

# Energy Producers and Users Coalition Comments on the Draft Green Book June 11, 2018

## INTRODUCTION AND SUMMARY

Retail energy choices – on both sides of the customer meter – have multiplied over the last two decades as a result of technology and state policy design. The state has fostered the growth of Direct Access, demand response, distributed energy resources, energy efficiency and Community Choice Aggregation. These initiatives, however, have to some degree been undertaken in silos, without a broader plan. As President Picker has pointedly noted:

*In the last deregulation, we had a plan, however flawed. Now, we are deregulating electric markets through dozens of different elections and legislative actions, but we do not have a plan. If we are not careful, we can drift into another crisis.*

The Energy Producers and Users Coalition (EPUC) agree with President Picker's observation and support the Commission's efforts to formulate a more coherent and comprehensive framework for customer choice.

In formulating a framework, the Commission must begin from the premise that the "genie" of choice cannot be put back in the bottle. A framework that limits customers' rights or options or burden those options with unnecessary costs will only increase costs and the risk of a crisis. Winning solutions will build on the choices that have developed, aiming to expand and enhance those choices, coordinating them to support affordability, reliability and safety and environmental policy objectives. Critically, any solution must also be crystal clear on the role of the investor-owned utilities (IOUs).

With these objectives in mind, EPUC supports a framework that provides:

- ✓ Crystal clear direction on the role of the IOUs in supply procurement and behind-the-meter (BTM) customer solutions;
- ✓ Measures to address affordability of service not only for residential and small commercial customers, but for the industrial customers that support the state's economy; and,
- ✓ An end to the accumulation of stranded costs and the burdens they impose on choice.

Each of these actions is described in greater detail below.

EPUC recognizes that these actions trigger in policymakers a fear of loss of control over consumer protection, safety, reliability and environmental policy goals. The fear is unfounded. The Legislature and the Commission's constitutional authority have enabled and will continue to enable the tools necessary to ensure achievement of policy objectives.

Beyond these issues, EPUC offers observations on the Green Book's summary of policies in other states. The understanding of the Illinois experience requires further illumination.

EPUC appreciates the opportunity to offer its perspectives to help inform a customer choice rulemaking in the near future. Timely action is necessary to prevent uncertainty and a lack of coordination from straining the state's electricity market, once again, to a breaking point.

## **EPUC COMMENTS AND RECOMMENDATIONS**

### **1. Provide Clear Direction on the Role of the Investor-Owned Utilities**

The state has shown ambivalence over time about the role of the IOUs in procuring resources to supply their native load. Customers have always had the choice of whether and how to generate electricity on their own property for their own use, avoiding IOU procurement. Choice went beyond self-generation, however, in 1998 aiming to reduce the IOU role in procurement and to create customer choice through Direct Access. The Legislature terminated new entry into this program following the energy crisis in 2001, later offering a very limited reopening to new Direct Access customers. While Direct Access remained suspended, the Legislature enabled Community Choice Aggregation in 2002, which was inhibited by IOU-constructed impediments to CCA formation that were addressed by the Legislature in 2011. While seemingly fostering these choices, however, the state burdened them with exit fees, which continued to mount as the IOUs procured long-term resources without realistically considering a future of decentralized procurement.

The Legislature and Commission must together end this ambivalence. EPUC recommends that the Commission immediately provide notice to the IOUs that their role will transition to a wires-only, removing procurement from their scope of responsibility. The current problems created by the mismatch of IOU bundled supply and demand – fragmented planning, stranded costs and “double” procurement by LSEs – are a direct result of the lack of clarity of the IOUs' ongoing procurement role. Drawing a bright line

in natural gas deregulation in the 1990s, by removing the IOUs from the non-core procurement function, enabled the rapid development of competitive supply options and minimized the risk of utility interference. Moreover, with the replacement of utility-owned generation (UOG) over the years with power purchases, removing the utilities from this role should have little or no impact on utility earnings. The Commission and Legislature must act clearly and decisively on the IOUs' role in procurement or risk the chaotic consequences of continuing uncertainty.

