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Mitchell Shapson
Legal Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Joint Utilities' Comments on February 1, 2017 *En Banc*
Regarding Community Choice Aggregation

Dear Mr. Shapson:

Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) (collectively, the Joint Utilities) respectfully submit these Comments in response to the Public Utilities Commission's (Commission) February 1, 2017, *En Banc* regarding Community Choice Aggregation (CCA). The Joint Utilities appreciate the Commission's, en banc participants', and attendees' focus and attention on important issues surrounding CCA growth.

The Joint Utilities support customer choice, including the CCA option, and acknowledge that such growth has potential opportunities for local control over environmental policy and renewable resources. However, the increasing pace and breadth of CCA growth in California has profound implications for state environmental policy regarding greenhouse gas (GHG) emissions, continued growth of renewable energy, state generation and procurement planning, grid reliability, and various other issues. De-centralized self-determination should be balanced against the concomitant loss of consistent implementation of state policy guiding energy planning in California. CCA growth also tends to exacerbate cost-shifting to remaining bundled service customers, which is currently taking place and will continue to grow if not addressed promptly by this Commission. Such cost shifts are prohibited by the customer indifference principle underlying departing load ratemaking, a principle that is required by state law and has been consistent Commission policy for almost two decades. And in no case should CCA growth result in continuing cost shifts between CCA customers and remaining bundled service customers, or vice versa.

I. STATE POLICY

The Joint Utilities agree with Matthew Freedman, counsel for The Utility Reform Network (TURN), who stated at the en banc that the state must choose between "promoting a customer-choice-driven competitive-market-based set of outcomes, or [continuing] to engage in centralized, long-term resource planning." It is up to this Commission and the Legislature to strike the appropriate policy balance between those alternatives, and the Joint Utilities urge them to do so with careful deliberation. Over the last decade-and-a-half, the Joint Utilities have largely been the vehicles through which the state has implemented its energy policy objectives. But increasing levels of departing load to other Load-Serving Entities (LSEs) will limit the Commission's ability to use the Joint Utilities to continue that function. The Joint Utilities offer the

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following comments on certain specific energy policy issues of statewide importance that are impacted by the growth of CCA departing load.

A. The Integrated Resource Plan

The Integrated Resource Plan (IRP) requirements should be applied comprehensively and consistently to all LSEs in order to ensure that the state is able to cost-effectively reach its energy policy goals (*e.g.*, increasing the use of renewable resources while simultaneously reducing GHG emissions). Centralized planning is critical if load is spread across many LSEs to ensure that GHG reduction strategies are harmonized, resource investments are made efficiently, and California Independent System Operator (CAISO) market design enhancements (*e.g.*, renewable integration, locational effectiveness) are properly considered. More generally, mandated procurement requirements should apply equally to all LSEs whenever possible.

The Commission has extensive jurisdiction over CCAs regarding the IRP process. The Legislature has directed the Commission to "ensure" that <u>each</u> LSE's IRP meets certain goals specified in Public Utilities Code Section 454.52(a)(1). But if the Commission does not exercise its jurisdiction over CCAs by enforcing binding IRP requirements, the Commission will have less influence and ability to carry out its SB 350 directives, compromising the integrity and effectiveness of the IRP process. This has important policy implications for GHG reduction efforts, amongst other things. Holding all LSEs, including CCAs, to the same standards under the IRP will help ensure that statewide procurement is made in a coordinated, efficient and cost-effective manner, and in furtherance of California's energy policy goals.

B. State Procurement Mandate

In light of currently-anticipated forecast levels of CCA growth and departing load, the Joint Utilities respectfully request that, except to the extent required by law, the Commission consider pausing all procurement mandates not tied to reliability until the Commission can ensure that bundled customers are financially indifferent to departing load. Until that time, additional procurement will only add to the financial burden that remaining customers will face if load departs due to CCA formation. A truly integrated planning process is necessary, not only for determining the optimal mix of resources, but also for considering the reality of decreasing sales and shifting loads. Given that the Joint Utilities' portfolios are well positioned to achieve SB 350's 50 percent RPS requirement, a temporary suspension of many policy and program mandates will not interfere with this progress.

