specific ATL spending and $3,117 of "unclassified" ATL CCA spending.

SF, Marin & SJVPA Above the Line Spending: 2007 to February 2011					
	SJVPA	San Francisco	Marin County	Unclassified	Totals
2007 Labor and Labor Related	$30,334	$4,776	$1,679	$125,422	**$162,211**
2007 Materials and Contracts	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**
Subtotal	**$30,334**	**$4,776**	**$1,679**	**$125,422**	**$162,211**
2008 Labor and Labor Related	$2,484	$1,300	$2,111	$184,833	**$190,728**
2008 Materials and Contracts	**$ -**	**$ -**	**$ -**	$96	**$96**
Subtotal	**$2,484**	**$1,300**	**$2,111**	**$184,929**	**$190,824**
2009 Labor and Labor Related	$3,642	$273	$407	$203,647	**$207,969**
2009 Materials and Contracts	**$ -**	**$ -**	**$ -**	$149,149	**$149,149**
Subtotal	**$3,642**	**$273**	**$407**	**$352,796**	**$357,118**
2010 Labor and Labor Related	$1,190	$26,037	$39,315	$5,911,252	**$5,977,794**
2010 Materials and Contracts	**$ -**	**$ -**	**$ -**	$221,656	**$221,656**
Subtotal	**$1,190**	**$26,037**	**$39,315**	**$6,132,908**	**$6,199,450**
2011 Labor and Labor Related	**$ -**	**$ -**	$19,239	$3,177	**$22,416**
2011 Materials and Contracts	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**
Subtotal	**$0**	**$0**	**$19,239**	**$3,177**	**$22,416**
Grand Total	**$37,650**	**$32,386**	**$43,512**	**$6,796,055**	**$6,932,019**

PG&E Shareholder Expenditures to Oppose Community Choice Aggregation

San Joaquin Valley Power Authority

As part of the settlement of the SJPVA/PG&E complaint case, PG&E agreed to provide information to SJVPA regarding its shareholder spending. For the first quarter report, CPUC staff obtained this information for the period covering February 2007 through November 2010. PG&E's most recent data response indicates that PG&E has not spent additional shareholder money in SJVPA's service area since November 2010 through the end of February 2011.

San Joaquin Valley Power Authority (SJVPA) Below the Line Spending: February 2007 - February 2011

Feb 2007 - Dec 2007	
Labor and Labor Related	$837,235
Materials and Contracts	$35,808
Subtotal	**$873,043**
Jan 2008 - December 2008	
Labor and Labor Related	$515,668
Materials and Contracts	$983,178
Subtotal	$1,498,846
Jan-09	
Labor and Labor Related	($21,903)
Materials and Contracts	-
Subtotal	($21,903)
Feb 2009 - Dec 2009:	
Labor and Labor Related	$380,421
Materials and Contracts	$35,808
Subtotal	$416,229
Jan 2010 - Dec 2010:	
Labor and Labor Related	$5,049
Materials and Contracts	$7
Subtotal	$5,055
Jan 2011 - Feb 2011:	-
Labor and Labor Related	-
	$
Materials and Contracts	-
Subtotal	
Unclassified – BTL	
Labor and Labor Related	$507,779
Materials and Contracts	$669,169
Subtotal	$1,176,948
TOTALS	
Labor and Labor Related	$2,224,249
Materials and Contracts	**$1,723,969**
Grand Total	**$3,948,218**

Marin Clean Energy

The information provided in the table below updates PG&E's CCA-related shareholder expenditures that have been incurred through February of 2011 in Marin County and in response to Marin Clean Energy's formation.

Since January 1, 2011, through February 28th 2011, PG&E has spent $2,652 on BTL CCA "labor and labor related" expenditures in Marin County.

MARIN COUNTY/MCE "BELOW THE LINE" CCA EXPENSES						
FOR THE PERIOD: JANUARY 1, 2007 THROUGH FEB 28, 2011						
	2007	**2008**	**2009**	**2010**	**2011**	**Totals**
Labor and Labor Related	$97,573	$487,422	$251,399	$488,122	$2,652	**$1,327,169**
Materials and Contracts	$25,900	$325,095	$496,088	$2,029,986	$0	**$2,877,069**
Totals	**$123,473**	**$812,517**	**$747,487**	**$2,518,108**	**$2,652**	**$4,204,238**

City and County of San Francisco

The CPUC staff requested the same information for PG&E's San Francisco activities as it had requested for PG&E's SJVPA and Marin County activities. The information below updates the amounts that were included in the first quarter report which covered the January 1, 2007 to April 30, 2010 timeframe.

From May 1, 2010 to December 31, 2010, PG&E spent $36,911 on BTL "labor and labor related" expenditures, which are reflected in the $156,029 amount in the 2010 column. Compared to the last report, this report shows a lower amount spent on "materials and contracts" because PG&E has reported that it did not spend $81,964 in "contracted consulting and research polling costs" that PG&E initially planned to spend between May 1, 2010 and December 31, 2010. In the first quarter report, the total for "materials and contracts" was $879,645, whereas for this second report, that total is $873,431.

As of February 28, 2011, PG&E has spent $18,743 in BTL "labor and labor related" expenditures in San Francisco's service area during 2011.

SAN FRANCISCO "BELOW THE LINE" CCA EXPENSES						
FOR THE PERIOD: JANUARY 1, 2007 THROUGH FEBRUARY 28, 2011						
	2007	**2008**	**2009**	**2010**	**2011**	**Totals**
Labor and Labor Related	$187,326	$37,145	$66,960	$156,029	$ 18,743	**$466,203**
Materials and Contracts	$194,078	$57,840	$19,079	$ 873,431	$0	**$1,144,428**
Totals	**$381,404**	**$94,985**	**$86,039**	**$1,029,460**	**$18,743**	**$1,610,631**

"For each activity, the commission shall provide a detailed explanation as to whether the activity or expenditure is legally permissible, and, if not, of the actions taken by the commission in response."

As noted in the first quarter report, expenditures approved as part of PG&E's General Rate Cases have already been reviewed and found permissible by the CPUC. Thus, they are deemed legally permissible.

Expenditures funded by shareholders are not subject to regulation by the CPUC. However, the CPUC has the authority to inspect records and the duty to ensure that there is no improper subsidization of shareholder directed activities by regulated utility staff. The CPUC has a legitimate interest in ensuring that the utility does not enrich shareholders by not spending the funds authorized by the CPUC to undertake activities to meet its needs as a public utility. Pursuant to this authority, CPUC staff requested that PG&E (and SDG&E and SCE – the two subsequent sections contain this information) provide data regarding its expenditures related to CCA activities even if such expenditures were funded by shareholders. The data provided by PG&E shows that a substantial time was spent by PG&E's staff on shareholder directed CCA-activities paid for by shareholders.

Another fact to note about the "below the line" spending presented in the tables above is that this spending information is, at this time, self-reported by the utility. Thus, it is difficult to say with confidence, absent a formal audit, that the expenditures reported by PG&E are accurate.

PG&E's accounting standards involve the use of work "orders" that direct certain activity to be undertaken on behalf of shareholders. PG&E-provided data shows that PG&E has generated 88 such work orders related to CCA activities in Marin County and San Francisco, to date. This list of work orders increased from the 36 reported in the "2007 – April 2010" period. PG&E was not asked to explain the reason for the uptick in below-the-line spending orders in the May 2010 to February 2011 timeframe. It appears that marketing against MCE's program implementation in Marin County and general shareholder funded marketing in San Francisco played a role.

The tables below indicate the nature of the work "orders" put in place for activities related to CCA programs in Marin County and San Francisco. Only a formal audit could determine the validity of the spending reports provided by PG&E. CPUC staff would like to undertake a formal audit of PG&E's CCA-related activities but lacks the auditing personnel or contractual funding resources to do so at this time.

PG&E "Below the Line" Spending "Orders" for Marin and San Francisco CCA Activity (2007 – Feb, 2011)

Line No.	Order Number	Order Description	Responsible Cost Center Description
1	9014119	Rates CCA Marin (BTL)	Rate Design
2	8082658	SA - CCA-SF	Service Analysis (A)
3	8083198	BTL- Serv and Sales - Area 1- SF/Peninsu	Sales & Service Area 1 - SF/PN
4	8084757	SA - Marin County - CCA Below-The-Line	Service Analysis (A)
5	8085224	BTL-Serv and Sales -ESP Svcs	ESP Services
6	8085228	BTL- Serv and Sales -Corp Sales	Corporate Inside Sales
7	8085762	SA - CCA General Charges -Below-The-Line	Service Analysis (A)
8	8086117	Sust Comm BTL CCA Activities – Marin	CARE & FERA
9	8086119	CAT BTL CCA Activities – Marin	Clean Air Transportation
10	8086471	PEP BTL CCA Activities – Marin	Service Analysis (A)
11	8086665	CCA-BRC-Records	Billing Operations (Records)
12	9013909	CCA – Marketing - LglSvs - BTL - 4264	Law Department
13	304002	BTL - CCA Marin/U#3010537	Holding Co - President & CEO
14	3006058	Area 2: Research & Polling	State Government Relations
15	3006097	Area 1: Consulting	State Government Relations
16	3008078	Political Consulting	State Government Relations
17	3010357	SF Competitive Efforts	Political Affairs
18	3010417	BTL -Marin-CC-10306	Political Affairs
19	3010418	BTL -Marin-CC-12248	Local Govt Relations - Area 6
20	3010440	BTL - CCA Media Relations	External Communications (News)
21	3010537	Marin CCA – BTL	Political Affairs
22	3010557	San Francisco CCA - BTL	Affiliate Charges and Allocated Costs
23	3010578	BTL - CCA Customer Communications	Customer Communications
24	8082496	Competitive Threat Abatement Proj.	State Government Relations
25	8085078	CCA - San Francisco - BTL	VP-Energy Procurement
26	8085082	CCA - Marin – BTL	VP-Energy Procurement
27	8099500	BTL Competitive Outreach	Political Affairs
28	202440	BTL - Community Choice Aggregation	Holding Co - SrVP General Counsel
29	3013498	BTL - CCA Area 1	Political Affairs
30	8085219	IV-BTL- CCA Corp and Inside Sales	Sales & Service San Jose
31	8100456	CCA - Below the Line	Solution Marketing Director
32	8100658	CCA - Below the Line - CENG Sr Dir	Customer Engagement Senior Director
33	8101594	BTL - CCA SF	Customer Communications
34	8101595	BTL - CCA Marin	Customer Communications
35	9015469	SHS - CCA BTL	Corporate Secretary
36	9015491	Marin BTL	President & CEO - PG&E Utility Co
37	8100456	CCA - Below the Line (Marin)	CEE Outreach-Manager
38	8100658	CCA - Below the Line - CENG Sr Dir (Marin)	Cust Eng Sr Dir

39	8085227	IV-BTL- CCA - SS ESP&Sales Ops (Marin)	ESP Services
40	8085228	IV: BTL- Serv and Sales - SS North (Marin)	Sales & Svc Area 1
41	8084757	SA - Marin County - CCA Below-The-Line	Service Analysis
42	8100456	CCA - Below the Line (Marin)	Solution Mktg Dir
43	9013909	CCA - Marketing - LglSvs - BTL - 4264 (Marin)	Law Department
44	3010418	BTL -Marin-CC-12248	Public Affairs
45	8085082	CCA - Marin - BTL	Energy Procurement
46	9014119	RATES CCA Marin (BTL)	Regulatory Relations
47	202440	BTL - Community Choice Aggregation (Marin)	Corp and Other
48	3013498	BTL - CCA Area 1 (SF)	Community Relations
49	8085219	IV-BTL- CCA Corp and Inside Sales (SF)	Fed/State/Ind SAM
50	3013498	BTL - CCA Area 1 (SF)	Media Rel & Nuc Comm
51	9013909	CCA - Marketing - LglSvs - BTL - 4264 (SF)	Law Department
52	8082658	SA - CCA-SF Below-The-Line (SF)	Service Analysis
53	9013909	CCA - Marketing - LglSvs - BTL - 4264	Law Department
54	9014113	Rates CCA CCSF (BTL)	Rate Design / Regulatory Services
55	8082658	SA - CCA-SF Below-The-Line	Service Analysis
56	8085228	IV: BTL- Serv and Sales - SS North	Sales & Svc Area 1
57	3013498	BTL - CCA Area 1	Local Govt Relations
58	8102609	BTL - CCA SF	Governmental Rel
59	8099500	BTL Competitive Outreach	SVP - Corp Affairs
60	9015490	CCA - SF Below the Line	Utility President
61	9013909	CCA - Marketing - LglSvs - BTL - 4264	Law Department
62	9014119	RATES CCA Marin (BTL)	Rate Design / Regulatory Services
63	8084757	SA - Marin County - CCA Below-The-Line	Service Analysis
64	8100456	CCA - Below the Line	CEE Outreach-Manager
65	8085228	IV: BTL- Serv and Sales - SS North	Sales & Svc No Coast
66	8085227	IV-BTL- CCA - SS ESP&Sales Ops	ESP Services
67	3010418	BTL -Marin-CC-12248	Local Govt Relations
68	9014113	Rate Data& Ecn FC Ana	Rates CCA CCSF (BTL)
69	3006058	Area 2: Research & Polling (SF)	Consulting Services Fin (SF)
70	3010357	SF Competitive Efforts	Consulting Services Fin (SF)
71	3010358	BTL-Marin-CC-10306	Consult Svcs - Fin
72	3013498	BTL - CCA Area 1 (SF)	SX LocalGovRel-Area2
73	9013909	CCA - Marketing - LglSvs - BTL - 4264	Law Department
74	9015469	SHS - CCA BTL	Corporate Secretary
75	8082658	SA - CCA-SF Below-The-Line	Service Analysis
76	8102280	CCA - SF - BTL - CENG Sr Dir SF	Cust Eng Sr Dir
77	9014113	Rates CCA CCSF (BTL)	Rate Data& Ecn FC Ana
78	3010418	BTL -Marin-CC-12248	SX LocalGovRel-Area6
79	9013909	CCA - Marketing - LglSvs - BTL - 4264	Law Department
80	9015469	SHS - CCA BTL	Corporate Secretary
81	3010418	Community Relations (Marin)	BTL -Marin-CC-12248
82	9014119	Rates CCA Marin (BTL)	Rate Design / Regulatory Services

83	8084757	SA - Marin County - CCA Below-The-Line	Service Analysis
84	8082658	Service Analysis BTL (SF)	SA - CCA-SF Below-The-Line
85	3013498	Bay Area BTL (SF)	BTL - CCA Area 1
86	8084757	SA - Marin County - CCA Below-The-Line	Service Analysis
87	3010418	BTL -Marin-CC-12248	Northern Region
88	9014119	Rates CCA Marin (BTL)	Rate Design

PG&E "Below the Line" Spending "Orders" and Amounts for Marin and San Francisco CCA Activity

(2007 – Feb, 2011)

	Order	Order Description		Total
1.	202440	BTL - Community Choice Aggregation	$	3,934.00
2.	304002	BTL - CCA Marin - U#3010537	$	9,095.00
		BTL - CCA Marin/U#3010537	$	157.00
3.	3008078	Political Consulting	$	25,130.00
4.	3010417	BTL -Marin-CC-10306	$	537,165.00
5.	3010418	BTL -Marin-CC-12248	$	506,534.00
		CCA - Marin	$	362.00
6.	3010440	BTL - CCA Media Relations	$	10,998.00
7.	3010537	Marin CCA - BTL	$	8,069.00
8.	8082496	Competitive Threat Abatement Proj.	$	175,533.00
9.	8084757	SA - Marin County - CCA Below-The-Line	$	454,504.00
10.	8085082	CCA - Marin - BTL	$	46,505.00
11.	8085219	IV-BTL- CCA Corp and Inside Sales	$	966.00
12.	8085228	IV: BTL- Serv and Sales - SS North	$	63,902.00
13.	8085762	SA – CCA General Charges -Below-The-Line	$	6,966.00
14.	8086117	Sust Comm BTL CCA Activities - Marin	$	396.00
15.	8086119	CAT BTL CCA Activities - Marin	$	1,526.00
16.	8086471	PEP BTL CCA Activities - Marin	$	14,463.00
17.	8099500	BTL Competitive Outreach	$	850,000.00
18.	8100456	CCA - Below the Line	$	1,433,928.00
19.	8100658	CCA - Below the Line - CENG Sr Dir	$	4,730.00
20.	8101595	BTL - CCA Marin	$	7,685.00
21.	9013909	CCA - Marketing - LglSvs - BTL - 4264	$	147,845.00
22.	9014119	BTL CCA Marin	$	514.00
		Rates CCA Marin (BTL)	$	11,266.00
23.	9015469	SHS - CCA BTL	$	98.00
24.	9015491	CCA - Marin Below the Line	$	143.00
		Marin BTL	$	282.00

25	8100456	CCA - Below the Line (Marin)	$	11,196.57
26	8100658	CCA - Below the Line - CENG Sr Dir (Marin)	$	5,164.94
27	8085227	IV-BTL- CCA - SS ESP&Sales Ops (Marin)	$	2,412.30
28	8085228	IV: BTL- Serv and Sales - SS North (Marin)	$	14,669.11
29	8084757	SA - Marin County - CCA Below-The-Line	$	7,710.70
30	8100456	CCA - Below the Line (Marin)	$	4,536.45
31	9013909	CCA - Marketing - LglSvs - BTL - 4264 (Marin)	$	16,749.92
32	3010418	BTL -Marin-CC-12248	$	11,346.29
33	8085082	CCA - Marin - BTL	$	163.65
34	9014119	RATES CCA Marin (BTL)	$	299.27
35	202440	BTL - Community Choice Aggregation (Marin)	$	806.57
36	3013498	BTL - CCA Area 1 (SF)	$	242.58
37	8085219	IV-BTL- CCA Corp and Inside Sales (SF)	$	172.13
38	3013498	BTL - CCA Area 1 (SF)	$	311.00
39	9013909	CCA - Marketing - LglSvs - BTL - 4264 (SF)	$	8,803.23
40	8082658	SA - CCA-SF Below-The-Line (SF)	$	2,898.77
41	3013498	BTL - CCA Area 1 (SF)	$	342.00
42	9013909	CCA - Marketing - LglSvs - BTL - 4264	$	5,329.52
43	9014113	Rates CCA CCSF (BTL)	$	218.57
44	8082658	SA - CCA-SF Below-The-Line	$	1,565.33
45	8085228	IV: BTL- Serv and Sales - SS North	$	2,921.89
47	8102609	BTL - CCA SF	$	77.50
48	8099500	BTL Competitive Outreach	$	1,553.28
49	9013909	CCA - Marketing - LglSvs - BTL - 4264	$	9,665.54
50	9014119	RATES CCA Marin (BTL)	$	1,625.41
51	8084757	SA - Marin County - CCA Below-The-Line	$	1,797.25
52	8100456	CCA - Below the Line	$	5,512.01
53	8085228	IV: BTL- Serv and Sales - SS North	$	372.83
56	9014113	Rate Data& Ecn FC Ana	$	1,575.00
57	3006058	Area 2: Research & Polling (SF)	$	(26,963.98)
58	3010357	SF Competitive Efforts	$	35,801.98
59	5001250	Area 1: Consulting (SF)	$	(55,000.00)
60	3010358	BTL-Marin-CC-10306	$	74,366.72
61	3013498	BTL - CCA Area 1 (SF)	$	3,738.51
62	9013909	CCA - Marketing - LglSvs - BTL - 4264	$	659.14
63	9015469	SHS - CCA BTL	$	14.94
64	8082658	SA - CCA-SF Below-The-Line	$	16,881.65
65	8102280	CCA - SF - BTL - CENG Sr Dir SF	$	159.75
66	9014113	Rates CCA CCSF (BTL)	$	462.42
67	3010418	BTL -Marin-CC-12248	$	5,028.25
68	9013909	CCA - Marketing - LglSvs - BTL - 4264	$	2,328.95
69	9015469	SHS - CCA BTL	$	14.94
70	8084757	SA - Marin County - CCA Below-The-Line	$	6,655.08
71	3010418	Community Relations (Marin)	$	675.46
72	9014119	Rates CCA Marin (BTL)	$	48.32
73	8084757	SA - Marin County - CCA Below-The-Line	$	3,632.44
74	3013498	BTL - CCA Area 1 (SF)	$	157.82
75	8082658	Service Analysis BTL (SF)	$	3,835.65
76	8083198	Sales & Svc Area 1 BTL (SF)	$	4,409.30
77	8084757	SA - Marin County - CCA Below-The-Line	$	2,141.66
78	3010418	BTL -Marin-CC-12248	$	262.53
79	9014119	Rates CCA Marin (BTL)	$	248.25
	Grand Total		$	4,522,295.38

SDG&E's Below The Line and Above The Line Expenditures Regarding the Community Choice Aggregation Program

The CPUC submitted a data request to SDG&E in order to obtain information regarding its below the line (shareholder) expenditures and above the line (ratepayer) expenditures related to the CCA program implementation. Below are SDG&E's data responses.

a. Below the Line CCA Expenditures

"SDG&E has had no below the line CCA expenditures."

b. Above the Line CCA Expenditures

"SDG&E does not have any CCA's in its service territory, and therefore, has not had any direct above-the-line expenditures related to the CCA program.