In addition to clarifying the scope of IOU market participation, the Commission must also clarify the reach of utility distribution infrastructure. The IOUs historically have been limited to doing business on the utility side of the customer meter. Only recently, in the context of transportation electrification (TE) infrastructure, has the Commission permitted the IOUs to reach behind-the-meter and counterproductive. Allowing IOUs to “compete” to provide behind-the-meter solutions is unnecessary and counterproductive. Although IOU cooperation is required to foster BTM solutions through grid interface, most BTM solutions today were developed without IOU involvement. Moreover, permitting the IOUs to “compete” behind-the-meter will only slow development and implementation of competitive solutions. The Commission should draw a clear line for IOU market participant at the customer's site boundary meter.

In the place of IOU procurement, the state should support the expansion of supply options, encouraging the continued growth of CCAs, reopening Direct Access as a commercial and industrial solution and permitting greater customer flexibility in designing alternatives that best meet their needs. An immediate and incremental action the Commission could undertake is to facilitate self-wheeling for customer with generation and loads in different physical locations. Self-wheeling would allow a customer to take excess energy produced by a distributed energy resource at one location and transmit the energy, using utility wires, for use at another location. The CPUC could also endorse updating of the 1984 legislation designed to preserve utility monopoly services, PUC Section 218(b). This statute limits the ability of a combined heat and power generator to sell to only two physically adjacent properties. Expanding the market for these resources geographically or through self-wheeling options would be measures to move incrementally to customer choice options.

## **2. Address Affordability for All Customers, Including Industrial Customers Supporting the State's Economy**

EPUC strongly supports the Commission's focus on affordability as one of the central objectives in any customer choice solution. The definition of affordability, however, is critical. Table 4, “Core Principles and Attributes” poses questions that frame the Green Book's assessment of choice in other markets, illuminating the scope of the Commission's focus on affordability. The questions are as follows:

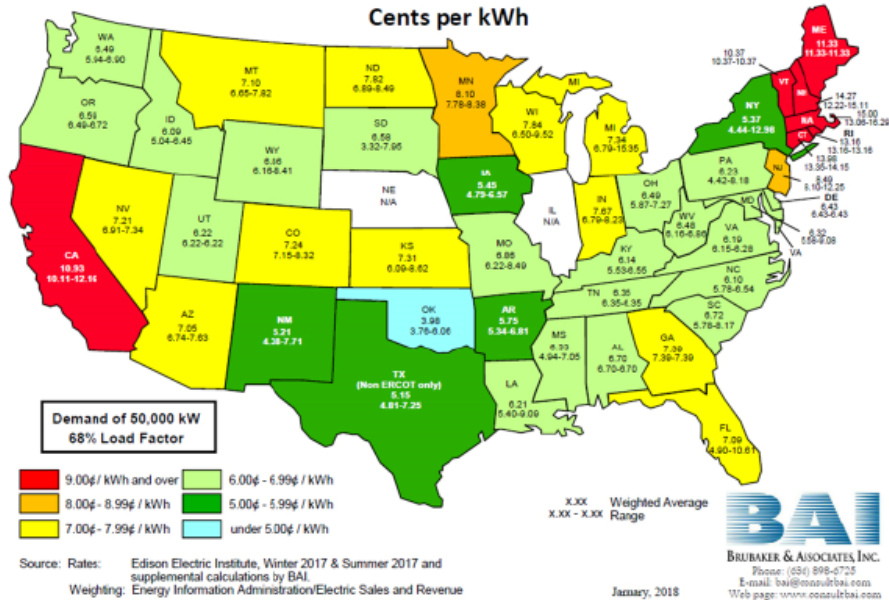
- *Does the load serving entity have electric decoupling to promote energy efficiency and conservation?*
- *Who administers public purpose programs?*
- *Who administers energy efficiency (EE) programs?*
- *Does the market have low-income and medical assistance programs? If yes, by whom are these programs administered and implemented by? How are these programs paid for?*
- *What is the utility revenue collection model?*
- *Does everyone benefit fairly and equitably?*

While the questions are important, they ignore what EPUC submits is the central question concerning affordability: Are rates reasonable for *all* customers? How do rates compare to rates in other states, and how have they changed as choice has been expanded?