C. Public Facing Programs

The Joint Utilities have a long history of providing a number of customer programs designed to reduce and/or change the time characteristics of energy use, produce energy from clean resources, and more recently to help electrify transportation. These programs can help reduce GHG emissions and improve grid reliability. CCAs have, in some cases, implemented programs in these areas, or are considering doing so in the future. The Joint Utilities welcome CCA participation. However, similar to the discussion in the preceding section, in order to efficiently allocate customer funds, CCAs should not duplicate the Joint Utilities' programs. CCA efforts should be coordinated and integrated with those of the Joint Utilities, along with other third parties that, over time, have taken on a portion of the program-delivery function. This will help ensure the most effective use of customer funds, and also contribute to other important Commission initiatives (*e.g.*, targeted distributed energy resources (DER) efforts to defer distribution capacity investments).

The implementation of default time-of-use (TOU) rates is another important statewide policy tool meant to send more efficient energy price signals to customers, reduce GHG emissions, and improve grid reliability. But CCAs are not obligated to offer TOU rates, or even to differentiate their generation rates by the same TOU periods as the Joint Utilities. As the Joint Utilities understand it, many existing CCAs have voluntarily offered to offer residential default TOU on the same schedule as the IOUs, using the same basic TOU structure. However, newly-forming CCAs may have different perspectives and approaches. Furthermore, questions remain regarding cost responsibility for rate comparisons and other implementation details, which may impact CCA cooperation in a coordinated transition to TOU rates. The Joint Utilities respectfully submit that TOU pricing cannot be an effective policy tool if only a minority of the customers on the system are subject to it.

D. Increased Transparency about Power Content

As noted by Mr. Freedman at the en banc, there is wide variation in different CCAs' portfolios and how they are represented externally. Customers should be given increased visibility to the actual products in all LSEs' portfolios. To do so, changes are necessary to what is disclosed in Power Content Labels (PCLs), and the disparity between what information the Joint Utilities and CCAs are allowed to provide about their respective portfolios should be eliminated.[1]

Portfolio transparency is particularly important for comparisons between CCAs' higher renewables options and the Joint Utilities' green tariff programs. All LSEs, including the Joint Utilities, can offer "super green" portfolios. Customers should be able to compare their options on a level playing field.

The California Energy Commission (CEC) and the California Air Resources Board (CARB) are actively addressing this issue pursuant to AB 1110, which requires adoption of a methodology for the calculation of electric GHG emissions intensity and determination of how unbundled RECs should be disclosed in PCLs. The CEC recently initiated a rulemaking and the Joint Utilities will be participating in this proceeding. The outcomes of these proceedings should be integrated into the Commission's approach to standardizing portfolio information across LSEs.

II. THE OBLIGATION TO SERVE AND THE PROVIDER OF LAST RESORT

During the en banc, CCA representatives stated that CCAs have "an obligation to serve." In fact, that obligation is quite limited. While it is true that CCAs must serve entire classes of customers if they choose to initiate service, they can (and do): (1) phase-in service to different customer classes over time; (2) return payment-delinquent customers to utility bundled service procurement; and (3) operate without the financial obligations of being the Provider of Last Resort (POLR).[2] The Joint Utilities, on the other hand, have an actual obligation to serve all customers in their respective service territories who choose to stay with or return to utility bundled service procurement (or have no other option). In addition, as required by statute, the Joint Utilities continue to serve as the POLRs, and bear all of the associated financial risks that come with that role. The Joint Utilities appreciate that the Commission plans to promptly address the CCA bond requirement as the sole issue to be considered in R.03-10-003 at this time.

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[1] For example, PCLs should focus on the actual delivered power during the calendar year and specifically and clearly identify what percentage of the LSE's portfolio consists of unbundled Renewable Energy Credits (RECs).

[2] It is also far from guaranteed that a city or county will not experience financial turmoil that would lead (or force it) to abandon its role as a CCA.

III. THE INDIFFERENCE REQUIREMENT

California law is simple and clear: "The implementation of a community choice aggregation program shall not result in a shifting of costs between the customers of the community choice aggregator and the bundled service customers of an electrical corporation."[3] This prohibition against cost shifting between customers, known at the Commission as the "indifference requirement," is reiterated throughout California statutes[4] and was re-affirmed most recently in 2016 with Senate Bill (SB) 350 to specify that bundled service customers shall not experience any cost increase as a result of the implementation of a CCA, and non-bundled service customers shall not experience any cost increase as a result of being allocated costs not incurred on their behalf.[5] The indifference requirement is necessary due to the mandate of the Commission and the Legislature directing the Joint Utilities to procure extensive generation resource portfolios on behalf of their then-bundled service customers (and anticipated load growth). Those generation portfolios include many long-term renewable energy contracts, several of which were required by -- and all of which were explicitly approved by -- this Commission. As the Commission recently explained, over time – and in no small part because of that initial procurement by the Joint Utilities – market prices have dropped to levels significantly below those underlying the Joint Utilities' generation portfolios.[6] These portfolios were procured for all of the then-bundled service customers (plus anticipated load growth). If CCA service does not carry with it the obligation for customers to pay for their pro rata share of those portfolios' costs, the costs of those portfolios will be unfairly shifted to the remaining, shrinking pool of utility bundled service customers.

