

June 11, 2018

ATTN: California Customer Choice Team
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
customerchoice@cpuc.ca.gov

RE: COMMENTS OF SOLANA ENERGY ALLIANCE ON THE GREEN BOOK

Dear California Customer Choice Team:

Solana Energy Alliance (SEA) welcomes the opportunity to comment on *California Customer Choice: An Evaluation of Regulatory Framework Options for an Evolving Electricity Market*, also called the Green Book. SEA recognizes that a substantial amount of work has been devoted to the paper and that the Commission staff has contributed valuable research and information to the policy discussion on customer choice. The comments below are intended to contribute to that discussion and reflect a different perspective on Community Choice Aggregation (CCA) programs, Direct Access (DA) providers and other providers offering customers greater choice in the energy market than has traditionally been available from Investor-Owned Utilities (IOU). From SEA's perspective, customer choice has a critical role to play and must be fully supported and expanded to achieve the state's energy goals – affordability, decarbonization and reliability – in a cost-effective way.

A. BACKGROUND

SEA is a CCA program formed by the City of Solana Beach (Solana Beach), and it is the first CCA program to be formed in San Diego County and in San Diego Gas & Electric

Company (SDG&E) territory. The program was launched for several purposes,¹ most importantly, to establish a mechanism to reach the 100% renewable energy target in Solana Beach's Climate Action Plan (CAP).² As SEA moves forward with customer enrollment and program development, it is in discussions with several other cities in the region about their efforts to develop CCA programs and potentially form a joint program. These cities, including San Diego, Encinitas, Del Mar, Carlsbad and Oceanside, are formally investigating the formation of a CCA program.

B. COMMENTS ON THE GREEN BOOK

SEA would like to comment on several aspects of the Green Book before responding to the questions posed in the document. These comments address the historical analogy between the growth of CCA programs and deregulation, the perception that the state lacks a plan to reach its energy goals, and the suggestion that centralized procurement will advance reliability.

1. Deregulation and Decentralization Are Not the Same Thing

The historical analogy between deregulation and the proliferation of CCA programs is misguided.³ While the Commission is obligated to prevent a repeat of the numerous problems and severe challenges encountered after deregulation of the energy markets in California, there are a number of differences between deregulation and decentralization. Unlike the private

¹ Solana Beach investigated various options to provide electric power with greater local involvement in the procurement process, higher renewable energy content and competitive prices, and after considerable study and deliberation, decided to launch a CCA program.

² See City of Solana Beach Climate Action Plan, July 12, 2017, available at [https://www.ci.solana-beach.ca.us/vertical/Sites/%7B840804C2-F869-4904-9AE3-720581350CE7%7D/uploads/City_of_Solana_Beach_Climate_Action_Plan\(1\).pdf](https://www.ci.solana-beach.ca.us/vertical/Sites/%7B840804C2-F869-4904-9AE3-720581350CE7%7D/uploads/City_of_Solana_Beach_Climate_Action_Plan(1).pdf).

³ Green Book at 5.

sector, for-profit companies that took advantage of deregulation, CCA programs are governed by elected officials accountable to voters and responsible for delivering services to their communities. Second, a key driver of the energy crisis was limited supply, and the California Legislature and the Commission have taken steps to ensure reliability. There are other differences also, but SEA addresses these differences because they provide the starkest contrast between deregulation and decentralization.

The Green Book notes that a substantial factor in bringing about skyrocketing prices during the energy crisis was gaming by large out-of-state companies.⁴ Those private sector companies were in search of profits and made business decisions that put profits ahead of customer needs and that were harmful to the communities they served. CCA programs, by contrast, are nonprofit organizations that function under an entirely different set of rules and norms. CCA programs are accountable to the community they serve economically, politically, and existentially. As the name implies, community choice customers can return to IOU service if they dislike CCA program offerings. Furthermore, the community choice model not only provides the customer with political recourse, but the customer can have an actual voice in crafting both what mix of power they want and the functioning of the CCA program by participating in the mechanisms of the local procurement process. CCA programs are obligated both to listen and respond. In the event that a CCA program does not perform in a satisfactory way, customers can modify or end the program.

⁴ Green Book at 1.

The Green Book also observes that a substantial factor in creating the conditions for the energy crisis was a shortage of energy supply, exacerbated by purchasers of IOU-divested fossil fuel generation that withheld supply.⁵ This shortage allowed a handful of bad actors, particularly out of state entities, to manipulate the markets with impunity. Since that time, the Legislature has imposed reliability requirements on all LSEs,⁶ and the Commission has set up a regulatory framework and taken a number of steps to ensure that energy customers have a reliable energy supply in the future.⁷ That process, which establishes reliability requirements on all Load Serving Entities (LSEs), including IOUs and CCA programs, is working. In fact, recent proceedings before the Commission have revealed that one challenge in reevaluating the Power Charge Indifference Adjustment (PCIA) is potential energy oversupply.⁸ The market concern before us today is not that customer choice could result in California having too little power, but rather that it could result in having too much.

2. The Legislature Has a Comprehensive Plan to Meet the State's Energy Goals

The Green Book asserts the importance of having a plan to meet the state's energy goals.⁹ The Legislature's plan is largely contained in Senate Bill (SB) 350. The keystone legislation, which applies to all LSEs including CCA programs, contains new Renewable Portfolio Standard (RPS) targets, Integrated Resource Plan (IRP) requirements, Resource Adequacy (RA) rules, and

⁵ Green Book at 1.