SDG&E has a balancing account (Community Choice Aggregation Implementation Balancing Account, or CCAIBA) to track any CCA implementation-related expenditures, but there have been no entries to this account. Should any community begin CCA-related activities which requires expenditures on SDG&E's part, those expenditures will be tracked in the balancing account (CCAIBA) and reported to the CPUC as required.

SDG&E has participated in the Rulemaking regarding CCA (R.03-10-003) and has had general labor and labor-related expenses as required to participate. These expenditures have included legal, regulatory and business unit labor expense for time spent reviewing and preparing proceeding-related documents, participating in both internal and external meetings, and attending workshops and hearings in San Francisco. The only other CCA-related expenditures were direct expenses for employee travel to and from San Francisco to attend such meetings as were necessary. However, SDG&E generally does not track expenditures by proceeding and cannot at this time accurately report its past expenditures.

SDG&E will make its best effort to estimate its CCA-related expenditures as described above in time for the 3rd quarterly report and will provide estimates of such expenditures thereafter on a quarterly basis, as necessary."

SCE's Below The Line and Above The Line Expenditures Regarding the Community Choice Aggregation Program

SJVPA Related Above the Line Spending: 2006 to 2011[8]				
		SJVPA	**Unclassified**	**Totals**
2006	Labor and Labor Related	$ 4,103	$ -	$ 4,103
2006	Materials and Contracts	$ -	$ -	$ -
	Subtotal	**$ 4,103**	**$ -**	**$4,103**
2007	Labor and Labor Related	$ 156,081	$ -	$ 156,081
2007	Materials and Contracts	$ 603,110	$ -	$ 603,110
	Subtotal	**$ 759,191**	**$ -**	**$759,191**
2008	Labor and Labor Related	$ 1,801,624	$ -	$ 1,801,624
2008	Materials and Contracts	$ 72,581	$ -	$ 72,581
	Subtotal	**$ 1,874,205**	**$ -**	**$1,874,205**
2009	Labor and Labor Related	$ 378,210	$ -	$ 378,210
2009	Materials and Contracts	$ 18,286	$ -	$ 18,286
	Subtotal	**$ 396,496**	**$ -**	**$396,496**
2010	Labor and Labor Related	$1,314	$ -	$ 1,314
2010	Materials and Contracts	$ -	$ -	$ -
	Subtotal	**$1,314**	**$ -**	**$1,314**
2011	Labor and Labor Related	$ -	$ -	$ -
2011	Materials and Contracts	$ -	$ -	$ -
	Subtotal	**$0**	**$ -**	**$0**
	Grand Total	**$3,035,309**	**$ -**	**$3,035,309**

[8] SJVPA, which straddles both PG&E and SCE service territories, is the only CCA that has attempted to implement the CCA program in SCE's service area. SCE did not incur below the line expenditures in 2006 through 2011.

Report Section (c): "Implementation of customer "opt out" requirements"

Part (c) of the SRL requires detailed information on the following:

A detailed description of the actions taken by the commission to ensure customer "opt out" requirements established pursuant to the Public Utilities Code Section 366.2 are properly implemented and to ensure full compliance by an incumbent electrical corporation. The description shall include an itemization of all actions taken to date by the commission to ensure compliance with these requirements, and a detailed description of the commission's formal process for monitoring and ensuring timely compliance with the requirements.

Overview

As explained in the first quarter report, the Commission has taken extensive action to ensure compliance with the customer "opt out" requirements established pursuant to the Public Utilities Code Section 366.2. When PG&E continued to offer early opt-out of the CCA program throughout its territory despite the apparent inconsistency of that approach with respect to the intent of AB 117, the Commission adopted Resolution E-4250 (see Attachment 4) in April 2010, which directed PG&E, SCE, and SDG&E to modify their CCA tariffs and clarified rules as follows:

1. Provided detailed direction on when customers may opt out of Community Choice Aggregation (CCA) service.
2. Clarified that the utilities cannot discriminate against CCAs and refuse to sell electricity to them simply because they are CCAs.
3. Clarified that utilities are prohibited from offering goods, services, or programs as an inducement for a local government not to participate in a CCA.

When PG&E continued to solicit customer opt-outs in Marin County and San Francisco, the Commission acted immediately:

- On May 3, 2010: A letter from the Commission's Executive Director put PG&E on notice over violations regarding Community Choice Aggregation.
- On May 12, 2010: The Commission's Executive Director sent a second letter to PG&E regarding PG&E's apparent continuing violations of CCA Rules.
- In the May 12 letter, the Commission's Executive Director directed PG&E to immediately: (1) render ineffective every opt-out received since May 3, 2010, subject to later disposition by the Commission, (2) agree to provide a communication piece, to be prepared by Commission staff, to all customers who received any version of the attached letter, and (3) take effective steps internally at PG&E to prevent any further violation of the direction in his May 3 letter. PG&E was directed to do all of this at no cost to PG&E's ratepayers.

Report Section (c): "Implementation of customer "opt out" requirements"

- On May 20, 2010: The Commission issued Decision 10-05-050, which further refined utility marketing rules with respect to Community Choice Aggregation.

The Commission's staff continues to collect information from each utility regarding its actions taken to implement Public Utilities Code Section 366.2. For PG&E, the table below provides data showing the number of customer opt outs from February 5, 2010 – the date on which MCE began the legally required customer opt-out process pursuant to AB 117 – to April 30, 2010. The table shows that, of the 2,095 opt-out requests received during this period, 24% were obtained by PG&E by methods found to be impermissible. Furthermore, of the 76% of opt-outs that appear "valid," it is unknown how many of these customers were responding to the terms and conditions provided by MCE and how many opted out without seeing these terms and conditions.

Report Section (c): "Implementation of customer "opt out" requirements"

Weekly reports summarizing customer opt-outs in Marin County 2/5/2010 – 4/30/2010 [9]	
Customer calls to (866) 743-0335	
Phase 1a Opt Outs	532
Phase 1b Opt Outs	158
Sub-Total Phase 1 (a and b) Opt Outs	**690**
Customer visits www.pge.com/cca	
Phase 1a Opt Outs	700
Phase 1b Opt Outs	198
Sub-Total Phase 1 (a and b) Opt Outs	**898**
Customer is directly contacted via marketing call then transferred to a Customer Service Representative to opt-out.	
Phase 1a Opt Outs	79
Phase 1b Opt Outs	38
Sub-Total Phase 1 (a and b) Opt Outs	**117**
Account Manager (AM) contacts customer to discuss various programs (including CCA) or customer directly contacts AM to opt out. AM receives opt outs verbally and/or via e-mail/fax.	
Phase 1a Opt Outs (Commercial)	52
Phase 1a Opt Outs (Residential)	14
Phase 1b Opt Outs (Commercial)	0
Phase 1b Opt Outs (Residential)	10
Sub-Total Phase 1 (a and b) Opt Outs	**76**
Account Manager receives opt outs in written form (letter).	
Phase 1a Opt Outs (Commercial)	0
Phase 1a Opt Outs (Residential)	1
Phase 1b Opt Outs (Commercial)	0
Phase 1b Opt Outs (Residential)	0
Sub-Total Phase 1 (a and b) Opt Outs	**1**
Account Manager receives mail-in opt out form (from the Marin Independent Journal).	
Phase 1a Opt Outs (Commercial)	0
Phase 1a Opt Outs (Residential)	19
Phase 1b Opt Outs (Commercial)	0
Phase 1b Opt Outs (Residential)	8
Sub-Total Phase 1 (a and b) Opt Outs	**27**
"Other": Customer Service Representative receives opt-out.	
Phase 1a Opt Outs	**233**
Phase 1b Opt Outs	**53**
Sub-Total Phase 1 (a and b) Opt Outs	**286**
Total	**2,095**

[9] We continue to work with PG&E and MCE in order to resolve the "phone banking impact verification" issue raised by MCE – see issue 1.0 in Attachment 2.

Attachment 1

Supplemental Report Language,
"*General Government, Item 8660-001-0462—California Public Utilities Commission*"

General Government

Item 8660-001-0462—California Public Utilities Commission

1. Community Choice Aggregation Oversight. On or before January 31, 2011, and quarterly thereafter, the California Public Utilities Commission shall submit to the relevant fiscal and policy committees of each house of the Legislature, a report on its activities related to Community Choice Aggregation. The report shall include detailed information on the formal procedures established by the Commission in order to monitor and ensure compliance by electrical corporations with Chapter 838, Statutes of 2002. The report shall include, but not be limited to, all of the following information:

   (a) A detailed description of the commission's process for enabling communities interested in becoming community choice aggregators, communities currently in the process of becoming community choice aggregators, and existing community choice aggregators to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2, which requires the utility to "cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs." The description shall include the process provided by the commission to allow prospective or existing community choice aggregators to identify specific matters on which the utility is not considered to be cooperating fully. For each identified matter, the prospective or existing community choice aggregator shall detail in writing the issue, the lack of full cooperation, and the personnel at the utility with whom the community choice aggregator is working. The utility shall be required to respond in writing by providing a specific solution to the matter raised by the prospective or existing community choice aggregator, including a date-specific timeline for accomplishing the solution, and the names of personnel responsible for providing the solution. The commission's report to the Legislature shall provide a detailed summary of each matter identified and initiated by the community choice aggregator, and a detailed verification of the utility's actions taken to address and resolve these issues, including verification of the satisfaction of the community choice aggregator. The report shall also itemize any matters that have been improperly raised by the community choice aggregator using this process.

   (b) A detailed description of information obtained by the commission from the electrical corporations in order to monitor the electrical corporations' activities and expenditures made to facilitate, or oppose, community choice aggregation. The information shall include an itemization of all activities undertaken by an electrical corporation, as identified by the commission or by a community pursuing community choice aggregation, the costs of those activities, and whether the costs were paid by ratepayers or shareholders of the electrical corporation. For each activity, the commission shall provide a detailed explanation as to whether the activity or expenditure is legally permissible, and, if not, of the actions taken by the commission in response.

   (c) A detailed description of the actions taken by the commission to ensure customer "opt out" requirements established pursuant to the Public Utilities Code Section 366.2 are properly implemented and to ensure full compliance by an incumbent electrical corporation. The description shall include an itemization of all actions taken to date by the commission to ensure compliance with these requirements, and a detailed description of the commission's formal process for monitoring and ensuring timely compliance with the requirements.

Attachment 2

Detailed results of the process for existing and prospective CCAs to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2

Attachment 2

Detailed results of the process for existing and prospective CCAs to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2

Issues Raised by Marin Clean Energy and the CPUC Staff's Analysis and Follow up on these Issues

Issue	Subject - formally raised by MCE prior to January 31, 2011	Status
1.0	Phone banking impact verification	**open**
1.1	No differentiation between generation & non-generation charges on bill	**open**
1.2	Bundled rate factors showing up on MCE bills	resolved
1.3	Need for third-party viewing of customer bills	pending tariff approval
1.4	PG&E call center providing mis-information to customers	resolved
1.5	CARE data not being provided to MCE	pending tariff approval
1.6	Balanced Payment Plan customers being double billed for generation	resolved
1.7	"Return to Bundled Service" form directs customer to PG&E for opt out	pending tariff approval
1.8	PG&E not providing usage to MCE	resolved
1.9	Net energy metering: bill presentment	**open**
1.10	New customers being opted out by PG&E	resolved
1.11	Invoice cancellation transaction support	**open**
1.12	Conservation Incentive Adjustment	proposed decision

Issue	Subject - formally raised by MCE after January 31, 2011	Status
2.1	Billing arrangements not disclosed	pending tariff approval
2.2	CARE discount not fully covered	resolved
2.3	Usage data submitted late: CAISO compliance issue	**open**
2.4	Code of Conduct	**open**

In this second quarter report, we do not expand on the issues that have been resolved (i.e. issues 1.2, 1.4, 1.6, 1.7, 1.8 and 1.10) or which are in the formal tariff approval process (issues 1.3, 1.5, 1.7) for resolution.[10] In the first quarter report, the issues were paraphrased and summarized by Commission staff.[11] This second quarter report includes a verbatim description of the four outstanding issues from the first quarter report and of the four new issues that MCE seeks to address. The CPUC's Energy Division staff plans to set-up conference calls with PG&E and MCE on the 15th of each month, or more frequently if necessary, until all outstanding issues are resolved.

[10] Issue 1.12, dealing with the Conservation Incentive Adjustment, is a ratemaking issue that was deemed to be outside the scope of this legislative reporting process; PG&E's Conservation Incentive Adjustment proposal is currently being considered in CPUC Application 10-03-014, with a proposed decision on this matter scheduled to be voted on soon.

[11] In Attachment 5, we include the list of first quarter issues as they were originally described by MCE on December 10, 2010.

1.0 Phone banking impacts verification

MCE's description of the issue

"Phone banking by PG&E to MEA customers caused many opt outs under false pretenses and MEA has never received verifiable data on which customers were contacted and which method customers used to opt out. MEA is currently seeking:

- How many customers were contacted by phone?
- How many customers opted out by a Utility initiated phone call?
- What method of opt out was selected by the remaining customers opting out?

MEA would like actual account numbers, and would like the data provided to match up to third party vendor data. ED would like to know if the NDA will allow PG&E to provide this information."

PG&E's updated response / updated proposed solution

"PG&E is unable to provide the information requested by MCE because of customer privacy restrictions. First, the CCA standard tariff (PG&E Electric Rule 23.J.2) prohibits the utility from providing to the CCA the names of customers who have opted-out as part of its mass enrollment update. Second, PG&E Electric Rule 9.M prohibits PG&E from providing such customer-specific information to the CCA without obtaining customer consent. Additionally, the telemarketing data does not document the number of customers that elected to request a PG&E representative to process their opt-out after being transferred by the telemarketer.

PG&E already has provided customer information to MCE pursuant to the E-CCAINFO tariff that can be compared to MCE's list of automatically enrolled customers without requiring customer consent or violating customer privacy requirements.

It is possible for MCE to determine customer opt-outs during automatic enrollment by comparing the list of customers provided to PG&E at MCE's inception with the list of customers enrolled. This would provide MCE with much of the data it seeks without compromising customer privacy."

CPUC Staff Analysis

The operative phrase included in MCE's issue 1.0 is "verifiable data" – i.e. the account numbers of the 2,095 (potentially) impacted customers. As illustrated in the table titled "Weekly reports summarizing customer opt-outs in Marin County 2/5/2010 – 4/30/2010", a total of 2,095 customers opted out of MCE service during the period referenced in this table. In light of the fact that PG&E solicited Marin County customers to opt out of MCE

service up through May of 2010, a timeframe that overlaps with MCE's statutorily mandated opt out notification period, it is reasonable for MCE to request to verify that customers were not opted-out of MCE service under false pretenses during this period.

Importantly, MCE's account data request is similar to an account data request that PG&E was able to provide to MCE in order to resolve issue 1.10 (see Attachment 3, letter dated April 5, 2011 sent by PG&E's Vice President of Regulatory Relations, Brian Cherry, in response to a letter sent by the CPUC's Energy Division Director, Julie Fitch, dated March 22, 2011). We are confident that a similar resolution on issue 1.0 can be reached. We will work with PG&E and MCE to enable MCE to receive the customer account numbers of the customers that opted out from February 5, 2010 to April 30, 2010.

1.1 MCE customer bills show bundled rate factors instead of unbundled rate factors

MCE's description of the issue

"There is no differentiation on the customer bill between generation and non-generation electric charges by PG&E and MCE. Instead, on the summary page (first page) and in other locations in the bill the PG&E electric charges (primarily for transmission and distribution) and the MCE electric charges (for generation only) are both shown as "electric" charges with no differentiation. The bill appears, therefore, to be showing electric PG&E charges and then duplicate or additional electric MCE charges. Many customers opt out because they believe they are being double-charged for electricity and paying both PG&E and MCE for the same usage.

The request to differentiate between generation and non-generation charges was first made to PG&E representatives in April, 2010, before service began to customers. At that time a sample bill was also requested from PG&E so that MCE could verify if the generation and non-generation charges would be differentiated. PG&E representative stated that they would provide a sample bill, but they were unable to provide MCE with a sample bill despite multiple requests over a two month period. During this time period PG&E representatives stated that the differentiation would occur and MCE had no reason to believe otherwise.

Unfortunately, MCE was never provided with a sample bill from PG&E representatives and therefore did not see how charges would appear until a local municipal customer provided MCE with a copy of their bill. This bill, and no subsequent customer bills have ever differentiated between generation and non-generation charges.

The majority of the calls that MCE received after billing began in June and July were from customers who believed they were being double charged for electricity usage because there were two 'electric' charges on the bill with no differentiation. Many of these customers opted out of MCE for this reason.

PG&E representatives have been looking into this issue for many months and currently state that MCE must wait until the 'bill redesign' process that will occur sometime in 2011 or 2012. When the 'bill redesign' process is brought to the CPUC for consideration PG&E representatives have stated that MCE will need to advocate for this differentiation to be on the bill as PG&E is not willing to make the change part of its overall 'bill redesign' recommendations. Customers continue to call the MCE call center and ask to opt out of MCE because they believe they are being double charged for their electricity usage."