The Power Charge Indifference Amount (PCIA) is the Commission's ratemaking mechanism designed to recover the pro rata above-market costs of the Joint Utilities' generation portfolios from departing load customers, including CCA customers. The Joint Utilities acknowledge the CCAs' frustration with the PCIA, and agree that it is fundamentally flawed. Simply put, the PCIA: (1) is based on a forecast that is not trued up;

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[3] Cal. Pub. Utilities Code §366.2(a)(4) (emphasis added). *See also* §366.2(d)(a) ("It is further the intent of the Legislature to prevent any shifting of recoverable costs between customers."); D.02-11-022; D.06-07-030; D.04-12-046; D.05-12-041; D.16-09-044.

[4] *See* Cal. Pub. Utilities Code §365.2 ("The commission shall ensure that bundled retail customers of an electrical corporation do not experience any cost increases as a result of retail customers of an electrical corporation electing to receive service from other providers. The commission shall also ensure that departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load."); §366.1(d)(1) ("It is the intent of the Legislature that each retail end-use customer that has purchased power from an electrical corporation on or after February 1, 2001, should bear a fair share of the department's power purchase costs, as well as power purchase contract obligations incurred as of January 1, 2003, that are recoverable from electrical corporation customers in commission-approved rates. It is the further intent of the Legislature to prevent any shifting of recoverable costs between customers."); §366.2(a)(4) ("The implementation of a community choice aggregation program shall not result in a shifting of costs between the customers of the community choice aggregator and the bundled service customers of an electrical corporation."); §366.2(d)(1) ("It is further the intent of the Legislature to prevent any shifting of recoverable costs between customers.").

[5] Cal. Pub. Utilities Code §366.3 ("Bundled retail customers of an electrical corporation shall not experience any cost increase as a result of the implementation of a community choice aggregator program. The commission shall also ensure that departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load.").

[6] D.16-12-038, p. 11.

(2) the forecast is based on administrative benchmarks that do not reflect market value;[7] and (3) at higher levels of load departure, the forecast becomes increasingly inaccurate and the cost shift to remaining bundled service customers becomes larger and larger. Moreover, the PCIA does not currently recover the pro rata above-market costs of the Joint Utilities' generation portfolios from departing load customers, and is shifting costs to remaining bundled service customers, which is prohibited by statute.[8]

CCAs have argued that the PCIA imposes an unreasonable burden on them because of its volatility. The Joint Utilities acknowledge that the PCIA is volatile. However, fluctuations in the PCIA are inversely correlated to fluctuations in overall market prices. Accordingly, when the PCIA is relatively high, it is because market prices are relatively low. CCAs are advantaged by those relatively low market prices. A preferable approach would be a transparent replacement to the PCIA that is based on market realities instead of administratively-set benchmarks, and which fairly and efficiently allocates all resource attributes and actual net costs of the Joint Utilities' generation portfolios to all customers on whose behalf they were procured.

Very truly yours,

/s/ Colin E. Cushnie

Colin E. Cushnie,
on behalf of the Joint Utilities

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[7] The Joint Utilities do not believe that the problems with the PCIA can be solved by "updating" the benchmarks. Although the benchmarks could certainly be improved, using any administratively-set benchmark by definition will not reflect actual market prices and results, and therefore risks cost-shifting between customers. This is especially true if one is attempting to value utility long portfolio positions in the context of large load departures over short time periods.

[8] Although the Joint Utilities are still in the process of comprehensively estimating this ongoing cost-shifting, as I noted during the *en banc*, every 10% of departing load leads to an estimated $60 million annual incremental cost shift to SCE's remaining bundled service customers. On a per-customer basis, PG&E and SDG&E's preliminary estimates indicate that the cost shift could be even larger in their respective service territories.