In assessing affordability, the Commission often focuses on the total bill for residential customers. While this measure gives policy makers comfort, state policy cannot take credit for differences in residential energy use around the country. It is critical, instead, to examine the *rates* customers pay.

For industrial and manufacturing customers, who compete both nationally and internationally, it is important to appreciate the impacts of rates in California relative to other jurisdictions means. The following map reflects the rates for a 50 megawatt (MW) industrial customer. What is revealing for this hypothetical customer is that temperate weather in California is irrelevant to its demand and costs. California power rates in 2017 were in the range of 10-12 cents/kWh for industrial power, compared with rates in the 6 to 7 cents/kWh range in surrounding states and rates that are lower still in other states. In ERCOT, where electric load can be strongly influenced by air conditioning and where 18% of customers' needs were met with renewable resources in 2017, rates average 5.15 cents/kWh.

**Year 2017 Industrial Firm Power Rates  
For Investor Owned Utilities  
Cents per kWh**



Beyond the striking rate disparities, it is important to observe the disconnect in state policy in examining carbon policies and electric ratemaking. AB 32 and the Cap and Trade program have addressed concerns that decarbonization will drive up energy costs for industry and lead to emissions “leakage” as industry moves production to other states without similar emissions limits. Accordingly, the Cap and Trade program allocates a portion of free GHG allowances (or revenues) to these customers to offset, in part, the costs of GHG compliance. While this is an important, prudent policy, the impacts on customers of GHG compliance is exceeded by the state’s broader decarbonization efforts through the Renewable Portfolio Standard, energy efficiency and other procurement-related measures. Yet these impacts are ignored.

The Legislature and Commission should take a broader look at the impacts of its decarbonization policy on industry with the risk of leakage in mind. Environmental goals, including RPS, electricity, transportation electrification and other decarbonization measures, have a material impact on customer rates. As discussed below, California should reconsider its approach to funding decarbonization goals through utility rates.

EPUC’s consultant, Brubaker and Associates, has undertaken an analysis of the costs of several Commission-administered programs and charges to the industrial manufacturing class. The programs increase the cost of both electricity and natural gas transportation costs affecting industrial customers. A list of programs and estimates of their impact on rates are provided below:

<b>Programs/Affordability/Electric Utilities</b>	
<u>Programs Included in the Identified Costs:</u>	
<ul style="list-style-type: none"> <li>• Energy Efficiency (EE)</li> <li>• Self-Generation Incentive Program (SGIP)</li> <li>• California Solar Initiative (CSI)</li> <li>• Electric Program Investment Charge (EPIC)</li> <li>• Conservation Incentive Amount (CIA)</li> <li>• Energy Savings Assistance Program (ESAP)</li> <li>• California Alternate Rates for Energy (CARE)</li> </ul>	
<u>Program/ Policy Costs not yet Quantified:</u>	
<ul style="list-style-type: none"> <li>• Electrical Vehicle Programs</li> <li>• Net Energy Metering</li> </ul>	
Southern California Edison - 2018	Total program costs: \$940MM
	Non-Core Industrial TOU-8: \$200MM; equivalent \$9/MWh Standby: \$8 Million; equivalent \$8/MWh
Pacific Gas and Electric Company – Electric 2018	Total program costs: \$1,080MM
	Non-Core Industrial E-20: \$185MM; equivalent \$11/MWh Standby: \$7 Million; equivalent \$13/MWh
San Diego Gas & Electric Company – Electric 2018	Total program costs: \$260MM
	Medium & Large Commercial and Industrial Customers: \$104 Million; equivalent \$10/MWh

<b>Programs/Affordability/Natural Gas Utilities</b>	
<u>Programs Included in the Identified Costs:</u>	
<ul style="list-style-type: none"> <li>• Energy Efficiency (EE)</li> <li>• Self-Generation Incentive Program(SGIP)</li> <li>• Energy Savings Assistance Program (ESAP)</li> <li>• Research and Development</li> <li>• California Alternate Rates for Energy (CARE)</li> </ul>	
Pacific Gas and Electric Company-Gas 2018	Total program costs: \$250MM
	Non-Core Industrial: \$68 Million; equivalent 36¢/Decatherm
Southern California Gas Company- 2018	Total program costs: \$322
	Non-Core Customers: \$44 Million equivalent 28¢/Decatherm

Collectively, these programs cost for both the electric and natural gas utilities total \$2,852MM, and for industrial customers \$616MM, on an annual basis.