PG&E's updated response / updated proposed solution

> "It's PG&E's understanding that this issue was addressed as part of a suite of bill presentment changes that have or will occur in the near term. Specifically, an internal service request (SR) 37178 is scheduled to go into effect on December 31, 2010. This SR will add the word "Generation" to the phrase Electric [Generation] Charges on the Account Summary (first page); it will also add the word "GENERATION" to MCE's bill (last page) in the phrase THIRD PARTY ELECTRIC [GENERATION] DETAIL. Finally, the first page of the bill will contain the following message: "Your electric charges on this page are broken into non-generation electric charges from PG&E at the top of the page, and generation electric charges from Marin Clean Energy. These two charges are for different services and are not duplicative."
>
> PG&E is in the process of modifying its Revised Customer Energy Statement (RCES) proposal in Phase III of its General Rate Case. Modifications to CC&B (referred to as "Bill Redesign" in the Legislative Report) will not take place until the conclusion of this proceeding. In the coming months, as the case develops, PG&E will reach out to key 3rd parties, including MEA, highlighting the objective and goals of the RCES project, and collecting input on how PG&E can best achieve these goals."

CPUC Staff Analysis

In its response above, PG&E does not formally update the CPUC on whether the internal service request referenced as #37178 went into effect on December 31, 2010, or provide an update regarding what actions, formal or otherwise, have been taken by PG&E during the last four months in order to address this issue. PG&E's position is nonetheless clear: the Bill Redesign Project provides a forum in which issue 1.1 can be addressed.

As we noted in the first quarter report, some customer confusion may be inherent to CCA/PG&E's combined billing – which according to MCE is the main reason customers choose to opt out of MCE service. Staff believes the CCAs should be given an option to bill their customers separately for their generation service as is allowed for Direct Access providers. However, in conversations with CCA parties we were told that even if a CCA program had the option to provide their own billing service, CCA parties would not find such option practical to implement since it would add costs to CCA service and it would likely lead to further CCA customer confusion – i.e. customers could think they are being charged twice by virtue of received two separate bills for their electric service, potentially leading them to opt-out of the CCA.

We do not fault PG&E for the slow moving nature of the Bill Redesign Project; nor are we neglecting to understand the possible repercussions this slow moving process may be having on MCE's customer base. We will continue to strive to implement an interim resolution to this issue and, if need be, will consider if MCE might need to receive a list of customers that MCE management believes have opted out of MCE service due to their potential misunderstanding of the bills. Given the importance of resolving this issue, we

also request that MCE participate in the Bill Redesign Project as much as possible even while we are striving to resolve this challenging issue.

1.9 Net energy metering: bill presentation

MCE's description of the issue

"Customers who are enrolled in Marin Clean Energy's Net Energy Metering (NEM) program receive inaccurate bills leading the customers to believe that credits produced are applied to incorrect portions of the bill. This is a bill presentment issue. Credits generated by MCE NEM customers should only apply to the electric generation portion of their account. Unfortunately, PG&E's billing system is unable to present the bill properly and these credits appear to be applied to other unrelated charges on the customer's bill.

For example, a NEM customer may have generated a $10 credit by producing more energy than they consumed. That credit should be applied against the electric bill in a month when the customer consumes more than they produce. However, PG&E applies that credit to another portion of the customer's bill, such as gas. According to the bill, that customer does not owe PG&E for a portion of their gas charges because the NEM credit has been applied. In actuality, the customer still owes the full amount of the gas bill and the credit has not been used. Customers on summary bills have even had their NEM credits applied towards other accounts. This presentment of NEM credits has resulted in considerable customer confusion.

Because PG&E is not accounting for MEA credits customers could potentially have their power shut off for 'lack of payment.' PG&E has stated that they monitor NEM accounts manually to try to prevent NEM customers from having service stopped or going into collection status because the customer shows in their system as not paying in full. This issue was originally brought to PG&E's attention by MCE staff on July 20, 2010. PG&E has stated that they do not have a method to keep the MCE and PG&E balances separate.

PG&E has not proposed a solution to resolve this problem and has not provided MCE with billing information for NEM customers to ensure that staff, customer representatives and the MCE call center can appropriately respond to questions."

PG&E's updated response / updated proposed solution

"PG&E acknowledges that its billing system was not designed to assign an MCE Net Energy Metering (NEM) credit in the exact manner specified in MCE's NEM program. MCE is the first third-party supplier of any type who is utilizing PG&E's consolidating billing system to offer a NEM program. At this time, PG&E has taken steps to identify NEM customer accounts and avoid situations where such a customer would receive a shut-off notice due to an over-due balance on the customer's PG&E charges.

One possible solution would be for MCE to track the applicable customer credits of its NEM program separately, and then to communicate those credits to the program customers in the manner and time frame specified by MCE's NEM program standards. In contrast, a long-term modification to PG&E's billing system to address the crediting design of MCE's NEM program would require labor and financial resources to design and implement needed modifications. PG&E is currently updating its system to resolve this issue and believes the changes will be fully installed by the summer of 2011. The system updates will correct the presentation problems that occurred for MCE NEMS customers (it appeared that MCE credits were being applied to PG&E charges).

If MCE seeks to pursue a long-term modification to PG&E's billing system, PG&E is willing to meet with MCE in January 2011 to discuss the scope of work. PG&E and MEA will need to discuss labor and financial resources needed to design and implement the modifications, and, ultimately, confirm which party will fund the modifications needed to support the customer credits applicable to MCE's NEM program. The modifications to PG&E's billing system to correct this problem are currently being assessed and expect to be completed in summer 2011."

CPUC Staff Analysis

PG&E's liaison to the CPUC's Energy Division recently informed CPUC staff that PG&E is striving to resolve this NEM bill presentation issue by the end of summer, 2011, which is confirmed by PG&E's formal response above. MCE appears satisfied with PG&E's plan. We've noted PG&E's targeted timeframe to reach resolution on this issue and seek to ensure that it is met.

Given the obvious confusion this bill presentation creates, in the interim, we will work with PG&E so that it can provide a list of NEM customers in MCE's service area to MCE. This data submittal could be provided in a similar fashion that PG&E provided a list of customers to MCE to resolve issue 1.10 (see Attachment 3, letter dated April 5, 2011 sent by PG&E's Vice President of Regulatory Relations, Brian Cherry, in response to a letter sent by the CPUC's Energy Division Director, Julie Fitch, dated March 22, 2011).

1.11 Invoice cancellation transaction support

MCE's description of the issue

"When PG&E provides usage to MCE via an EDI usage transaction, MCE rates the usage and returns the invoice to PG&E via an EDI invoice. Approx 5 business days later, after PG&E presents these charges on an invoice, they return a Microsoft Excel file to MCE with their internal Sub SA ID and Bill Segment ID related to that specific invoice.

MCE commonly has a need to cancel that invoice, for reasons such as:

1. PG&E estimated the meter and received actual usage prior to the bill being sent out
2. The usage is found to be outside of Hi/Low tolerances (this is commonly a result with meter rollovers)
3. The invoice was calculated using an incorrect rate or rate factors
4. Some other billing attribute on the account has changed (Baseline territory, Medical Baseline Allowance, etc.)

In situations such as these, MCE must send and EDI transaction to PG&E referencing the Sub SA ID and Bill Segment ID for the invoice to be cancelled. If MCE has not received this information because the charges have not been presented on an invoice, then they cannot cancel the invoice, and the erroneous charges must be presented to the customer, before they can be cancelled. The only way around this would be to contact PG&E and have them manually cancel the charges, a process that is not scalable for a production CCA implementation.

The Utility Industry Group (UIG) guideline for Invoice transactions between Energy Providers and Local Distribution Companies specifies that the CCA be allowed to send an Invoice cancellation record with a reference number to their original invoice number. The sender of the invoice establishes the invoice ID, and that invoice can immediately be cancelled by a transaction referencing this ID. This methodology is very important, because in an automated solution, PG&E can send a cancel of the usage transaction immediately, and MCE must be able to automatically cancel their charges related to this now cancelled usage. Furthermore, this allows MCE to cancel an invoice prior to PG&E billing the invoice, and also negates the need for an email based interface between the two parties.

PG&E not supporting this standard invoice cancellation process results in PG&E issuing a bill that may not contain the most up to date information on the MCE portion of the bill. When the PG&E and MCE portion of the bills contain usage information that is different, this causes customer confusion, and increased calls to

the PG&E and MCE call centers. In addition, this causes the customer to see additional cancellations and rebills because many of these errors could have been corrected before being presented on an invoice.

In conference calls with PG&E, MCE has requested the ability to cancel transactions prior to invoicing, and for the ability to cancel without the usage of the Bill Segment ID which is being provided to MCE via a manual process. PG&E has not proposed any way to automate this process, or any schedule for being able to implement such a change."

PG&E's updated response / updated proposed solution

"PG&E's Bill Ready Billing Process allows for billable charges and cancelations to be submitted within a small window. Once the bill window closes the steps begin for generating a bill for the customer in a timely manner. Today's Bill Ready cancelations are associated with actual charges presented by the utility; therefore, canceling charges that may be sent in error or after the window closes would delay the customer's bill. Furthermore, delaying the close of the Bill Window may also impact other Service Agreements (SAs) on the customer's account which are not related to MCE charges (e.g., Bundled or other Direct Access charges).

PG&E is currently internally evaluating the request for added functionality to allow MCE to be able to cancel their billable charges prior to the charges appearing on a bill. The request goes beyond the current capabilities of CC&B; however, PG&E is evaluating if there are potential work-arounds. We will update the Energy Division as we make progress. PG&E is open to having further discussions on clarifying how it currently processes MCE's billable charges. We will update the Energy Division as we make progress on this request."

CPUC Staff Analysis

We appreciate the complexity of this problem and PG&E's willingness to update the Energy Division as it makes progress to resolve this matter. The CPUC's Energy Division expects an update from PG&E on the 15th of each month until this issue is resolved.

2.1 Billing arrangements are not disclosed

MCE's description of the issue

"MEA regularly monitors customer accounts to ensure that full payments have been made by all customers. For certain customers, who are not timely with bill payments and exceed predetermined thresholds established by MEA (cumulative delinquent account balance and number of days late) for the purpose of identifying potential payment issues, MEA mails notices requesting full payment on the delinquent account(s). If MEA does not receive full payment by the date indicated on the notice, service from Marin Clean Energy is suspended and the delinquent customer(s) is/are returned to PG&E for future electric generation service. Customer service is not interrupted at this time, despite documented non-payment for generation service provided by MEA.

To ensure that customers who have set up payment plans with PG&E are not included in the distribution of MEA's late payment notices, MEA requested that PG&E provide data identifying the MCE customers who have arranged for payment plans.

PG&E representatives have not provided this data, and as a result MEA is unable to verify whether customers have established payment plan arrangements with PG&E. PG&E has declined to provide MEA with the aforementioned, necessary customer data, which would fall under MCE's signed non-disclosure agreement (NDA). This issue was first raised with PG&E on September 21, 2010."

PG&E's updated response / updated proposed solution

"PG&E has been precluded from sharing customer payment plan information with MCE without first obtaining the consent of individual customers pursuant to Public Utilities Code Section 8380, PG&E Electric Rule 9.M and CPUC D.90-12-121. PG&E had previously explained this to MEA. In order to be able to share customer payment plan information with MCE, PG&E will shortly be filing an updated Non Disclosure Agreement in an advice filing that amends the current tariffs and current customer privacy policies that have previously prevented sharing of customer-specific financial and billing information with MCE. MCE has been given a copy of a modified Non Disclosure Agreement for comment.
Advice filings are typically approved one month from the filing date. PG&E plans to file the updated NDA with the Energy Division as expeditiously as possible following receipt of comments from MCE."

CPUC Staff Analysis

The modified Non Disclosure Agreement that MCE and PG&E worked jointly to revise should enable MCE to identify which customers have made payment plan arrangements with PG&E and therefore should prevent this issue from arising again. The CPUC expects PG&E to file an advice letter containing above mentioned modified Non Disclosure Agreement soon. Non-protested advice letters take 30 days to approve; we expect the aforementioned filing to not be protested.

2.2 The CARE discount is not fully covered

MCE's description of the issue

"As per CPUC Decision 05-12-041 the Investor Owned Utilities are responsible for covering the cost of the CARE discount for all customers, including CCA (unbundled) customers. The funds for the CARE program are collected on the transmission & distribution side of the bill and therefore, should be covering the full cost of the CARE discount even if the customer is not a bundled utility customer. It is our understanding that SCE modified its tariffs after the CPUC approved decision 05-12-041 for rulemaking R.03-10-003 to ensure that the CARE discount is collected and provided to all (bundled and unbundled) customers correctly.

Since MEA began serving customers in May 2010 MEA has been voluntarily covering the CARE discount shortfall on behalf of customers. However, because PG&E has not been willing to provide information to MEA regarding which customers should be receiving CARE discounts (see issue 1.5 from January 2011 Legislative Report from the CPUC) there are some customers who have not been receiving the full CARE discount. MEA has also provided a sample analysis demonstrating how a CARE customer discount decreased dramatically after service with MEA began. This sample analysis was provided to the CPUC energy division and PG&E, identifying shortfalls in the applicable CARE discount for certain MCE customers following commencement of MCE service. Because PG&E has collected funds (for the purpose of providing CARE discounts) on behalf of CARE-eligible MCE customers but, subsequently, has not provided the discount to these MCE customers, the accrued CARE funds need to be fully and immediately refunded to MCE CARE customers by PG&E.

PG&E was on the service list for CPUC R.03-10-003, was specifically named in the decision (05-12-041) approved in December 2005, and was therefore informed of the decision. MEA has inquired about the need for PG&E to cover this cost for MCE customers but has not been informed of any progress on this matter. MEA continues to voluntarily cover the CARE discount shortfall for its customers without reimbursement from accrued funds collected by PG&E."

PG&E's updated response / updated proposed solution

"As background, PG&E provides CARE rates to both bundled and CCA customers. The CARE rate is a rate that is offered to qualified customers (as opposed to a "discount" on the bill). CARE rates, like other residential customer rates, are broken down into components, each with its separate rate. The four components that differ between CARE and Non-CARE customers are: generation; distribution; the Public Purpose Program (PPP) charge (the CARE surcharge component of PPP rates is not

paid by CARE customers); and the DWR Bond charge (not paid by CARE customers).

The PPP charge includes the CARE surcharge which funds the difference between CARE and non-CARE distribution rates. All non-CARE customers pay the CARE surcharge component of PPP rates, regardless of service provider. Similarly, the CARE distribution rate is provided to all eligible customers regardless of service provider, including to MEA customers.

The difference between CARE and non-CARE generation rates is not collected through the CARE surcharge component of PPP rates. It is collected through higher generation rates paid by PG&E's bundled customers. Therefore, only bundled customers are eligible for the CARE generation rate. This rate structure is in compliance with D.05-12-041, cited by MEA above, which established rate design that would ensure "bundled customers would not be subsidizing CCA customers." The intent was to promote parity by ensuring DA/CCA customers received the benefit of the CARE distribution rate and bundled CARE customers received the benefit of both the generation and distribution CARE rates. PG&E received approval for its proposals to comply with D.05-12-041 in the decision in PG&E's 2007 GRC Phase 2 proceeding (D.07-09-004).

PG&E's bundled CARE and non-CARE generation rates are inherently different. CARE generation rates typically have 2 tiers while non-CARE generation rates typically have 4 tiers. PG&E can only ensure that CARE and non-CARE customers pay the same generation amounts by either setting the CARE rates on the same tiered basis as non-CARE, or by setting the generation rate at the same level in all tiers.

PG&E has proposed to flatten generation rates in Phase 2 of its 2011 GRC such that CARE and non-CARE generation rates will not vary by tier. In order for MEA to ensure that each customer receives the same benefit as if they were bundled, MEA would need to set CARE and non-CARE generation rates at the same level as they are set for PG&E's bundled service customers. PG&E notes that, in the example provided by MEA, the customer takes service on Schedule EL-8. Under this rate schedule, the total utility charges are limited to zero. That is, the sum of the charges for distribution, transmission, public purpose programs, Competition Transition Charges, the Energy Recovery Cost Amount, nuclear decommissioning, DWR bond and PCIA can not be less than zero. This treatment was approved by D.07-09-004. PG&E's application of the CARE rates was authorized by the Commission; therefore there are no CARE funds owed to MEA."

CPUC Staff Analysis

PG&E's explanation adequately addresses this issue. We consider this issue "resolved" and invite MCE to contact PG&E to inquire about the method that CARE funds are collected and applied.

2.3 Usage data submitted late: CAISO compliance issue

MCE's description of the issue

"The California Independent System Operator (CAISO) requires that meter data be accurate and must be submitted within 43 days after the meter is read. PG&E is responsible for reading meters for MEA customers and submitting usage to MEA; according to the currently effective service agreement between PG&E and MEA, applicable CPUC decisions and related utility tariffs, PG&E is obligated to provide this service to MEA, a service which MEA is paying for according to applicable fee schedules provided to MEA by PG&E. After receiving usage data from PG&E MEA then submits the customer usage to CAISO for settlement purposes. Since MEA began serving customers PG&E has been providing corrected meter data as late as 76 days after the customer meter is read. This T+76C usage data is submitted to CAISO to comply with the CAISO requirements for accurate meter data. However, at this time CAISO is now imposing sanctions for data submitted after 43 days.

MEA has requested that PG&E provide all usage in accordance with CAISO requirements. PG&E has been exploring the issue at the request of MEA since February 14, 2011 but has been unable to provide any information regarding how or when the data will be provided."

PG&E's updated response / updated proposed solution

"PG&E acknowledges this is an issue for MEA, and has implications for PG&E as well. PG&E, on a company wide basis, is evaluating its processes for handling customer usage data to better conform to the T+43C requirement by the CAISO.

In the interim, PG&E is determining if a temporary fix is available to address this issue specifically for MCE. Based on a preliminary review, it appears that late information to MEA was primarily due to bill cancellation and corresponding rebilling (otherwise known as cancel/rebill). Although PG&E is working to improve this process, cancel/ rebills are part of the business, and it is unlikely that PG&E will be able to eliminate them entirely. Cancel/rebills are driven by different causes, including a stopped service agreement, billing adjustments, retroactive adjustments and other legitimate business reasons. Cancel/rebills can also be caused by data issues (e.g., an erroneous meter read), which could translate into timeliness issues if a cancel/rebill is required.

As SmartMeter penetration increases in MCE's territory, the ability to access data more quickly will increase, partly because of the additional accuracy of digital meters (compared to traditional analog meters), but also because of validation checks that SmartMeters provide. More specifically, the ability to identify or minimize outlier usage data (e.g., high-low reads, spikes, billing adjustments, etc.) will help increase data quality be reducing the need for subsequent cancel/rebills. In the interim, PG&E

willing to meet with MCE staff and their Scheduling Coordinator to discuss PG&E's processes, CAISO expectations and to explore near-term solutions."

CPUC Staff Analysis

We will request that PG&E and MCE staff and their respective Scheduling Coordinators begin discussing options in order to reach a resolution on this issue. The CPUC's Energy Division has also raised this issue to staff working directly on CAISO matters and is hopeful that their insight will help move this process along for resolution.