California's environmental policy goals are critical, leading the nation in driving decarbonization. Funding environmental programs through utility rates, however, has unintended consequences for the state's commercial and industrial base – driving both emissions and economic leakage. Moreover, collection of these costs through ratepayer-funded programs, rather than through state-funded programs, creates a regressive “tax” on residential customers. In considering affordability of electricity services in the future, the source of public policy funding must be considered.<sup>1</sup>

### **3. Mitigate and End the Accumulation of Stranded Procurement Costs.**

California's ambivalence regarding customer choices has led to an accumulation of stranded procurement costs – the central issue in the Commission's Power Charge Indifference Adjustment (PCIA) proceeding. With the prospect of significant departing load, signaled with the departure of Marin Clean Energy customers in 2010, the IOUs continued on a purchasing spree of RPS resources. As the Green Book points out, PG&E had 33% and SDG&E had 43% RPS procurement in 2016, compared with a 2020 goal of 33%. As load continues to depart – through CCA, energy efficiency, or distributed generation – the excess procurement will only increase. The consequence of this procurement strategy, combined with the uneconomic costs of UOG, have driven a significant PCIA departing load cost. In addition to roughly 1.5 cents/kWh in public purpose policy departing load charges, a secondary voltage customer under PG&E's E-20T departing in 2018 to be served by a CCA would also pay a PCIA of 2 cents/kWh. This suggests that the stranded costs of procurement, alone, equal more than one-third of the total average rate for industrial customers in ERCOT.

The IOUs will continue to procure resources, accumulating ever more stranded costs, as long as their role remains uncertain. Only clear direction on the role of the IOU in future procurement can solve this problem. And as long as these costs continue to accumulate, any customer choice will be unnecessarily burdened. It is thus critical to pursue stranded cost mitigation and end the continued accumulation of supply in excess of the IOUs' bundled load.

### **4. Continue to Drive Achievement of State Policy Goals Through Decentralized Procurement**

Decentralizing procurement by encouraging customer choice and defining a clear role for the IOUs will not sacrifice achievement of the state's goals of consumer protection, safety, reliability and decarbonization.

*Safety.* Safety goals center primarily on electric infrastructure and are not threatened by decentralization. Under any model, the IOUs will own and maintain their distribution and transmission facilities.

*Reliability.* While reliability becomes more complicated with increasing procurement decentralization, the Legislature has given the Commission authority to and tools to maintain reliability within the IOUs' service territories. Public Utilities Code §380 provides the Commission authority, in coordination with the California Independent System Operator (CAISO), to establish resource adequacy (RA) requirements for all load-serving entities (LSEs) in the IOU service territories. The Commission also has the authority to gather information necessary to enforce and to enforce the RA requirements. Finally, the Commission may, if necessary, consider a centralized RA procurement mechanism. The Commission, along with the CAISO, has all the tools necessary to achieve reliability.

*Decarbonization.* Decarbonization goals will not be affected by procurement decentralization and, indeed, their achievement may be accelerated. Decarbonization in the electricity sector is driven primarily by increased reliance on renewable resources. The Legislature has imposed RPS requirements not only on IOUs, but on *all* LSEs. In addition, customer preference is driving a preference among LSEs for GHG-free resources. Finally, the need for industrial customers, including EPUC members, to reduce the emissions intensity of their operations is driving adoption of renewable technologies behind-the-meter to serve those operations. Together, these dynamics make IOU-centralized procurement unnecessary to achieve the state's decarbonization goals.

*Consumer Protection.* Ensuring consumer protection requires different measures for each class of customer. While industrial customers have a limited need for "consumer protection", residential and small commercial classes will benefit from oversight of their interactions with providers of electricity services. Local governments, together with limited Commission involvement, serve the consumer protection role for CCA customers. For residential or small commercial customers of other suppliers, the Commission likely will take a more active role. While the Commission today has broad authority to maintain this role, the Legislature can augment the role as necessary to achieve state goals.