2.4 Code of Conduct

MCE's description of the issue

"PG&E has been asked to create a code of conduct/service agreement side letter to address technical, mechanical, marketing and cost allocation issues that are not adequately addressed in the Service Agreement between MEA and PG&E.

Technical and mechanical issues include for example, Net Energy Metering charges, processing of usage information, invoice cancelation support and interface with customers. Marketing issues include customer communications related to PG&E and MEA's respective rates and program offerings.

Cost allocation issues are currently handled on PG&E's side by invoicing MEA for services rendered. MEA has incurred many costs, however, due to PG&E actions but does not have an agreement with PG&E to cover these costs. An additional agreement is needed to address these ongoing issues and allow for simple resolution without placing a continued administrative burden on the CPUC energy division.

MEA has requested discussion with PG&E on this issue but it continues to be outstanding."

PG&E's updated response / updated proposed solution

"PG&E's understanding is that the "code of conduct" and "service agreement side letter" are separate issues. It's our belief that the "code of conduct" was addressed by Decision 10-05-050 (May 20, 2010). This Decision focused on the opt-out process for CCAs as well as commercial speech for the IOUs.

With respect to a "service agreement side letter", if MCE would like to propose one then PG&E is open to considering it for use. As it stands, the CPUC adopted a standard Service Agreement for use by CCAs. This Service Agreement was filed as part of Advice 3266-E and is identified as Form No. 79-1029 (See PG&E's tariff page below) http://www.pge.com/tariffs/tm2/pdf/ELEC_FORMS_79-1029.pdf

Like other CCA related tariffs and forms, this Service Agreement was derived through a collaborative regulatory process for use by CCAs. While PG&E desires to apply a consistent approach to all prospective CCAs, if MCE feels that additional terms are needed then MCE should initiate a proposal. Such a proposal could be in the form of a term sheet with subsequent discussion as needed.
PG&E believes that initiation of a proposal is incumbent on MCE and their desired timeline."

CPUC Staff Analysis

We agree with MCE that the establishment of a code of conduct could help PG&E-MCE relations. The existing CCA Service Agreement is a document that resulted from a formal CPUC proceeding record which maintained that PG&E did not consider future CCAs to be its competitors. As has been established in Decision 08-06-016[12] and Decision 10-05-050[13], PG&E now considers CCAs to be its competitors. Contrary to PG&E's belief stated in its response above, Decision 10-05-050 did not establish a code of conduct. As such, any Service Agreement "side-letter" or code of conduct (or both) could help establish clearer mutual expectations from PG&E and MCE. We will request that MCE initiate this process.

[12] See Commission Decision 08-06-016 June 12, 2008, page 4 citing Settlement Agreement in Attachment A, Article 3 and Section 4.1, http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/84216.htm
[13] http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/118462.pdf footnote 9.

Attachment 3

Two Letters

1) Letter sent by the CPUC's Energy Division Director, Julie Fitch, dated March 22, 2011, to PG&E's Vice President of Regulatory Relations, Brian Cherry

2) Brian Cherry's reply letter sent to Julie Fitch, dated April 5, 2011, solving issue 1.10

Attachment 4

Resolution E- 4250

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION **RESOLUTION E-4250**
April 8, 2010

R E S O L U T I O N

RESOLUTION E-4250: This Resolution has been initiated by the Commission's Energy Division Staff. It has not been issued in response to an advice letter filing.

PROPOSED OUTCOME:

This Resolution directs Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) to modify their CCA tariffs and clarifies rules that are intended to:

1. Describe when customers may opt out of Community Choice Aggregation (CCA) service.
2. Prevent utilities from refusing to sell electricity to CCAs simply because they are CCAs.
3. Prevent utilities from offering goods, services, or programs as an inducement for a local government not to participate in a CCA.

ESTIMATED COST: No impact on utilities' revenue requirements.

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3. SUMMARY

Assembly Bill (AB) 117 enables cities and/or counties to implement a Community Choice Aggregation (CCA) program which allows communities to offer procurement service to electric customers within their political boundaries. The CCA rules include a process that allows customers to opt out of the CCA-provided service in order to remain a utility bundled service customer. This Resolution clarifies that the utilities should not solicit or accept opt-out requests until the necessary information for an informed decision is made available to

customers through the initiation of the notification period provided by Public Utilities (P.U.) Code Section 366.2 (c)(13)(A-C). This Resolution also promulgates rules preventing utilities from (i) refusing to sell electricity to CCAs and (ii) offering goods, services, or programs as an inducement for a local government not to participate in a CCA.

4. BACKGROUND

The CCA program rules include a process that allows customers to opt out of CCA-provided service in order to remain a utility bundled service customer. P.U. Code Section 366.2 (c)(13)(A-C) states that CCAs shall provide customers with at least two notices during a 60-day period prior to the commencement of CCA service and at least two additional notices within a 60-day period following the customers' automatic enrollment into the program. These notices must inform customers that they are automatically enrolled into CCA service and that they can opt out of CCA service without penalty beginning on the first day customers receive their initial notices until 30 days after the customers receive their last notice pursuant to P.U. Code Section 366.2 (c)(13)(A-C). Pursuant to this code section, customers must also receive the "terms and conditions of the services offered" by the CCA with each of the (at minimum) four customer notices, which will enable customers to make an informed decision to either opt out of CCA service or to take no action and receive procurement service from the CCA.

P.U. Code Section 366.2 (c)(13)(A) states:

> The community choice aggregator shall fully inform participating customers at least twice within two calendar months, or 60 days, in advance of the date of commencing automatic enrollment. Notifications may occur concurrently with billing cycles. Following enrollment, the aggregated entity shall fully inform participating customers for not less than two consecutive billing cycles. Notification may include, but is not limited to, direct mailings to customers, or inserts in water, sewer, or other utility bills. Any notification shall inform customers of both of the following:
>
> i. That they are to be automatically enrolled and that the customer has the right to opt out of the community choice aggregator without penalty.

ii. The terms and conditions of the services offered.

San Joaquin Valley Power Authority (SJVPA) was the first CCA in California to have its Implementation Plan (IP) certified by the California Public Utilities Commission (Commission). SJVPA[14] was established in order to implement a CCA program in the Central Valley and has expressed concerns to the Energy Division regarding PG&E's CCA-dedicated webpage and PG&E's marketing trifolds that include a return mailer, which enable potential SJVPA customers to opt out of CCA service at anytime prior to its commencement.

In Marin County the Marin Energy Authority (MEA) is in the process of implementing a CCA program, and has voiced concerns to the Energy Division about PG&E's website which provided PG&E customers with an opportunity to opt out of any future CCA service to be offered in the PG&E service area. [15] MEA is concerned that potential CCA customers will seek to opt out of the CCA program before they are fully informed of the pertinent information concerning the terms and conditions of CCA service to be offered in Marin County. Accordingly, SJVPA and MEA request that PG&E stop this early opt-out process.

PG&E believes that its actions related to the early opt-out process are consistent with Commission rules. PG&E contends that Rule 23 I.3. of PG&E's electric tariffs enables it to process opt-out notices prior to the CCA formal notification period described in P.U. Code Section 366.2 (c)(13)(A-C). Therefore, PG&E believes that it is acting in accordance with the Commission's established rules pertaining to the CCA program.

A first draft of this Resolution (the "First Draft Resolution") was issued on August 7, 2009. A second draft of this Resolution (the "Second Draft Resolution"), which incorporates important changes, was issued on December 22, 2009.

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[14] As of the latest SJVPA Implementation Plan certified by the Commission on April 30, 2007, SJVPA consists of Kings County and the cities Clovis, Corcoran, Dinuba, Reedley, Selma, Kingsburg, Lemoore, Parlier, Hanford, Kerman, and Sanger. On June 25, 2009, SJVPA temporarily suspended its efforts to implement the CCA program, stating that resource constraints, market conditions, and the continued marketing against the CCA program by PG&E led to the temporary suspension.

[15] Municipalities within Marin County have created the Marin Energy Authority (MEA), which includes Belvedere, Fairfax, Mill Valley, San Anselmo, San Rafael, Sausalito, Tiburon, and Marin County. MEA plans to commence the first phase of its CCA program in May of 2010. MEA began its phase one notification process, pursuant to P.U. Code Section 366.2(c)(13)(A-C), on February 5, 2010.

5. NOTICE

The Commission is issuing this Resolution on its own motion. Notice of this Resolution has been provided by distributing the Resolution to all persons or entities[16] served with Resolution E-4013 (which approved the current CCA tariffs of the three utilities) and any additional persons or entities listed on the current R.03-10-003 service list for the CCA proceeding. In this manner PG&E, SCE, SDG&E, SJVPA, Novato, and MEA are among those served with this notice.

6. DISCUSSION

P.U. Code Section 366.2 (c)(13)(A-C) establishes an orderly process that CCAs must follow when informing customers of their CCA service option. During the CCA program's formal customer notification periods ordered in P.U. Code Section 366.2 (c)(13)(A-C), potential customers receive at least four notices regarding the CCA service being rendered by their community including information about rates and terms and conditions of service. After receiving this information, individual customers may make a decision to either: 1) take no action and therefore be automatically enrolled in CCA service, or 2) opt out of CCA service and remain a bundled service customer of the utility. Thus, the purpose of this code section is that potential CCA customers be given an opportunity to make an *informed* decision.

PG&E, SCE and SDG&E (the "utilities") must not solicit or accept opt-out requests until the necessary information is made available to customers through the initiation of the notification periods provided by P.U. Code Section 366.2 (c)(13)(A-C). CCA-specific information about the terms and conditions of service becomes available to customers when the CCA provides this information in compliance with the P.U. Code Section 366.2 (c)(13)(A-C) notification requirement. Accordingly, to further the statutory purpose of allowing customers to make an informed decision, we direct the utilities not to solicit or accept opt-out requests until the necessary information is made available to customers through the initiation of the notification periods provided by P.U. Code Section 366.2 (c)(13)(A-C). In addition, we direct the utilities to modify their CCA tariffs to be consistent with this limitation to the opt-out period; this will require changes to two subsections of the CCA tariffs.[17] First, the utilities shall revise subsection B.22 to read as follows:

[16] Both the First Draft Resolution and the Second Draft Resolution have been distributed to these persons or entities.
[17] The CCA tariffs are Electric Tariff Rule 23 for PG&E and SCE and Electric Tariff Rule 27 for SDG&E.

> **B.22. GENERAL TERMS: Opt-Out of Automatic Enrollment**
> The term "opt-out" or "opt out" is the customer's election not to be served under CCA Service and to continue to receive its existing service. In order to exercise its right not to participate in CCA Service, a customer must request to "opt out" of CCA Service through the required action as prescribed in the CCA Notification. A customer may exercise its opt-out right at any time during a 60-day notification period prior to Automatic Enrollment through the end of the second 60-day notification period subsequent to the Automatic Enrollment of a customer's account to CCA Service. The terms and conditions of CCA service will be made available by the CCA. This CCA-specific information will be provided to customers pursuant to P.U. Code Section 366.2 (c)(13)(A-C) – either directly by the CCA or by [the utility] pursuant to the provisions set forth in Section H – and will enable customers to make an informed decision whether or not to opt out of CCA service. Customers receiving section 366.2(c)(13)(A-C) notices regarding a CCA with more than one planned CCA phase-in date will be provided the required 60-day notices based around the date their particular phase-in commences.

PG&E, SCE, and SDG&E shall also modify subsection I.3 of the CCA tariffs by deleting the bolded language below:

> **I.3. CCA CUSTOMER OPT-OUT PROCESSES**
> A customer opting out of CCA Service **before or** during the Initial Notification Period shall be removed from the Automatic Enrollment process.

So that subsection I.3 shall read:

> **I.3. CCA CUSTOMER OPT-OUT PROCESSES**
> A customer opting out of CCA Service during the Initial Notification Period shall be removed from the Automatic Enrollment process.

The electric utilities shall not make available to their customers any mechanism for opting out of CCA service before the initiation of the statutory notification periods provided by P.U. Code Section 366.2 (c)(13)(A-C). However, so long as PG&E does not know which customers are in MEA's phase one, it may make opt-out mechanisms available to customers throughout MEA's service territory, and then once it receives the list of MEA's phase one customers it shall cease providing these opt-out opportunities to MEA customers not in phase one and take the further steps described below.[18] Customers receiving section 366.2(c)(13)(A-C) notices from a CCA with more than one planned CCA phase-in

[18] MEA is implementing its CCA service in phases. It has already sent out the first statutory notification to its phase one customers, but has not yet informed PG&E as to which customers are in phase one.

date will be provided at least two notices during a 60-day period prior to the date their particular phase-in commences and at least two more notices during the 60-day period immediately following the commencement of their particular phase-in. These customers cannot be opted-out prior to the notification associated with their planned phase-in.

Moreover, PG&E shall post the following language on its CCA dedicated webpage:

> "You have the right to opt out of Community Choice Aggregation (CCA) procurement service during the CCA program's two formal notification periods. If you opt out, PG&E will continue to procure electricity for you. If you do not opt out during these two notification periods (or any intervening time between them), you will be automatically enrolled in CCA procurement service. In either event, PG&E will continue providing transmission and distribution services to you. Regardless of whether or not you opt out of CCA service, you will continue to be eligible for ratepayer-funded programs, such as the California Solar Initiative and energy efficiency programs, that are funded by distribution surcharges.
>
> As part of the CCA notification process, you will receive at least two notices during a 60-day period prior to CCA service commencement and at least two additional notices during a 60-day period after CCA service commencement. These notices will describe the terms and conditions of the CCA service made available to you by the CCA formed in your community and will inform you as to how you may opt out of the program if you choose to do so.
>
> You also have the right to return to PG&E's bundled service after the two 60-day notification periods end; your options for returning during this later period are:
>
> > 1) You can notify PG&E at least six months before the date you want to return to PG&E bundled service that you wish to return to bundled service. When you return to bundled service six months later, you will pay PG&E's then-existing bundled electric generation rate, which will be identical to similarly situated PG&E customers in your customer class.
> >
> > 2) If you do not provide PG&E with a full six-months notice, you can return to PG&E bundled service at any time, but you will pay the then-existing transitional electric generation rate – which may be higher or lower than PG&E's then existing bundled electric generation rate – until six months after you first gave PG&E notice; thereafter, your bundled electric generation rate will be identical to similarly situated PG&E customers in your customer class.

> Whichever option you choose to exercise in order to return to bundled service anytime after the two 60-day notification periods end will require you to make a three-year commitment to PG&E's bundled electric service.
>
> For additional information concerning customer rights, obligations, and updates regarding the CCA program you may visit: http://www.cpuc.ca.gov/PUC/energy/Retail+Electric+Markets+and+Finance/070430_ccaggregation.htm

If SCE and SDG&E already have information on their websites regarding the CCA program (including a CCA dedicated webpage, but excluding the posting of tariff pages) this content shall be forwarded to Energy Division for review at this time. Whenever the utilities modify their websites to include new or revised language, illustrations, or images regarding the CCA program, they shall notify the Energy Division on the same day they make the modification. This will allow staff to review the utilities' webpages to ensure that the information included is consistent with the orders contained in this Resolution and is not misleading (either by inclusion or omission of content). The Energy Division will direct the utilities to make changes to any information it finds incorrect or misleading.

PG&E – and SCE and SDG&E to the extent necessary – must take the following actions to address the situation that PG&E's early CCA opt-out option has created.

1) Any customer who has previously chosen to opt out of the CCA program through any means whatsoever, including PG&E's website, any opt-out form, or by telephone (except for any customer included in MEA's phase one who opted-out after February 5th, 2010) [19] shall not be removed from the list of potential CCA customers that will be provided to a community implementing a CCA program. All customers need to understand the terms and conditions of the CCA service being offered in order to make an informed decision as to whether or not to opt out of CCA service.

[19] Under MEA's Implementation Plan, customers will be phased-in to CCA service in no more than three phases. MEA sent the first opt-out notice to those customers who are in its phase one on February 5, 2010. Consistent with the policy set forth in this Resolution, customers who have received their first opt-out notice from MEA can chose to opt-out of MEA's CCA program.

2) PG&E shall send a letter, with a copy to the Energy Division, to any customer who prior to the date of this Resolution has opted out of CCA service using any means whatsoever, including PG&E's website, any opt-out form, or telephone service, explaining that the opt-out request will not take effect in light of the changes this Resolution makes to the CCA tariffs. (However, PG&E shall follow the procedure set forth in paragraph 3b, below, for sending letters to customers in MEA's service territory and therefore this letter shall not be sent to anyone in MEA's service territory who opted-out after February 5th, 2010.) This letter shall be sent to the Energy Division for review and approval within 10 days of the effective date of this Resolution and shall be mailed to customers within 5 days of Energy Division's approval.

We encourage PG&E to use the following language in this letter:

"Your opt-out request will not take effect because the community your account is located in has not initiated the statutorily-mandated CCA opt-out notification process.

You will receive at least two notices during a 60-day window period before CCA service commencement and at least two additional notices during a 60-day window period after CCA service commencement containing the terms and conditions of CCA service that will be provided to you by the CCA program in your community. If you seek to opt out of CCA service, you will be able to do so during these two separate 60-day notification periods (and any intervening time between them) at no additional cost to you.

If you do not opt out of the CCA program during this designated time, you still have the right to return to PG&E's bundled service after this designated time by providing PG&E with a six-month advance notice requesting to have your account return to PG&E bundled service. If you do not provide PG&E with a full six-month advance notice when returning to PG&E bundled service, you will pay the then-existing transitional electric generation rate – which may be higher or lower than PG&E's then existing bundled electric generation rate – until six months after you first gave PG&E notice. Regardless of when you give notice of your return to PG&E bundled service, you will be required to make a three-year commitment to PG&E's bundled electric service.

For additional information concerning customer rights, obligations, and updates regarding the CCA program you may visit: http://www.cpuc.ca.gov/PUC/energy/Retail+Electric+Markets+and+Finance/070430_ccaggregation.htm

3) a) Any opt-out request that PG&E receives after the date that this Resolution is effective, and before a CCA issues to that customer the first of the statutorily mandated opt-out notifications, shall not become effective. PG&E shall send the same letter discussed in listed item 2), above, to those customers (and also send a copy to the Energy Division), and those customers shall not be removed from the list of potential CCA customers that will be provided to a community implementing a CCA program.

b) With regard to MEA, because MEA began sending opt-out notices to its phase one customers before the effective date of this resolution and because MEA has not informed PG&E as to which customers are in its phase one, PG&E shall do the following: PG&E shall send a letter as described in paragraph 2, above, modified appropriately to reflect the specific situation of these customers, to all customers in MEA's service territory who elected to opt out but who were not part of MEA's phase one. PG&E shall submit the text of this letter to the Energy Division for review and approval within 10 days of the effective date of this Resolution and send it to the affected customers, with a copy to the Energy Division, within 10 business days after PG&E receives from MEA the list of MEA's phase one customers.

We have not addressed here how to deal with opt-out requests for subsequent phases of MEA's implementation plan or for other CCAs that choose to use a phased implementation plan. We intend to deal with these and other issues in response to the CCSF Petition for Modification of Decision 05-12-041 filed in R.03-10-003.