The Green Book seems to suggest that the Commission's consumer protection should reach behind the customer meter. Again, this type of protection is unnecessary for industrial customers, who have been managing BTM solutions for decades. Further consideration is required, however, to determine the extent of the Commission's authority and the benefit of exercise of that authority to oversee provision of BTM products and services.



## 5. Refine the Commission’s Analysis of Illinois Customer Choice

The Green Book goes to great lengths to examine and summarize the success of customer choice initiatives in other jurisdictions. As summarized below, the analysis of the Illinois initiative should be refined.

<b>Illinois Electric Service Customer Choice and Rate Relief Law</b>	
<b>Green Book Statement</b>	<b>EPUC Comment/Observation</b>
Illinois first deregulated its wholesale operations, and then transitioned to deregulating its retail market shortly thereafter. (p. 35)	The Illinois 1997 law was about restructuring the retail market, though it did address things like allowing the utilities to divest assts. The characterization that the law was designed to deregulate the wholesale market is not a fair statement.
Prior to restructuring, the customers in Illinois’ electricity market were primarily served by two incumbent utilities: Ameren Illinois and Commonwealth Edison. (p. 35)	There were actually nine incumbent utilities. Commonwealth Edison, Illinois Power, Central Illinois Public Service, Central Illinois Light, Union Electric, MidAmerican (though it might have been Iowa-Illinois at that time), South Beloit, Interstate Power and Light and Mount Carmel. Ameren Illinois wasn't formed until later.
A large number of residential customers have remained with the two incumbent utilities as their energy service providers. (p. 35)	More accurately, a large number of such customers are served by ARES, primarily through municipal aggregation, somewhat akin the CCAs in California. As of March 2018, 33% of ComEd residential customers take ARES supply and 59% of Ameren Illinois customers do so (per ICC switching reports).
The Illinois Commerce Commission regulates the incumbent utilities as well as the retail energy suppliers. (p. 35)	"Regulates" is a strong term for what the ICC does with ARES. It certifies them and provides certain rules for operations. It does NOT regulate the prices.
The retail energy suppliers are an opt-in; there was no forced migration away from the incumbent utility. (p. 35)	Most, if not all, of the Muni Aggregation programs are opt-OUT, though each governmental unit must first pass a referendum authorizing the opt-out provision.
Illinois requires the incumbent utilities to offer a baseline electric retail rate, also	This requirement only applies to rate classes not declared competitive, such as

known as a “price to beat.” (p. 36)	residential.
Created in 2007, the Illinois Power Agency (IPA) coordinates the planning and procurement for the state’s electricity market. (p. 36)	This function is for the residential and small commercial classes only, not for industrial and manufacturing.
Customer Choice...Utilities provide a “price to beat,” which customers use to select and energy supplier. (p. 37)	Again, this plan applies only to residential and small commercial customers, not to the industrial or manufacturing class.
Decarbonization...75% of the RPS must be a combination of wind and photovoltaic solar for the IOU, 60% for retail energy suppliers. (p. 38)	As of June 1, 2018, retail energy suppliers only are responsible for 25% of their customers' RPS requirements. On June 1, 2019, the percentage becomes zero, as all RPS requirements will be met through the IPA and the cost will be on the delivery bills.
Reliability...Retail competition does not threaten reliability since the state does the wholesale planning. (p. 38)	Inaccurate. Reliability is addressed primarily by the system operator, either MISO or PJM.
The Illinois Power Authority does centralized procurement and allocates costs to all market participants. (p. 39)	Only to the residential and small commercial classes; not industrial or manufacturing classes.

## CONCLUSION

EPUC strongly supports the Commission’s efforts to bring certainty and coordination to the customer choice dynamics unfolding in California. It is critical to advance toward greater certainty quickly, preventing unintended interactions of existing policies to the detriment of the state’s electricity markets and customers. EPUC looks forward to providing more detailed comments as the Commission’s efforts progress.