7. COMMENTS

P. U. Code Section 311(g) (1) generally requires resolutions to be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Accordingly, this Draft Resolution was placed on the Commission's agenda no earlier than 30 days after it was made available for comment and distributed to the service list in R.03-10-003 and to all persons/entities served with draft resolution E-4013.

Comments on the First Draft Resolution

In response to the First Draft Resolution, comments were provided by PG&E, SCE, SDG&E, the Local Governments[20], Marin Energy Authority (MEA), and The Utility Reform Network (TURN), and reply comments were provided by PG&E, SCE, the Local Governments, TURN, and the Division of Ratepayer Advocates (DRA). Some of the changes included in the Second Draft Resolution were made in response to this first round of comments.

First Amendment Issues

The utilities argue, to varying degrees, that the First Draft Resolution violates or potentially violates the First Amendment of the United States Constitution. The focus of the utilities' concerns seems to be with the First Draft Resolution's requirement for the inclusion of specific content on opt-out procedures in shareholder-funded communications.[21]

In addition to their First Amendment arguments, the utilities maintain that requiring utilities to include specific content in their communications with customers is (a) unnecessary given the First Draft Resolution's changes to the CCA opt-out procedures and (b) impractical to implement (e.g., with respect to certain marketing media) and that (c) it should be sufficient for the Commission to give clear direction to the utilities on when customers may be permitted to opt out of automatic enrollment in a CCA program and allow the utilities reasonable discretion in implementing this requirement in the most efficient and cost effective way possible.

In contrast, TURN, the Local Governments, and MEA not only believe that the First Draft Resolution is consistent with the First Amendment,[22] but some of these parties seek even greater restrictions on utilities and, in their comments, ask the Commission to restrict utilities from marketing against CCA programs

[20] The Local Governments consist of the City and County of San Francisco and the San Joaquin Valley Power Authority.

[21] Also, SDG&E claims that the First Draft Resolution's requirement that SDG&E place certain information relating to CCAs on its websites also violates the First Amendment and the Fifth Amendment Takings Clause. This requirement has been omitted from the Second Draft Resolution and, therefore, we no longer need to consider SDG&E's concerns.

[22] For example, TURN argues that "if the government can require tobacco companies to include very specific warning labels on their products" the utilities incorrectly maintain that the "Commission cannot direct a regulated utility to provide a certain form of notice to its customers".

until after the initial notification has been provided. In their reply comments, the utilities object on First Amendment grounds to these proposals.

Having reviewed these comments, we agree that a number of the requirements proposed in the First Draft Resolution are not strictly necessary at this time. These modifications to the Resolution are reflected in the Discussion section above. If First Amendment or other constitutional issues arise in the future, we will address them at that time, as necessary.

Use Of The Term "Error"

PG&E disagrees with the proposed language included in the First Draft Resolution which would have ordered PG&E to send a letter to customers that have opted-out of CCA service, stating in part that "PG&E solicited your CCA opt-out request in error." PG&E states that it has not committed an error in allowing customers to opt out early, since the current CCA tariffs, to date, have allowed early opt-out requests from the CCA program. We have addressed PG&E's concern by omitting the word "error".

Issues Involving The Opt-Out Notices

The utilities raise various objections and suggest revisions to the First Draft Resolution's proposed requirement that utilities post CCA program terms and conditions on opt-out forms posted on utility websites. This requirement in the First Draft Resolution has been omitted and therefore we no longer need to consider arguments raised with respect to this matter.

In its reply comments to the First Draft Resolution, the Local Governments point out that no party objected to the revision of the CCA tariffs that prohibit the utilities from soliciting customer opt-out requests of CCA service until after the CCA has provided the formal notification pursuant to P.U. Code Section 366.2 (c)(13)(A-C).

Moreover, The Local Governments and MEA recommend that the Commission, through this Resolution, require that the list of customers that opted-out prior to receiving their first opt-out notice be made available to them. Regarding this request, SCE states that the utilities cannot provide this information without the customers' consent, as customers' names and addresses are confidential. Given that all customers will receive official notification of the CCA services being

offered in their communities even if they have attempted to opt out before receiving their first opt-out notice, we need not decide the issue raised by SCE, as the Local Governments and MEA should not need a list of customers who have attempted to opt out but whose opt-outs will not be processed.

In its reply comments, SCE agrees with several issues raised by PG&E and SDG&E in their respective comments. Unlike PG&E however, SCE states that it does not intend to market against the CCA program. In its comments, SDG&E acknowledges that "the Commission may have a substantial interest in ensuring that customers receive fair, accurate, and balanced information regarding CCA services."

Public Purpose Program Funds

The Local Governments and MEA argue that this Resolution should clarify that it is improper for the utilities to link receipt of ratepayer funded public program funds to a locality's decision not to pursue a CCA program's implementation. The Local Governments attached a letter dated June 30, 2009, sent by Joshua Townsend, PG&E Public Affairs Manager, to Michael Frank, City Manager of Novato.

PG&E denies that it has or will link, or make conditional, any local government's receipt of public goods charge funds on the local government's decision whether or not to participate in a CCA program. PG&E believes this allegation made by the Local Governments and MEA is outside the scope of the CCA proceeding and that any such complaints or issues should be addressed in the Commission's 2009-2011 Energy Efficiency Programs proceeding in A.08-07-031.

In its comments on the First Draft Resolution, TURN urges the Commission to adopt the Draft Resolution as written. In its reply comments on the First Draft Resolution, TURN generally supports the recommendations made by the Local Governments and MEA in their opening comments. TURN notes it is disturbed by at least one utility's (i.e., PG&E's) apparent use of energy efficiency funds in an attempt to dissuade communities from supporting CCA program implementation. TURN reminds the Commission that when the CCA program rules and tariffs were developed, all the utilities claimed they did not intend to actively market against the formation of CCAs. TURN states that the intent of at least one utility (i.e. PG&E) "to oppose the formation of CCAs in their service territory by any and all available means…suggests that there may be a need for

this Commission to reopen R.03-10-003 to consider more specific rules and regulations to control such activity and ensure that fair competition is preserved."

In DRA's reply comments on the First Draft Resolution, DRA supports the request made by City and County of San Francisco and MEA to modify the Draft Resolution in order to clarify that it is inappropriate for the utilities to link receipt of ratepayer-funded public program funds to a community's decision not to pursue CCA program implementation. DRA recommends that this Resolution should expand the CCA rules in order to ensure that energy efficiency funds cannot be misused by the utilities. DRA also recommends that this Resolution ensure that any category of ratepayer funds may not be withheld from communities investigating CCA program implementation in a manner that could discourage CCA formation.

We address these issues in the section immediately below.

<u>Prohibition on Providing Goods or Services for the Purpose of Inducing a Local Jurisdiction Not to Participate in a CCA.</u>

The Local Governments attached to their opening comments a letter dated June 30, 2009, addressed to Michael Frank, Novato City Manager, from Joshua Townsend, PG&E Public Affairs Manager. In this letter, PG&E outlines a proposed collaboration between PG&E and the city of Novato.[23] Contained in this proposal are the following commitments made by PG&E:

> "We reiterate our commitment to Novato to provide, free of charge, a one-half time equivalent staff to support the City in the implementation of this Collaboration, AB 32, SB 375, AB 811 and other related programs and efforts". (p2)
>
> "PG&E will partner with the City and Novato residents and businesses to expand PG&E's existing Energy Efficiency programs with energy savings achieved through Mass Market, Target Market, and Third-Party channels. Through a PG&E point person, approved by the city, a task force will be created to help navigate through the utilization of existing opportunities and the creation of new programs". (p6)
>
> "If created, this LGP [Local Government Partnership] would provide Novato with additional resources to drive significant energy savings through energy efficiency". (p8)

23 The city of Novato was initially mentioned as part of Marin County's CCA efforts in its "Final Report – CCA Business Plan" issued April 2008. The city of Novato has not joined Marin County's CCA program per the December 4, 2009 filing of Marin Energy Authority's CCA Implementation Plan submitted to the CPUC for review.

> "We believe that our Collaboration Proposal provides a pathway for Novato to meet its climate change objectives faster, cheaper and with better results without exposing itself, the City, our customers and taxpayers to the uncertainty and risk of a Community Choice Aggregation scheme". (p16)

8. This letter raises the appearance that a utility is seeking to link the utility's provision of services to a decision by a local government not to participate in a CCA. We want to promote a level playing field in competition between the investor owned utilities and CCAs. Accordingly, we will take this opportunity to provide direction to the utilities. The utilities cannot offer to provide, or provide, any goods, services, or programs to a local government, or to the electricity customers within that jurisdiction, on the condition that the local government not participate in a CCA, or for the purpose of inducing the local government not to participate in a CCA. This restriction applies regardless of whether the goods, services, or programs are funded by ratepayers or shareholders. (This restriction would also apply to any plan whereby the utility would pay someone else to provide such goods, services or programs.)

In its comments on the Second Draft Resolution, PG&E contends that the Commission lacks authority to oversee the utility's use of shareholder funds for competitive activities. In support of this contention, PG&E argues that the activities prohibited by Ordering Paragraph 5 of the Second Draft Resolution (now Ordering Paragraph 4 of this Resolution) are not "utility-related." We are not persuaded.

Pursuant to P.U. Code Section 218(a) an "'electrical corporation' includes every corporation . . . owning, controlling, operating, or managing any electric plant for compensation within this state". Accordingly, PG&E is an "electrical corporation." Pursuant to P.U. Code Section 216(a) every "electrical corporation," including PG&E, is a "public utility." Under the Public Utilities Act, public utilities are subject to the general regulatory jurisdiction of this Commission. As provided by P.U. Code Section 701:

> The commission may supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.

The Commission does not lose its authority to regulate a public utility's activities, merely because the utility accounts for the expense of conducting those activities "below the line", i.e., as a shareholder expense.[24]

Furthermore, we do not understand PG&E's argument that providing goods and services to a local jurisdiction, or the customers within that jurisdiction, for the purpose of keeping those customers as bundled customers of the utility is not "utility-related." Accordingly, we conclude that the Commission has jurisdiction to order utilities to refrain from that activity, in order to promote a level playing field in competition between the investor owned utilities and CCAs, regardless of whether the goods or services are shareholder funded, or, as in the case of certain energy efficiency and other customer programs, are ratepayer funded.

Intending Not to Sell Electricity to CCAs

Energy Division has also been provided a copy of a letter sent by Joshua Townsend of PG&E to the members of Marin Energy Authority, dated February 3, 2009. In that letter, PG&E makes the following statement:

> "…as PG&E has made clear, we intend to continue to provide safe and reliable electric service at reasonable cost to our retail customer in Marin, and we do not intend to respond to requests to supply electricity to Marin Energy Authority or to participate in any way in supplying electricity to a Community Choice Aggregation program in Marin."

This statement appears to conflict with our existing rules that require each utility to dispatch its resources on a least cost basis for the benefit of its bundled customers' electric procurement portfolio. Accordingly, and to promote a level playing field in competition between the utilities and CCAs, we reiterate here that utilities may not refuse to make economic sales of excess electricity to a CCA, or refuse in advance to deal with any CCA in selling electricity, as there is no way of determining in advance, without analysis of the specific facts, whether such a sale would benefit the utility's remaining bundled electric customers.

[24] What is now Ordering Paragraph 4 of this Resolution regulates neither speech nor political activity; it prohibits the provision of goods and services by the utility under specified circumstances.

In its comments on the Second Draft Resolution, PG&E characterizes its February 3rd letter to MEA as responding "to MEA's invitation to PG&E to respond to MEA's request for bidders willing to provide full requirements electricity to supply MEA's load under its CCA program." (Emphasis omitted.) Taken as a whole, it is clear that the purpose of PG&E's February 3rd letter was not to respond to a request for bidders, but rather, as stated in the letter, to persuade MEA to "reconsider your decision to enter into the electricity business in Marin County." Thus, PG&E's letter said that PG&E did not intend (i) to respond to requests to supply electricity to MEA *or* (ii) "*to participate in any way* in supplying electricity to a Community Choice Aggregation program in Marin" (emphasis added). Accordingly, we find the only plausible interpretation of this language from PG&E's letter is to state PG&E's intention to never supply energy to MEA, no matter the circumstances. Accordingly, the Second Draft Resolution properly concluded that PG&E's letter "appears to conflict with our existing rules that require each utility to dispatch its resources on a least cost basis for the benefit of its bundled customers' electric procurement portfolio."[25] This rule requires not only that PG&E purchase electricity at least cost, but that it dispose of excess electricity at the best price.

PG&E further objects to the language contained in Ordering Paragraph 6 of the Second Draft Resolution (now Ordering Paragraph 5 of this Resolution) on the grounds that it intrudes on the exclusive jurisdiction of the Federal Energy Regulatory Commission (FERC) over wholesales sales of electricity under the Federal Power Act. We do not intend to dispute the FERC's jurisdiction over wholesale sales of electricity. Nor does PG&E appear to challenge our jurisdiction to impose a disallowance on a utility that fails to dispatch its resources on a least cost basis for the benefit of its bundled customers' electric procurement portfolio.

We note that under Section 205(b) the Federal Power Act,

> No public utility shall, with respect to any transmission or sale subject to the jurisdiction of the [Federal Energy Regulatory] Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, (16 USC sec. 824d(b)).

[25] For these existing rules, see D.02-10-062, at Section XI, "Standards for Utility Behavior", numbered paragraph 4, and at Ordering Paragraph 15.

It appears to us that any refusal to sell wholesale electricity to a CCA because it is a CCA would violate this provision. We also note that this Commission or a CCA can file a complaint at the FERC if it believes that one of the utilities that we regulate has violated the Federal Power Act.

9. COMMENTS ON THE SECOND DRAFT RESOLUTION

Comments on the Second Draft Resolution were provided by PG&E, SCE, SDG&E, City and County of San Francisco (CCSF), and DRA; reply comments were submitted by PG&E, SCE, CCSF, MEA and SJVPA.

Shareholder funded Marketing Against CCAs

Some of the entities providing comments requested that the Commission review utility marketing materials and not just the materials posted on the utilities' websites. We believe the procedures we have adopted in this Resolution are adequate and will not adopt any additional procedures at this time. However, anyone who believes that any of the utilities' marketing materials are incorrect or misleading may bring their concerns to the attention of Energy Division.

IOU soliciting customer opt-out requests

In its comments on the Second Draft Resolution, which PG&E submitted on January 11, 2010, PG&E stated:

> "Prior to the issuance of the First Draft Resolution, after consultations with the Energy Division, PG&E ceased providing the opportunity to its customers to opt out of a CCA program before the program's Initial Notification Period."

However, in its comments CCSF notes the existence of a toll free number under which customers can contact PG&E to opt out. Commission staff called this number and verified that it still provides an opportunity for a customer to opt out of CCA service even though that customer is located in a jurisdiction that has not yet sent any of the statutorily mandated notices. PG&E is required to stop offering an opportunity to opt out via telephone, or other means, to customers who have not yet received the first of the statutorily mandated notices from their CCA, and take the remedial steps specified in Ordering Paragraph 2.D.

In its comments CCSF asks the Commission to bar utilities "from soliciting opt-outs at any time unless expressly invited to do so by the CCA program." While the four statutory opt-out notices are only to be sent out by the CCA, unless the

CCA requests that the utility send them out, we will not now prohibit the utilities from providing truthful information about how customers can opt out. We note that this issue has also been raised by CCSF in a Petition to Modify (PTM) D.05-12-041, filed in R.03-10-003 on January 11, 2010.

MEA and CCSF raise concerns about the opt-out process for new or relocated customers in a CCA service area. We agree that modification of the tariff rule that applies in this situation is desirable. Furthermore, we are of the view that customers who are unaware of the terms and conditions of the CCA service should be informed of those terms and conditions before being given the opportunity to opt out. CCSF has also raised this issue in its recently filed PTM.[26] We will direct staff to convene an informal meeting of the interested parties to see if consensus can be reached on the specific tariff language needed. If consensus cannot be reached, and if the issue is not resolved in the resolution of the CCSF PTM, staff should prepare a resolution for our consideration.

PG&E requested a change in the wording of Rule 23/27.B.22 to clarify the period during which a customer may opt out. We have modified B.22 to incorporate the thrust, but not the exact wording, of PG&E's request.

PG&E also requested a change to the language we are requiring it to post on its website. Specifically, it requested a change to the paragraph that began: "The terms and conditions provided to you during a CCA's formal notification period…" PG&E sought to emphasize that a CCA may impose a fee for, or limit the ability of a customer to, return to utility bundled service. CCSF objected on the grounds that PG&E was seeking to scare customers with speculative possibilities. Other portions of the material we are requiring PG&E to post on its website already note that the CCA will notify customers of the terms and conditions of CCA service. Accordingly, we delete the paragraph that PG&E sought to modify, rather than try to determine how much detail this website language should provide about terms and conditions that may or may not apply to any particular CCA.

10. FINDINGS AND CONCLUSIONS:

1. No CCA has commenced CCA service in California, pursuant to AB 117.

[26] See CCSF PTM, footnote 54.

2. Until MEA sent out its phase one notices on February 5, 2010, no CCA had provided information about the terms and conditions of its service through the process mandated by P.U. Code Section 366.2 (c)(13)(A-C); such information is necessary in order for customers to make an informed decision as to whether they should opt out of CCA service.

3. PG&E posted an electronic opt-out form on its website, offering PG&E's bundled electric customers an opportunity to opt out of future CCA service that might be offered anywhere in PG&E's service territory.

4. PG&E circulated marketing trifolds to customers within SJVPA's service territory offering them the opportunity to opt out early from CCA service.

5. The purpose of P.U. Code Section 366.2 (c)(13)(A-C) is to provide potential CCA customers with an opportunity to make an informed decision as to whether to opt out of CCA service. Customers cannot make an informed decision at least until they receive the first of the statutorily mandated opt-out notices.

6. PG&E should cease soliciting customers to opt out of CCA service before the statutory notification period provided by P.U. Code Section 366.2 (c)(13)(A-C). However, as long as PG&E does not know which customers are in MEA's phase one, PG&E is not prohibited from soliciting customers throughout MEA's service territory.

7. Any other information that PG&E, or the other utilities, provide describing customers' ability to opt out of CCA service should be consistent with the statutory purpose of P.U. Code Section 366.2 (c)(13)(A-C), the CCA tariffs, the orders contained in this Resolution, and should not be misleading either by inclusion or omission of content.

8. We have not addressed here how to deal with opt-out requests for subsequent phases of MEA's implementation plan or for other CCAs that choose to use a phased implementation plan. We intend to deal with these and other issues in response to the CCSF Petition for Modification of Decision 05-12-041 filed in R.03-10-003.

9. PG&E has sent at least one letter to Novato's City Manager, appearing to link the utility's provision of services to a decision by a local government not to participate in a CCA.

10. The utilities cannot offer to provide, or provide, any goods, services, or programs to a local government, or to the electricity customers within that jurisdiction, on the condition that the local government not participate in a CCA, or for the purpose of inducing the local government not to participate in a CCA. This restriction applies regardless of whether the goods, services, or programs are funded by ratepayers or shareholders. (This restriction would also apply to any plan whereby the utility would pay someone else to provide such goods, services or programs.)

11. The Energy Division has also been provided a copy of a letter sent by Joshua Townsend of PG&E to the members of Marin Energy Authority, dated February 3, 2009. In that letter, PG&E makes the following statement:

> "…as PG&E has made clear, we intend to continue to provide safe and reliable electric service at reasonable cost to our retail customer in Marin, and we do not intend to respond to requests to supply electricity to Marin Energy Authority or to participate in any way in supplying electricity to a Community Choice Aggregation program in Marin."

12. The utilities may not refuse to make economic sales of excess electricity to a CCA, or refuse in advance to deal with any CCA in selling electricity because it is a CCA, as there is no way of determining in advance, without analysis of the specific facts, whether such a sale would benefit the utility's remaining bundled electric customers.

13. In the future, anyone who believes that any of the utilities' marketing materials are incorrect or misleading may bring their concerns to the attention of Energy Division.

14. CCSF notes the existence of a toll free number under which customers can contact PG&E to opt out. This number still provides an opportunity for a customer to opt out of CCA service even though that customer is located in a jurisdiction that has not yet sent any of the statutorily mandated notices.

15. PG&E requested a change in the wording of Rule 23/27.B.22 to clarify the period during which a customer may opt out. We have modified B.22 to incorporate the thrust, but not the exact wording, of PG&E's request.

11. THEREFORE IT IS ORDERED THAT:

1. PG&E, SCE, and SDG&E shall modify two subsections of their CCA tariffs – Electric Tariff Rule 23 B.22 and I.3 for PG&E and SCE and Electric Tariff Rule 27 B.22 and I.3 for SDG&E – as follows: The modified tariff language pursuant to this Resolution shall be filed within 10 days of the effective date of this Resolution, and shall be effective as of the effective date of this Resolution.

   A. Subsection B.22 shall be revised to read:

   > B.22. GENERAL TERMS: Opt-Out of Automatic Enrollment
   > The term "opt-out" or "opt out" is the customer's election not to be served under CCA Service and to continue to receive its existing service. In order to exercise its right not to participate in CCA Service, a customer must request to "opt out" of CCA Service through the required action as prescribed in the CCA Notification. A customer may exercise its opt-out right at any time during a 60-day notification period prior to Automatic Enrollment through the end of the second 60-day notification period subsequent to the Automatic Enrollment of a customer's account to CCA Service. The terms and conditions of CCA service will be made available by the CCA. This CCA-specific information will be provided to customers pursuant to P.U. Code Section 366.2 (c)(13)(A-C) – either directly by the CCA or by [the utility] pursuant to the provisions set forth in Section H – and will enable customers to make an informed decision whether or not to opt out of CCA service. Customers receiving section 366.2(c)(13)(A-C) notices regarding a CCA with more than one planned CCA phase-in date will be provided the required 60-day notices based around the date their particular phase-in commences.

   B. Subsection I.3 shall be revised to read:

   > **I.3. CCA CUSTOMER OPT-OUT PROCESSES**
   > A customer opting out of CCA Service during the Initial Notification Period shall be removed from the Automatic Enrollment process.

2. PG&E – and SCE and SDG&E to the extent necessary – shall take the following actions to address the misunderstanding that PG&E's early CCA opt-out option has created:

   A. Any customer who has previously chosen to opt out of the CCA program through any means whatsoever, including PG&E's website, any opt-out form, or by telephone (except for any customer included in MEA's phase one who opted-out after February 5th, 2010) shall not be removed from the list of potential CCA customers that will be provided to a community implementing a CCA program.

   B. PG&E shall modify the language currently posted on its CCA dedicated webpage. PG&E shall notify the Energy Division on the same day it makes this modification; the modified language shall state the following:

> "You have the right to opt out of Community Choice Aggregation (CCA) procurement service during the CCA program's two formal notification periods. If you opt out, PG&E will continue to procure electricity for you. If you do not opt out during these two notification periods (or any intervening time between them), you will be automatically enrolled in CCA procurement service. In either event, PG&E will continue providing transmission and distribution services to you. Regardless of whether or not you opt out of CCA service you will continue to be eligible for ratepayer-funded programs, such as the California Solar Initiative and energy efficiency programs, that are funded by distribution surcharges.
>
> As part of the CCA notification process, you will receive at least two notices during a 60-day period prior to CCA service commencement and at least two additional notices during a 60-day period after CCA service commencement. These notices will describe the terms and conditions of the CCA service made available to you by the CCA formed in your community and will inform you as to how you may opt out of the program if you choose to do so.
>
> You also have the right to return to PG&E's bundled service after the two 60-day notification periods end; your options for returning during this later period are:
>
> > 1) You can notify PG&E at least six months before the date you want to return to PG&E bundled service that you wish to return to bundled service. When you return to bundled service six months later, you will pay the then-existing bundled electric generation rate, which will be identical to similarly situated PG&E customers in your customer class.

2) If you do not provide PG&E with a full six-months notice, you can return to PG&E bundled service at any time, but you will pay the then-existing transitional electric generation rate – which may be higher or lower than the then existing bundled electric generation rate – until six months after you first gave PG&E notice; thereafter, your bundled electric generation rate will be identical to similarly situated PG&E customers in your customer class.

Whichever option you choose to exercise in order to return to bundled service anytime after the two 60-day notification periods end will require you to make a three-year commitment to bundled service.

For additional information concerning customer rights, obligations, and updates regarding the CCA program you may visit: http://www.cpuc.ca.gov/PUC/energy/Retail+Electric+Markets+and+Finance/070430_ccaggregation.htm

C. If SCE and SDG&E already have information on their websites regarding the CCA program (including a CCA dedicated webpage, but excluding the posting of tariff pages) this content shall be forwarded to Energy Division, to allow for staff review at this time. In the future, whenever any of the utilities modify their websites to include new or revised language, illustrations, or images regarding the CCA program they shall notify the Energy Division on the same day they make the modification. The Energy Division will direct the utilities to make changes to any information it finds incorrect or misleading.

D. PG&E shall send a letter, with a copy to the Energy Division, to any customer who prior to the date of this Resolution has opted-out of CCA service using any means whatsoever, including PG&E's website, any opt-out form, or telephone, explaining that the opt-out request will not take effect in light of the changes this Resolution makes to the CCA tariffs. (However, PG&E shall follow the procedure set forth in paragraph F, below, for sending letters to customers in MEA's service territory and therefore this letter shall not be sent to anyone in MEA's service territory who opted-out after February 5th, 2010). This letter shall be sent to the Energy Division for review and approval within 10 days of the effective date of this Resolution and shall be mailed to customers within 5 days of Energy Division's approval.

We encourage PG&E to use the following language in this letter:

> "Your opt-out request will not take effect because the community your account is located in has not initiated the statutorily mandated CCA opt-out notification process.
>
> You will receive at least two notices during a 60-day window period before CCA service commencement and at least two additional notices during a 60-day window period after CCA service commencement containing the terms and conditions of CCA service that will be provided to you by the CCA program in your community. If you seek to opt out of CCA service, you will be able to do so during these two separate 60-day notification periods (and any intervening time between them) at no additional cost to you.
>
> If you do not opt out of the CCA program during this designated time, you still have the right to return to PG&E's bundled service after this designated time by providing PG&E with a six-month advance notice requesting to have your account return to PG&E bundled service. If you do not provide PG&E with a full six-month advance notice when returning to PG&E bundled service, you will pay the then-existing transitional electric generation rate – which may be higher or lower than PG&E's then existing bundled electric generation rate – until six months after you first gave PG&E notice. Regardless of when you choose to return to PG&E bundled service, you will be required to make a three-year commitment to PG&E's bundled electric service.
>
> For additional information concerning customer rights, obligations, and updates regarding the CCA program you may visit: http://www.cpuc.ca.gov/PUC/energy/Retail+Electric+Markets+and+Finance/070430_ccaggregation.htm

E. Any opt-out request that PG&E receives after the date that this Resolution is effective, and before a CCA issues to that customer the first of the statutorily mandated opt-out notifications, shall not become effective. PG&E shall send the same letter discussed in Ordering Paragraph 2.D to those customers (and also send a copy to the Energy Division), and those customers shall not be removed from the list of potential CCA customers that will be provided to a community implementing a CCA program.

F. With regard to MEA, PG&E shall do the following: PG&E shall send a letter as described in Ordering Paragraph 2, as modified appropriately to reflect the specific situation of these customers, to all customers in MEA's service territory who elected to opt out but who were not part of MEA's

phase one. PG&E shall submit the text of this letter to the Energy Division for review and approval within 10 days of the effective date of this Resolution and send it to the affected customers, with a copy to the Energy Division, within 10 business days after PG&E receives from MEA the list of MEA's phase one customers.

3. Electric utilities shall not make available to their customers any mechanism for opting out of CCA service before the commencement of the statutorily mandated notification period.

4. Electric utilities cannot offer to provide, or provide, any goods, services, or programs to a local government, or to the electricity customers within that jurisdiction, on the condition that the local government not participate in a CCA, or for the purpose of inducing the local government not to participate in a CCA. This restriction applies regardless of whether the goods, services, or programs are funded by ratepayers or shareholders. (This restriction also applies to any plan whereby the utility would pay someone else to provide such goods, services, or programs.)

5. Electric utilities may not refuse to make economic sales of excess electricity to a CCA, nor refuse in advance to deal with any CCA in selling electricity because it is a CCA.

6. Staff shall convene an informal meeting of the interested parties to see if consensus can be reached on the tariff language needed to specify how the opt-out process for new or relocated customers in a CCA service area will work. This tariff language shall ensure that customers who are unaware of the terms and conditions of the CCA service will be informed of those terms and conditions before being given the opportunity to opt out. If consensus cannot be reached, and if the issue is not resolved in the resolution of the CCSF Petition To Modify D.05-12-041 in R.03-10-003, staff should prepare a resolution for our consideration.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on April 8, 2010, the following Commissioners voting favorably thereon:

/s/ Paul Clanon
Paul Clanon
Executive Director

MICHAEL R. PEEVEY
PRESIDENT
DIAN M. GRUENEICH
JOHN A. BOHN
NANCY E. RYAN
Commissioners

I will file a dissent.

/s/ Timothy Alan Simon
Commissioner

I will file a concurrence.

/s/ John A. Bohn
Commissioner

Dissent of Commissioner Timothy Alan Simon
April 8, 2010 Commission Meeting

1. Introduction

Before the CPUC April 8, 2010 meeting, I asked for the support of Energy Division and Legal Divisions to update the Resolution on one narrow issue. However, the Resolution was not changed and the majority of the CPUC voted in favor of that proposed Resolution. [*Item 3 on the April 8, 2010 Agenda].*

As a result of that vote in favor of the Resolution, I submit the following Dissent, to that portion of the Resolution which invalidates customer choices to opt out before the date this Resolution is effective.

3. Background and Discussion

AB 117 enables cities and/or counties to implement a Community Choice Aggregation or CCA program. I support Community Choice Aggregation and I support the bulk of the Resolution for this item.

However, I do not support one narrow area of the Resolution. To date the law and regulations do not prohibit the utility from accepting a customer's decision to "opt out" of a CCA before the CCA initiates its own Opt Out. This Resolution updates the rules to prohibit a customer from accepting "opt-out" customer choice until the CCA terms and conditions are known. I strongly support this updated rule on a going forward basis. However, this Resolution would also invalidate customer decisions to opt out—that is, it would invalidate the decisions of those customers who have already "opted out" of a CCA. This is the narrow piece that I oppose**.**

As mentioned above, I did work with Energy and Legal Divisions to try to obtain an alternative process proposal which would prohibit early "opt out" on a going forward basis but which would Grandfather decisions by customers who have opted out early under the Commission's existing Tariff Rule.

I don't make this decision lightly because, as I said, I support Community Choice Aggregation and support strong rules going forward. However, I believe from a freedom of contract basis and from a perspective of customer choice, I would have preferred the process I just outline and cannot support the current Resolution.

4. Conclusion

It is for these reasons provided above that I must respectfully dissent on this Resolution.

/s/ TIMOTHY ALAN SIMON
Timothy Alan Simon
Commissioner

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CONCURRENCE OF COMMISSIONER BOHN

In this resolution the Commission places restrictions on utility activities in an effort to ensure that consumers can make well informed decisions in choosing an energy provider, and to ensure that utilities do not unfairly subvert the Community Choice Aggregation (CCA) process. While I support this decision, I think we must be careful that in our efforts to ensure a fair opportunity for CCAs, we do not inadvertently tip the playing field.

Utilities have the right, and some would argue the duty, to make their case to customers. We should not simply assume that any commentary on their part is misrepresentation, or that every claim by a proponent of a CCA is accurate and balanced. Where a proponent of a CCA is making inaccurate statements, the utility has an affirmative obligation to respond if it sees a problem.

I support this resolution, and believe that the restrictions we adopt at this time are reasonable and should provide CCA proponents with a fair opportunity to compete for customers, without unduly restricting the reasonable activities of utilities. However, I am troubled by one aspect of this resolution. Pacific Gas and Electric Company's (PG&E) past efforts to have customers opt out of CCA services prior to the Initial Notification Period were allowed under the Commission's rules, prior to the changes we adopt in this decision. While some may question the content of PG&E's communications, the resolution does not demonstrate or find that PG&E's activities were inappropriate under the rules then in place. Since these actions were allowed at the time, I do not believe it is necessary nor appropriate that we are retroactively negating the choice of those customers contacted by PG&E to opt out.

/s/ JOHN A. BOHN

John A. Bohn
Commissioner

San Francisco, CA
April 8, 2010

Attachment 5

List and Description of Issues Provided by MCE
on December 10, 2010
for the First Quarter Report
Submitted by the CPUC on January 31, 2011

List and Description of Issues Provided by MCE on December 10, 2010 for the First Quarter Report Submitted by the CPUC on January 31, 2011

Report to Legislature, Part A

Document	Subject
Page 1 of form	Phone banking impacts verification
Attachment 1.1	No differentiation between generation & non-generation charges on bill
Attachment 1.2	Bundled rate factors showing up on MCE bills
Attachment 1.3	Need for third-party viewing of customer bills
Attachment 1.4	PG&E call center providing mis-information to customers
Attachment 1.5	CARE data not being provided to MCE
Attachment 1.6	Balanced Payment Plan customers being double billed for generation
Attachment 1.7	"Return to Bundled Service" form directs customer to PG&E for opt out
Attachment 1.8	PG&E not providing usage to MCE
Attachment 1.9	Net energy metering: bill presentment
Attachment 1.10	New customers being opted out by PG&E
Attachment 1.11	Invoice cancellation transaction support
Attachment 1.12	Rate restructuring to impose added costs on CCA

Report To the Legislature

Providing "Detailed Information On The Formal Procedures Established By The Commission In Order To Monitor And Ensure Compliance By Electrical Corporations With Chapter 838, Statutes Of 2002"

First Quarterly Report
Submitted January 31, 2011

The Energy Division has developed a standard 3-part reporting form to comply with Part (a) of the reporting requirement. Each part of the form will be completed by the CCA, the IOU, and Commission staff, respectively.

d. A detailed description of the commission's process for enabling communities interested in becoming community choice aggregators, communities currently in the process of becoming community choice aggregators, and existing community choice aggregators to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2, which requires the utility to "cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs."

    a. The description shall include the process provided by the commission to allow prospective or existing community choice aggregators to identify specific matters on which the utility is not considered to be cooperating fully.

        i. For each identified matter, the prospective or existing community choice aggregator shall detail in writing the issue, the lack of full cooperation, and the personnel at the utility with whom the community choice aggregator is working.

        ii. The utility shall be required to respond in writing by providing a specific solution to the matter raised by the prospective or existing community choice aggregator, including a date-specific timeline for accomplishing the solution, and the names of personnel responsible for providing the solution.

    b. The commission's report to the Legislature shall provide a detailed summary of each matter identified and initiated by the community choice aggregator, and a detailed verification of the utility's actions taken to address and resolve these issues, including verification of the satisfaction of the community choice

aggregator. The report shall also itemize any matters that have been improperly raised by the community choice aggregator using this process.

List and Description of Issues Provided by MCE on December 10, 2010 for the First Quarter Report Submitted by the CPUC on January 31, 2011

Attachment 1: Reporting form for [Part (a) Process]

Part (a): Process for existing and prospective CCAs to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2, which requires the utility to "cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs."

PART 1 (to be completed by CCA)

Submitted by:

Name	Jordis Weaver
Title	Administrative Associate
Phone	415.464.6021
e-mail	jweaver@marinenergyauthority.org

Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

Phone banking by PG&E to MEA customers caused many opt outs under false pretenses and MEA has never received verifiable data on which customers were contacted and which method customers used to opt out.

Please provide a detailed description of the issue (add lines or pages as needed):

Phone banking was conducted by PG&E between the months of February and April 2010 in Marin County opt customers out of the MCE program before enrollment or service by MCE had occurred. The phone banking established the idea in prospective customers' minds that if they did not choose to opt out of MCE their lights might go out and their electricity supply would fail. (PG&E is required by law to transmit and distribute electricity to MCE customers.) Customers were urged to opt out unlawfully, outside of the statutory opt out process, and before receiving the terms and conditions from the MCE program.

Customers reported being told many things by PG&E's phone banking vendor that were untrue to persuade them to opt out including, for example, that PG&E was buying new green power and to receive it the customer needed to opt out of MCE or that their power supply might not be maintained adequately unless they opted out on the phone at that time.

MCE has requested verifiable data from PG&E showing how many customers were contacted by phone, how many opted out through a utility-initiated phone call, and what method of opt out was selected by the remaining customers opting out so that MCE can insure that accurate

information is provided to these customers. This data is also needed to insure transparency around PG&E's actions in Marin County.

Please describe the lack of full cooperation (add lines or pages as needed):

MCE requested that the unlawful phone-banking stop but it continued for several weeks and penetrated the majority of the Marin customer base. After the phone banking was ultimately terminated by the CPUC, MCE requested the data on the number of customers PG&E's vendor called to opt out of MEA and data on how many actually opted out by what method. After requesting this information MCE was told that it could not be provided due to customer confidentiality. MCE believed that the confidentiality concerns were not valid due to the NDA's already executed between PG&E and MCE, the level of customer-specific data already transferred between PG&E and MCE, and the business concern that mis-information provided to the customer needed to be corrected.

This information has still not been provided to MCE or the CPUC for verification.

Please list the personnel at the utility with whom the community choice aggregator is working:

Name	Title	Phone Number	e-mail
Bill Chen	PG&E | Energy Solutions & Service	415-973-7233	whc9@pge.com
Tom Varghese	PG&E | Energy Solutions & Service	415-973-7233	Trv2@pge.com

PART 2 (to be completed by Utility, 5 business days after notification by Energy Division)
Submitted by:

Name	
Title	
Phone	
e-mail	

"The utility shall be required to respond in writing by providing a specific solution to the matter raised by the prospective or existing community choice aggregator, including a date-specific timeline for accomplishing the solution, and the names of personnel responsible for providing the solution."

Please describe the specific solution to the matter raised by the prospective or existing Community Choice Aggregator (add lines or pages as needed):

Please provide the date-specific timeline that the IOU will follow in order to accomplish the solution (add lines or pages as needed):

Names of utility personnel responsible for providing [and implementing] the solution

Name	Title	Phone Number	e-mail

PART 3 (to be completed by Commission staff, 10 days following receipt of Part 2 from the IOU)

"The commission's report to the Legislature shall provide a detailed summary of each matter identified and initiated by the community choice aggregator, and a detailed verification of the utility's actions taken to address and resolve these issues, including verification of the satisfaction of the community choice aggregator. The report shall also itemize any matters that have been improperly raised by the community choice aggregator using this process."

Summary of each matter identified and initiated by the Community Choice Aggregator (add lines or pages as needed):

Detailed verification of the utility's actions taken to address and resolve these issues (add lines or pages as needed):

Verification of the satisfaction of the community choice aggregator (add lines or pages as needed):

Name(s) of CPUC personnel responsible for preparing this response

Name	Title	Phone Number	e-mail

Itemize any matters that have been improperly raised by the Community Choice Aggregator using this process (add lines or pages as needed):

List and Description of Issues Provided by MCE on December 10, 2010 for the First Quarter Report Submitted by the CPUC on January 31, 2011

Attachment 1: Reporting form for [Part (a) Process]

Part (a): Process for existing and prospective CCAs to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2, which requires the utility to "cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs."

PART 1 (to be completed by CCA)

Submitted by:

Name	Jordis Weaver
Title	Administrative Associate
Phone	415.464.6021
e-mail	jweaver@marinenergyauthority.org

Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

There is no differentiation between generation and non-generation electric charges on MCE customer bills, leading customers to believe they are being double charged for electricity.

Please provide a detailed description of the issue (add lines or pages as needed):

There is no differentiation on the customer bill between generation and non-generation electric charges by PG&E and MCE. Instead, on the summary page (first page) and in other locations in the bill the PG&E electric charges (primarily for transmission and distribution) and the MCE electric charges (for generation only) are both shown as "electric" charges with no differentiation. The bill appears, therefore, to be showing electric PG&E charges and then duplicate or additional electric MCE charges. Many customers opt out because they believe they are being double-charged for electricity and paying both PG&E and MCE for the same usage.

Please describe the lack of full cooperation (add lines or pages as needed):

The request to differentiate between generation and non-generation charges was first made to PG&E representatives in April, 2010, before service began to customers. At that time a sample bill was also requested from PG&E so that MCE could verify if the generation and non-generation charges would be differentiated. PG&E representative stated that they would provide a sample bill, but they were unable to provide MCE with a sample bill despite multiple requests over a two month period. During this time period PG&E representatives stated that the differentiation would occur and MCE had no reason to believe otherwise.

Unfortunately, MCE was never provided with a sample bill from PG&E representatives and therefore did not see how charges would appear until a local municipal customer provided MCE with a copy of their bill. This bill, and no subsequent customer bills have ever differentiated between generation and non-generation charges.

The majority of the calls that MCE received after billing began in June and July were from customers who believed they were being double charged for electricity usage because there were two 'electric' charges on the bill with no differentiation. Many of these customers opted out of MCE for this reason.

PG&E representatives have been looking into this issue for many months and currently state that MCE must wait until the 'bill redesign' process that will occur sometime in 2011 or 2012. When the 'bill redesign' process is brought to the CPUC for consideration PG&E representatives have stated that MCE will need to advocate for this differentiation to be on the bill as PG&E is not willing to make the change part of its overall 'bill redesign' recommendations.

Customers continue to call the MCE call center and ask to opt out of MCE because they believe they are being double charged for their electricity usage.

Please list the personnel at the utility with whom the community choice aggregator is working:

Name	Title	Phone Number	e-mail
Sebastien Csapo	PG&E | Energy Solutions & Service	415-973-7370	sscb@pge.com
Calvin Yee	Corporate Account Manager- ESP Services	415-973-5683	CMY1@pge.com
Eric Jacobson	Regulatory Relations	415-973-4464	EBJ1@pge.com

List and Description of Issues Provided by MCE on December 10, 2010 for the First Quarter Report Submitted by the CPUC on January 31, 2011

Attachment 1: Reporting form for [Part (a) Process]

Part (a): Process for existing and prospective CCAs to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2, which requires the utility to "cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs."

PART 1 (to be completed by CCA)

Submitted by:

Name	Jordis Weaver
Title	Administrative Associate
Phone	415.464.6021
e-mail	jweaver@marinenergyauthority.org

Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

All PG&E bills going out to MCE customers are showing the "bundled" rate factors rather than the "unbundled" rate which the customer is actually paying. This leads customers to believe they are being double-charged for electricity.

Please provide a detailed description of the issue (add lines or pages as needed):

Although MCE customers are no longer 'bundled' utility customers, the bundled rate factors are continuing to appear for the PG&E electric charges on the PG&E portion of the bill. These bundled rates can be found in the tier break-down of the 'electric account detail' section. This inaccurate bill presentation makes it impossible for the customer to recalculate their bill accurately because the bundled rates do not add up to the total charges.

This misleading information causes customers to believe they are being double-charged for electricity as the rate factors are the same as before they were taking service from MCE. When customers call the MCE call center for an explanation of this issue and are told that the rate factors appearing on their PG&E bill are simply wrong, they frequently do not trust that response and do not find that explanation to be satisfactory.

This misleading bill is another trigger for customers to express concerns with their service as an MCE customer and results in customers opting out.

Please describe the lack of full cooperation (add lines or pages as needed):

This issue was brought to PG&E's attention in July, 2010 after customer bills were available for MCE to view. If a sample bill had been provided by PG&E earlier, as requested by MCE in April, the request from MCE for this correction would have come earlier.

MCE requested that the unbundled rate be shown instead of the bundled rate, or that, at a minimum, the unbundled rate be suppressed on the customer bills. For approximately six weeks PG&E representatives stated that this was not a concern that could be resolved.

This issue was then brought to the attention of the CPUC Energy Division in late August, 2010. After Energy Division staff requested that PG&E find a way to resolve this issue PG&E representatives reported that although they could not correctly show the 'unbundled' rate, they may be able to suppress the bundled rate and provide a 'message' on the bill, below the charges, to explain to customers what the unbundled rate is for each tier.

An 'explanation message' to that effect was drafted by MCE and PG&E and agreed to by MCE. In late October MCE was notified that the bundled rate could actually not be suppressed until November, that it would only be suppressed for a portion of customers (Res-E1) and that the remaining customers would not have the bundled rate suppressed until March, 2011 at the earliest. In addition, MCE was notified by PG&E that the message explaining the unbundled rate would only be accurate for Res-E1 customers, and that for non-Res-E1 customers, the 'explanation message' itself would be incorrect.

As of early December, 2010, to the best of MCE's knowledge, none of the proposed changes have been implemented. The bundled rate is still showing up on the customer bill, no suppression of the incorrect rates has occurred for any customer, and no 'explanation message' is appearing on the customer bill. If eventually implemented, the changes proposed by PG&E will still not resolve this issue for several thousand customers.

In discussing this issue PG&E representatives have expressed frustration that their billing system is inflexible and difficult to modify. While this is likely to be a valid issue, it is worth noting that PG&E was well aware of Marin's plans to develop a CCA program dating back to 2005, was aware of MEA's CCA Implementation Plan submitted to the CPUC in December, 2009, and even signed a service agreement with MEA in early 2010. PG&E was thus provided with ample time to devote some resources to 'system set up' to prepare for CCA Service. To have no way of addressing this predictable issue one year after MEA's Implementation Plan was submitted seems to demonstrate significant negligence rather than productive efforts to serve the customer.

Please list the personnel at the utility with whom the community choice aggregator is working:

List and Description of Issues Provided by MCE on December 10, 2010 for the First Quarter Report Submitted by the CPUC on January 31, 2011

Name	Title	Phone Number	e-mail
Sebastien Csapo	PG&E | Energy Solutions & Service	415-973-7370	sscb@pge.com
Eric Jacobson	Regulatory Relations	415-973-4464	EBJ1@pge.com

List and Description of Issues Provided by MCE on December 10, 2010 for the First Quarter Report Submitted by the CPUC on January 31, 2011

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Submitted by:

Name	Jordis Weaver
Title	Administrative Associate
Phone	415.464.6021
e-mail	jweaver@marinenergyauthority.org

Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

PG&E is not allowing MCE staff, data manager or call center access to customer bills to allow for effective customer service and customer support for MCE customers who call with confusion and questions about their bills.

Please provide a detailed description of the issue (add lines or pages as needed):

There is a need for 3rd party viewing of the customer bill (electronically or some other method) for MCE representatives to assist customers who cannot understand their bill and need to be assisted. This is particularly an issue for customers who are seeing the bundled rate on the bill and cannot recalculate it correctly. This is also an issue for net metering customers who want to understand why charges are being applied incorrectly by PG&E. It is also an issue for customers who believe they are being double-charged for electric usage because there is no differentiation between generation and non-generation electric charges. Currently, MCE can only access MCE charges and this limits the ability of our customer service representatives to explain issues that relate to our interface with PG&E as the billing entity. It results in customers having to physically bring in their bill or fax it to MCE to allow for a review of the charges and a response to their questions.

Please describe the lack of full cooperation (add lines or pages as needed):

MCE requested this information in July 2010. PG&E expressed confidentiality concerns and technical capacity concerns in response to this request. MCE believes confidentiality concerns are not valid as NDA's have been executed by all parties and customer-specific data is already available to MEA representatives under protection from the NDA. If confidentiality concerns were, in fact an issue they could also be resolved by requesting consent from the customer.

PG&E representatives stated that they looked into the technical feasibility of providing data but reported that it would be unlikely for any progress to be made on this front until a third-party viewing system is put in place sometime in 2012.

Please list the personnel at the utility with whom the community choice aggregator is working:

Name	Title	Phone Number	e-mail
Sebastien Csapo	PG&E | Energy Solutions & Service	415-973-7370	sscb@pge.com

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PART 1 (to be completed by CCA)

Submitted by:

Name	Jordis Weaver
Title	Administrative Associate
Phone	415.464.6021
e-mail	jweaver@marinenergyauthority.org

Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

PG&E telephone representatives provide inaccurate and misleading information to MCE customers causing confusion, frustration and opting out under false pretenses.

Please provide a detailed description of the issue (add lines or pages as needed):

Since MCE's formation PG&E has provided misinformation to energy customers in Marin in a wide range of areas related to MCE. This began in February, 2010 when PG&E's outbound call campaign led customers to believe that they needed to opt out to ensure reliable energy delivery.

Although the outbound calls from PG&E are no longer occurring, customers who call into PG&E's call center continue to receive incorrect and misleading information from call center representatives (CSRs). Most, if not all of this misinformation has a negative impact on MCE's relationship with the customer. At a minimum, the issue causes customer confusion and frustration, and in many cases it has even caused customers to opt out of MCE service under false pretenses, believing the misinformation to be true.

Within the last three months PG&E's call center has provided misleading or inaccurate information to customer such as:
1. MCE charges are "extra" and opting out will allow them to eliminate these "extra" charges.

2. If a customer is with MCE, they will pay more to PG&E for transmission and distribution charges
3. PG&E will pay more to net-metering customers than MEA
4. There is no '3-year stay' requirement for a customer who returns to PG&E

Below is a sampling of calls logged to MCE on five select days in September, 2010. This sample outlines and illustrates the ongoing misinformation PG&E is providing to MCE customers with significant negative impacts:

9/7/10 at 1:50 pm- Customer had just spoken with a PG&E CSR prior to calling MCE to opt out. CSR told her that there is no transitional rate or 3-year no-switching rule. The customer called MCE to opt out after getting this information from PG&E. *Note: PG&E requires that customers who return to PG&E service must stay with PG&E for at least 3 years before they can switch back to MCE.*

9/7/10 at 2:30 pm- Customer was told by PG&E CSR 'Joyce' at the Stockton call center and PG&E CSR Supervisor 'Brett' at the Fresno call center that he had only been with MCE for 4 billing periods so he would return to PG&E at the standard bundled rate. *Note: This is contrary to PG&E policy as the transitional rate would apply.*

9/8/10 at 10:06 am- Customer had called MCE on 7/23/10 to opt out and the opt out was processed and confirmed by MCE. The customer called the PG&E call center on 9/7/10 to confirm that the opt out had been processed correctly. On the call, which was 1.5 hours in duration, the PG&E CSR told the customer that he is still active in the MCE program, even though he is actually opted out. *Note: This puts the customer in the difficult position of not being able to trust MCE representatives and having to dedicate more time on the telephone to resolve the issue.*

9/8/10 at 11:51 am- Customer called PG&E 9/3/10 to pay her bill. The PG&E CSR told the customer to call MCE to pay her bill. *Note: customers can only pay their bill through PG&E. This is confusing and frustrating for the customer, particularly, given the long wait times on PG&E calls.*

9/8/10 at 11:42 am- Customer was told by PG&E CSR that PG&E was only handling his gas account and that MCE is handling the customer's electric account. *Note: While this would not be the case, even for an MCE customer, this customer was actually opted out of MCE as of 7/16/10.*

9/9/10 at 11:33 am- A PG&E CSR told the customer that the MCE charges are 'additional' and that he is paying more for transmission and distribution because of MCE. The customer was told that his bill was much higher because of MCE. The customer opted out because of this information.

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9/9/10 at 3:03 pm- A PG&E CSR told the customer at approximately 3pm on 9/9/10 that he would not be able to return to a transitional rate if he opted out after the 'opt out period' and thus, needed to opt out now. The customer opted out because of this information.

9/10/10 at 2:49pm- Customer was told by a PG&E CSR that if she was not with MCE she would not have a generation charge and would only pay for transmission and distribution. MCE representative told her this was incorrect. She did not believe the MCE representative and said she will likely choose to opt out.

9/20/10 at 11:27 am- A PG&E CSR told the customer that the MCE charges were "extra" and that PG&E would no longer charge her the generation costs if she opted out and switched back to PG&E.

9/22/10 at 1:12 pm- The customer called PG&E to request an energy audit. PG&E told him they no longer offer that service and he needs to contact MCE.

Please describe the lack of full cooperation (add lines or pages as needed):

This issue was brought to PG&E's attention in May, 2010 when MCE began serving customers. Various instances of misinformation were the subject of ongoing, weekly operations calls between MCE, MCE's data manager (Sempra Energy Solutions/Nobel Group) and PG&E.

PG&E representatives responded by stating that their call center representatives would not always use scripts provided to them, that call center representative have so many issues to respond to that the CCA-related issues are not possible to stay up-to-date on, and that the call center, in general, could not be expected to always provide accurate information. PG&E representatives also requested that MCE keep track of call center mis-information being provided to MCE customers and give weekly reports to PG&E so that they could follow up internally after-the-fact.

While MCE was not opposed to internal follow-up and complied with PG&E's request to track calls (at our own expense), MCE requested a proactive solution that would prevent the issues from continuing to arise. MCE suggested that a small, 5-person team could be specifically trained to respond to questions from the CCA customer-base, thus addressing PG&E's concerns around training for all CSR's (customer service representatives). PG&E was not willing to establish such a team or provide any other proactive solution. This issue has not been resolved.

Please list the personnel at the utility with whom the community choice aggregator is working:

Name	Title	Phone Number	e-mail
Sebastien Csapo	PG&E | Energy	415-973-7370	sscb@pge.com

	Solutions & Service		
Bill Chen	PG&E | Energy Solutions & Service	415-473-7233	Whc9@pge.com

Attachment 1: Reporting form for [Part (a) Process]

Part (a): Process for existing and prospective CCAs to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2, which requires the utility to "cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs."

PART 1 (to be completed by CCA)

Submitted by:

Name	Jordis Weaver
Title	Administrative Associate
Phone	415.464.6021
e-mail	jweaver@marinenergyauthority.org

Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

PG&E will not provide data on CARE customers to MEA.

Please provide a detailed description of the issue (add lines or pages as needed):

When MCE was in the process of enrolling customers with PG&E, data on which customers were receiving the CARE rate was provided to MCE. This data was provided so that these customers could be provided with the equivalent MCE rate, to avoid potential hardship for the customer.

After enrollment was complete and service began, new customers began to move into MCE enrolled addresses, and some customers applied for the CARE rate post-enrollment. To accommodate the needs of any new CARE customers MCE requested that PG&E provide data on any new CARE customers being served by MCE.

PG&E representatives have not provided this data, and as a result MCE is unable to offer the CARE-equivalent rate to customers who qualify for the CARE rate.

Please describe the lack of full cooperation (add lines or pages as needed):

This issue was the subject of ongoing weekly calls between MCE, MCE's data manager and PG&E representatives in August and September, 2010. PG&E representatives initially offered to look into the issue and after several weeks reported that they would not be able to provide the data due to confidentiality concerns.
MCE noted that this data had been provided previously, and furthermore, would fall under MCE's signed non-disclosure agreement (NDA). However, PG&E representatives were still not willing to provide the CARE data.

MCE suggested in October, 2010 that at least to address the issue on a going forward basis, that a 'check box' could be added to the customer's CARE application form explicitly allowing PG&E to share this information with third-party energy providers. PG&E representatives agreed that this might resolve the issue on a going forward basis, but they have not taken any steps, to MCE's knowledge, to make this change to the form.

Since enrollment of MCE customers in April, 2010 no CARE data has been provided to MCE and PG&E has not suggested or followed through with any strategy to resolve this issue.

Please list the personnel at the utility with whom the community choice aggregator is working:

Name	Title	Phone Number	e-mail
Sebastien Csapo	PG&E | Energy Solutions & Service	415-973-7370	sscb@pge.com
Eric Jacobson	Regulatory Relations	415-973-4464	EBJ1@pge.com
Bill Chen	PG&E | Energy Solutions & Service	415-473-7233	Whc9@pge.com

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Title	Administrative Associate
Phone	415.464.6021
e-mail	jweaver@marinenergyauthority.org

Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

PG&E double-billing MCE customers by charging them for PG&E generation twice.

Please provide a detailed description of the issue (add lines or pages as needed):

AB117 provides that when a customer switches to CCA service their generation will be supplied by the CCA party and the distribution utility will cease charging the customer for generation. After MCE began service to customers in May, 2010 it came to our attention that some customers, specifically those who were on a Balanced Payment Plan (BPP) with PG&E, were continuing to be charged for generation from PG&E. These PG&E generation charges were being levied on customers in addition to the generation charges from MCE. This resulted in the customer being double-charged for generation. This also resulted in calls from customers concerned about the sharp increase in their bill since MCE service began, and it resulted in many customers opting out of the MCE program.

As described in the section below the CPUC Energy Division staff requested that PG&E correct this issue in late August and PG&E has stated that it is resolved. However, the methodology being used by PG&E to bill BPP customers has not been made available to MCE to verify resolution of the issue. Below is an MCE call center log from mid-October indicating that the issue has actually not been resolved:

10/12/10 8:00 am – Customer spoke with a PG&E CSR supervisor at the Sacramento call center and was told that if they were not with MCE they would have had a BPP of $600 but since they were with MCE their BPP amount was $1000. He stated that the PG&E transmission and distribution portions of the bill are still not balanced and that the payment amount varies month to month. Customer was also told that when his BPP is recalculated the past due balances are added in and used towards the calculations. The customer is very upset that this is still not resolved and has been attempting to correct since May, 2010.

This call-center log was sent to PG&E and the response from PG&E was as follows:

"This customers' BPP is $582, not $1000 which is stated in the attachment. The confusion is coming in because the customer is being billed BPP + Sub SA charges. The payoff balance was included in the recalculation to avoid putting this customer in debt. This will be eliminated when the BPP amount can automatically be calculated by the system when there are just 12 months of T&D charges."

The customer call and the response from PG&E both demonstrate that there is no clarity on how or if the BPP issue has been resolved. PG&E has been asked to provide some evidence of the correct methodology actually being used to bill BPP customers.

Please describe the lack of full cooperation (add lines or pages as needed):

This issue was brought to PG&E's attention after customer billing began in June, 2010. Initially, PG&E representative responded by stating that the double charges were not occurring. MCE and MCE's data manager worked with PG&E representatives by receiving copies of bills directly from customers, and walking PG&E representatives through the issue. After several weeks PG&E representatives acknowledged the issue but did not express a willingness to resolve the issue.

MCE requested that at a minimum, BPP customers could call PG&E and request that their BPP amount be recalculated without the generation charges on a going forward basis. PG&E agreed to do this for customers if they called in and stated that it would be effective on the customers' next bill.

PG&E was not willing to proactively make the fix for all BPP customers, however. Many weeks went by with customers continuing to be double-charged for generation and many customers choosing to opt out because of this issue.

MCE attempted to engage the CPUC Energy Division staff to help resolve the issue for several weeks and ultimately was able to scheduling a meeting with PG&E representatives, MCE and CPUC Energy Division staff in late August, 2010. At the meeting Energy Division staff insisted that PG&E resolve the issue within 5 days and

customers are now being charged correctly. PG&E was not willing to provide this information and sited 'confidentiality' concerns. Although they were willing to provide this information to the CPUC Energy Division, it was unclear if the Energy Division would have the capacity to review the bills and methodology for accuracy.

This verification of correct methodology being used for BPP customers is still outstanding.

Please list the personnel at the utility with whom the community choice aggregator is working:

Name	Title	Phone Number	e-mail
Sebastien Csapo	PG&E | Energy Solutions & Service	415-973-7370	sscb@pge.com
Bill Chen	PG&E | Energy Solutions & Service	415-473-7233	Whc9@pge.com

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Phone	415.464.6021
e-mail	jweaver@marinenergyauthority.org

Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

PG&E's "Return to Bundled Service" form does not direct customer to contact MCE to opt out, but instead directs the customer to reply directly to PG&E.

Please provide a detailed description of the issue (add lines or pages as needed):

In May, 2010 the CPUC Energy Division directed PG&E to terminate the processing of opt outs for MCE's CCA customers and turned the opt out process over to MCE. Despite this clear directive, PG&E has developed a form for customers who wish to return to bundled service and provided instructions on the form for all customers (including MCE customers) to return the form only to PG&E. Furthermore, PG&E has been attempting to process these opt out requests, in violation of the clear CPUC directive.

The CPUC directive followed months of abuses by the utility which tampered with the integrity of the opt out process. This ranged from a marketing campaign filled with mis-information about MCE, outbound calls aggressively pushing customers to opt out under false pretenses and prior to receiving any terms and conditions from MCE, and encouraging customers to opt out under methods not approved by the statutory process. Given these recent actions by PG&E it is clear that their involvement in the opt out process would diminish or completely threaten the integrity of the process.

MCE has requested that the instructions simply include the following statement, "If you are a customer of Marin Clean Energy this Notice to Return to Bundled Service form must be returned to MCE at…"

Without adding this language PG&E is acting in violation of the clear directive from the CPUC Energy Division in May, 2010 requiring that customers contact MCE directly to opt out.

Please describe the lack of full cooperation (add lines or pages as needed):

After PG&E representatives attempted to process customer opt outs using this form MCE notified them that this practice violated the May directive from the CPUC Energy Division and needed to be halted. Initially, there was no response from PG&E representatives but the representative attempted to process several other opt outs the following week.

MCE requested that a change be made to the form to avoid customer confusion and insure that the form was submitted in compliance with CPUC directive. PG&E representatives responded that the form could not be changed without approval of the full Commission. To our knowledge, PG&E has not initiated a process at the CPUC to make the requested change to the form and as a result the form continues to direct customers to submit the form only to PG&E.

Please list the personnel at the utility with whom the community choice aggregator is working:

Name	Title	Phone Number	e-mail
Sebastien Csapo	PG&E | Energy Solutions & Service	415-973-7370	sscb@pge.com
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Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

PG&E not providing energy usage to MCE to allow for customer billing.

Please provide a detailed description of the issue (add lines or pages as needed):

PG&E is responsible for sending customer usage to MCEs data manager the day following meter reading for any MCE customer. Usage is typically sent every weekday but it comes at different times during the day or evening and thus, can be a bit unpredictable. In some cases PG&E does not provide usage on some customers. Because PG&E does not track this carefully, MCE must track to determine missing usage on customers and request the usage.

On Saturday, November 20th, PG&E held one of two annual "Saturday read days" which meant that usage should have been provided to MCE on Sunday, November 21, 2010. PG&E did not send any usage to MCE on November 21st, 2010. MCE requested this usage from PG&E.

Hovever, PG&E did not provide the usage to MCE until December 2, 2010, after the billing window had closed for the affected customers.

This left MCE with the option of either having an additional bill sent to customers with only MCE charges, or having the missing additional MCE charges added to the following month's bill, resulting in a very high MCE generation charge for that month. Both options negatively impact MCE's relationship with customers and create a new reason, caused by PG&E's error, for customers to opt out of MCE. This PG&E error impacted approximately 550 MCE customers.

Please describe the lack of full cooperation (add lines or pages as needed):
MCE has asked if the transmittal of usage data could be automated so that the transmittal can come across at an expected time each day. This would allow for missing usage to be more easily identified by PG&E, or if needed, by MCE. PG&E has been unable to accommodate this request.

PG&E has not proposed any other mechanism to prevent this issue from occurring again.

Please list the personnel at the utility with whom the community choice aggregator is working:

Name	Title	Phone Number	e-mail
Sebastien Csapo	PG&E | Energy Solutions & Service	415-973-7370	sscb@pge.com

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Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

Customers who are enrolled in Marin Clean Energy's Net Energy Metering (NEM) program receive inaccurate bills leading the customers to believe that credits produced are applied to incorrect portions of the bill. This is a bill presentment issue.

Please provide a detailed description of the issue (add lines or pages as needed):

Credits generated by MCE NEM customers should only apply to the electric generation portion of their account. Unfortunately, PG&E's billing system is unable to present the bill properly and these credits appear to be applied to other unrelated charges on the customer's bill.

For example, a NEM customer may have generated a $10 credit by producing more energy than they consumed. That credit should be applied against the electric bill in a month when the customer consumes more than they produce. However, PG&E applies that credit to another portion of the customer's bill, such as gas. According to the bill, that customer does not owe PG&E for a portion of their gas charges because the NEM credit has been applied. In actuality, the customer still owes the full amount of the gas bill and the credit has not been used. Customers on summary bills have even had their NEM credits applied towards other accounts.

This presentment of NEM credits has resulted in considerable customer confusion.

Because PG&E is not accounting for MEA credits customers could potentially have their power shut off for 'lack of payment.' PG&E has stated that they monitor NEM accounts manually to try to prevent NEM customers from having service stopped or going into collection status because the customer shows in their system as not paying in full.

Please describe the lack of full cooperation (add lines or pages as needed):

This issue was originally brought to PG&E's attention by MCE staff on July 20, 2010. PG&E has stated that they do not have a method to keep the MCE and PG&E balances separate.

PG&E has not proposed a solution to resolve this problem and has not provided MCE with billing information for NEM customers to ensure that staff, customer representatives and the MCE call center can appropriately respond to questions.

Please list the personnel at the utility with whom the community choice aggregator is working:

Name	Title	Phone Number	e-mail
Sebastien Csapo	PG&E | Energy Solutions & Service	(415) 973-7370	sscb@pge.com
Bill Chen	Manager, Core Gas Aggregation Program	(415) 973-7233	whc9@pge.com

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Title	Administrative Associate
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e-mail	jweaver@marinenergyauthority.org

Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

New customers moving into MCE addresses are being opted out by PG&E in violation of the directive from the CPUC Energy Division.

Please provide a detailed description of the issue (add lines or pages as needed):

In May, 2010 the CPUC Energy Division directed PG&E to terminate the processing of opt outs for MCE's CCA customers and turned the opt out process over to MCE. Despite this clear directive, since MEA began service to customers it has come to MCE's attention that PG&E has not been enrolling new customers at MCE addresses in the MCE program to allow the MCE noticing process to occur. This protocol is important because it allows for the new customer to

receive the terms and conditions of service from MCE and then make an informed decision on the generation provider.

Instead of following the statutory opt out process when a new customer calls to have new service turned on PG&E representatives are asking the customer if they want to opt out of MCE service before even being enrolled or receiving the terms and conditions. This activity is in clear violation of the CPUC directive to not interfere with the opt out process.

The CPUC directive followed months of abuses by the utility which tampered with the integrity of the opt out process. This ranged from a marketing campaign filled with mis-information about MCE, outbound calls aggressively pushing customers to opt out under false pretenses and prior to receiving any terms and conditions from MCE, and encouraging customers to opt out under methods not approved by the statutory process. Given these recent actions by PG&E it is clear that their involvement in the opt out process would interfere with and threaten the integrity of the process.

MCE has requested that new customer move-ins be submitted to MCE for enrollment and noticing. It is unclear how many customers this has impacted but there are 538 customers shown as 'turned off' where there has not been a re-enrollment at the address. It is not possible for MCE to ascertain how many of these locations are vacant and how many have had a new turn-on and have been proactively opted out by PG&E in violation of the statutory opt out process.

Currently PG&E is acting in violation of the clear directive from the CPUC Energy Division in May, 2010 requiring that they not process opt outs for MCE's CCA customers.

Please describe the lack of full cooperation (add lines or pages as needed):

MCE has raised this issue with PG&E representatives and has not received a clear response. PG&E representatives confirmed that they are offering to opt the customer out of MCE service at the time the customer calls in to have service initiated. PG&E representatives have also stated that they have some confusion about whether or not they have the authority to initiate opt outs at this time.

To MECs knowledge, PG&E representatives have not agreed to stop processing opt outs.

Please list the personnel at the utility with whom the community choice aggregator is working:

Name	Title	Phone Number	e-mail
Sebastien Csapo	PG&E | Energy Solutions & Service	415-973-7370	sscb@pge.com
Eric Jacobson	Regulatory	415-973-4464	EBJ1@pge.com

	Relations		

Attachment 1: Reporting form for [Part (a) Process]

Part (a): Process for existing and prospective CCAs to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2, which requires the utility to "cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs."

PART 1 (to be completed by CCA)

Submitted by:

Name	Jordis Weaver
Title	Administrative Associate
Phone	415.464.6021
e-mail	jweaver@marinenergyauthority.org

Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

MCE Invoice Cancellation Transaction Support

Please provide a detailed description of the issue (add lines or pages as needed):

When PG&E provides usage to MCE via an EDI usage transaction, MCE rates the usage and returns the invoice to PG&E via an EDI invoice. Approx 5 business days later, after PG&E presents these charges on an invoice, they return a Microsoft Excel file to MCE with their internal Sub SA ID and Bill Segment ID related to that specific invoice.

MCE commonly has a need to cancel that invoice, for reasons such as:

5. PG&E estimated the meter and received actual usage prior to the bill being sent out
6. The usage is found to be outside of Hi/Low tolerances (this is commonly a result with meter rollovers)
7. The invoice was calculated using an incorrect rate or rate factors
8. Some other billing attribute on the account has changed (Baseline territory, Medical Baseline Allowance, etc.)

In situations such as these, MCE must send and EDI transaction to PG&E referencing the Sub SA ID and Bill Segment ID for the invoice to be cancelled. If MCE has not received this information because the charges have not been presented on an invoice, then they cannot cancel the invoice, and the erroneous charges must be presented to the customer, before they can be cancelled. The only way around this would be to contact PG&E and have them manually cancel the charges, a process that is not scalable for a production CCA implementation.

The Utility Industry Group (UIG) guideline for Invoice transactions between Energy Providers and Local Distribution Companies specifies that the CCA be allowed to send an Invoice cancellation record with a reference number to their original invoice number. The sender of the invoice establishes the invoice ID, and that invoice can immediately be cancelled by a transaction referencing this ID. This methodology is very important, because in an automated solution, PG&E can send a cancel of the usage transaction immediately, and MCE must be able to automatically cancel their charges related to this now cancelled usage. Furthermore, this allows MCE to cancel an invoice prior to PG&E billing the invoice, and also negates the need for an email based interface between the two parties.

PG&E not supporting this standard invoice cancellation process results in PG&E issuing a bill that may not contain the most up to date information on the MCE portion of the bill. When the PG&E and MCE portion of the bills contain usage information that is different, this causes customer confusion, and increased calls to the PG&E and MCE call centers. In addition, this causes the customer to see additional cancellations and rebills because many of these errors could have been corrected before being presented on an invoice.

Please describe the lack of full cooperation (add lines or pages as needed):

In conference calls with PG&E, MCE has requested the ability to cancel transactions prior to invoicing, and for the ability to cancel without the usage of the Bill Segment ID which is being provided to MCE via a manual process.

PG&E has not proposed any way to automate this process, or any schedule for being able to implement such a change.

Please list the personnel at the utility with whom the community choice aggregator is working:			
Name	Title	Phone Number	e-mail
Sebastien Csapo	PG&E | Energy Solutions & Service	415-973-7370	sscb@pge.com

Attachment 1: Reporting form for [Part (a) Process]

Part (a): Process for existing and prospective CCAs to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2, which requires the utility to "cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs."

PART 1 (to be completed by CCA)

Submitted by:

Name	Jordis Weaver
Title	Administrative Associate
Phone	415.464.6021
e-mail	jweaver@marinenergyauthority.org

Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

PG&E's current rate restructuring proposal to impose a conservation incentive adjustment (CIA) in Phase 2 of its Test Year 2011 General Rate Case has been aggressively pursued by PG&E and would create a rate structure that would impose substantially higher costs on MEA customers while effectively eliminating a key policy tool of MEA: establishing tiered generation rates to encourage energy conservation, promote increased renewable energy deliveries and reduce greenhouse gas (GHG) emissions among other socially and environmentally focused concerns. PG&E's proposal would also disrupt MEA's progress in furthering California's broader-based environmental mandates, including the achievement of RPS and AB 32 objectives.

Please provide a detailed description of the issue (add lines or pages as needed):

PG&E's periodic General Rate Case (GRC) proceedings are intended to provide the utility with scheduled opportunities to address cost allocation and rate structuring issues, as well as other related considerations, for the purpose of setting retail electric rates that accurately reflect utility expenditures for core services and programs while conforming with statutory requirements identified in the Public Utilities Code, Commission decisions and broader-based policy objectives.

In the current GRC proceeding, PG&E has introduced certain elements of its residential rate proposal that forge competitive barriers for alternative generation providers, including CCAs and residential Direct Access programs. Furthermore, PG&E has mischaracterized the motivations for these proposed changes, suggesting that residential rate restructuring is necessary to "level the playing field" between PG&E and prospective competitive service providers and has also suggested that certain elements of its proposal are necessary to promote energy conservation within the residential rate class. The record for this proceeding suggests otherwise and exposes numerous potential effects that are contrary to PG&E's claims. In particular, MEA has observed the following issues, inconsistencies and concerns:

1) PG&E's CIA proposal is discriminatory towards MEA's current and future residential customers and would impose disproportionate cost increases on these individuals without any commensurate increases/enhancements in core utility services – PG&E's independent analyses confirm average cost increases of 25 percent for MEA's current customers, which would accrue as a direct result of PG&E's proposed residential rate restructuring;
2) PG&E's sweeping proposal is unsupported by any publicly available cost-based analyses, despite requests from MEA and other parties to complete such analyses;
3) PG&E's CIA proposal is unnecessary, as it fails to promote conservation relative to the currently effective four-tier residential rate structure and would disrupt MEA's progress in furthering California's broader-based environmental mandates;
4) PG&E's CIA proposal effectively eliminates a critical rate setting tool of CCAs, which would dilute the integrated service offering of these entities, inclusive of conservation signals that are responsive to community-specific goals and objectives (which are certainly dissimilar throughout PG&E's service territory), and inappropriately grant PG&E considerable competitive leverage by practically restricting certain aspects of a CCA's rate making authority; and
5) Incentives to conserve energy should be directly tied to the use or consumption of the energy commodity itself and, therefore, should be conveyed by the generation service provider, which is procuring, planning for and balancing energy requirements of its customers.

MEA has prepared written testimony in relation to PG&E's proposed residential rate restructuring and considers PG&E's proposal an adversarial approach to residential rate design.

Please describe the lack of full cooperation (add lines or pages as needed):

PG&E's lack of cooperation, in this case, relates to the discriminatory impacts of PG&E's proposal on MEA and its customers as well as the limitations the imposition of a CIA surcharge would set on MEA's policy-making authority, namely, MEA's ability to offer a different rate design from PG&E. PG&E's lack of full cooperation with MEA's CCA implementation, as it relates to the subject residential rate proposal, can be tracked through numerous sequential, documented actions and inactions of the incumbent utility, including:

1) PG&E originally introduced its CIA proposal in a proceeding to which MEA was not a party – PG&E was keenly aware of this fact, yet decided to introduce its proposal in such a proceeding, not in the traditional GRC proceeding in which parties would have appropriate opportunity for review and comment;
2) PG&E's Petition for Modification was filed nearly two weeks ***after*** MEA submitted its CCA Implementation Plan to the Commission for certification – PG&E was also well aware of MEA's implementation plans and related schedule, as it had been regularly attending numerous ***public*** meetings of Marin County, the MEA Board of Directors and its standing committees throughout the organization's multi-year evaluative and formative process;
3) As a non-party to this proceeding, MEA did not receive a copy of the original Petition or the original draft proposed decision, which was distributed on a limited basis – PG&E did not provide MEA with a copy of its Petition for Modification, nor did it bring the Petition to MEA's attention, despite formal written communication (in which PG&E's recent, 2010 rate changes were discussed) between PG&E executive David Rubin and MEA Chair Charles McGlashan, which occurred on January 4, 2010, ***just 18 days after*** the Petition for Modification was filed; and
4) Following its filing of the Petition for Modification, PG&E engaged in frequent formal written communication with MEA's Chair regarding numerous matters related to the CCA program – including threats of litigation related to the California Environmental Quality Act, erroneous claims related to adverse environmental impacts stemming from CCA implementation, and threats of "double whammy" cost recovery attempts by PG&E in the event of CCA program failure as well as other disruptive distractions.

The timeline of these actions, as a practical matter, suggests that PG&E's proposal is an intentional effort by the monopoly utility to disrupt MEA's implementation and place MEA at a competitive disadvantage.

Please list the personnel at the utility with whom the community choice aggregator is working:

Name	Title	Phone Number	e-mail
Sebastien Csapo	PG&E | Energy Solutions & Service	415-973-7370	sscb@pge.com
Eric Jacobson	Regulatory Relations	415-973-4464	EBJ1@pge.com

List and Description of Issues Provided by MCE on December 10, 2010 for the First Quarter Report Submitted by the CPUC on January 31, 2011