⁶ Pub. Util. Code, § 380.

⁷ See R.17-09-020, R.16-02-007.

⁸ See Opening Brief of the California Community Choice Association (Public Version), June 1, 2018 (R.17-06-026).

⁹ Green Book at 55.

changes to the energy storage mandate.¹⁰ Furthermore, CCA programs must demonstrate that they have specific plans to meet these requirements in the form of an Integrated Resource Plan (IRP) that is filed with the Commission.¹¹ The Legislature has spoken through SB 350, and the Commission's marching orders are clear and unambiguous.

At the same time, the Legislature has also adopted AB 117, establishing an alternative to IOUs for communities inclined to form their own energy programs and customers inclined to change providers, and it is also part of the state's plan to meet its energy goals. The Legislature gave its full endorsement to the right of CCA programs to conduct procurement, determine rates and deliver customer programs when it passed SB 790 and expanded legal protections for CCA programs. These laws were passed for good reason, and must be observed, just like other pieces of landmark energy legislation.

It is noteworthy that CCA programs are outperforming their IOU peers when it comes to reaching the goals established in SB 350, particularly renewable content. SEA, for example, offers 50% renewable content as part of its base offering and provides customers with the opportunity to opt up to 100% renewable while offering lower rates than SDG&E.¹² SDG&E's standard offering for bundled ratepayers, meanwhile, has 43% renewable content.¹³ The same is

¹⁰ Senate Bill 350 (Stats. 2015, Ch. 547).

¹¹ Pub. Util. Code, § 454.52.

¹² Solana Energy Alliance, Sea Choice Program Description, available at <https://solanaenergyalliance.org/your-options/sea-choice/>; Solana Energy Alliance vs. San Diego Gas & Electric: Sample Rate Comparison, available at <https://solanaenergyalliance.org/billings-rates/rate-comparison/>.

¹³ California Public Utilities Commission, Renewables Portfolio Standard Annual Report, November 1, 2017, at 10.

true of many other CCA programs. SEA encourages the Commission to take a close look at the power content and rates of CCA programs relative to IOUs as part of its ongoing research.

3. Centralized Procurement Is Unnecessary and Will Erode Customer Choice

Contrary to the suggestion made in the Green Book,¹⁴ centralized procurement is unnecessary and will undermine customer choice. As discussed above, the Legislature and the Commission have already established an effective regulatory framework to address reliability, and while future refinements and modifications will be made over time, it is working effectively. Centralized procurement will detract from customer choice in significant ways and would be a step in the wrong direction. Specifically, gravitating back toward a command and control structure would eliminate the ability of CCA programs to engage with customers and develop procurement strategies and rate structures that respond to customer needs and desires.

Furthermore, centralized procurement is inconstant with existing law and policy in favor of customer choice. The Commission should be mindful that any consequence, intended or otherwise, that presents an existential threat to the viability of CCA programs runs directly contrary to AB 117 and SB 790. Any solutions proposed by the Commission or other parties that hamper or harm the ability of a CCA program or other providers to serve their customers cannot be considered viable options, as they contravene the intent of the Legislature and would destroy the benefits that an increasingly competitive market structure has been able to provide.

The Commission has a duty to monitor the supply and demand of electricity and issue regulations designed to advance state energy goals, as long as they are consistent with the scope

¹⁴ Green Book at 58.

of its authority. But the Commission should avoid a preference for the type of energy provider and should instead adopt an agnostic view toward business models. This approach supports customer choice and puts customers in charge of determining what providers are delivering the best performance. Rather than supporting policies that erode customer choice, the Commission should adapt its role, as it has already done in many instances.

Because CCA programs and DA providers are limited to procurement and generation activities, taking an agnostic approach to business models leaves the IOUs with a major role to play in the energy market. As the Green Book notes “every option for expansion of choice, in California and in other jurisdictions, relies on statewide, regulated utilities to provide the backbone delivery service.”¹⁵ Expanding customer choice would allow the IOUs to concentrate on meeting the infrastructure challenges that are especially threatening to energy reliability in California, such as wildfires, and future priorities, such as grid flexibility and resiliency. The success of CCA programs demonstrates that entities other than the IOUs are capable of successfully managing procurement activities, but no one else can maintain and upgrade transmission and distribution infrastructure. Expansion of customer choice would allow all entities to focus on their core competencies.

C. RESPONSES TO QUESTIONS IN THE GREEN BOOK

SEA responds below to several questions raised in the Green Book but notes that the questions are limited in scope.¹⁶ For example, there are no questions about how CCA programs

¹⁵ Green Book at 59.

¹⁶ Green Book at 5-6.

and DA providers have been able to offer competitive rates and make investments in new generation outside the IOU model; how CCA programs and DA providers can be supported in their efforts to develop new programs; or how best practices currently being used at CCA programs and DA providers can be adapted for widespread use. SEA expects these and other questions to become part of the policy discussion over time. While a comprehensive approach to customer choice is necessary and must be undertaken as part of a broad policy discussion, SEA recognizes that the Commission has limited resources and many other priorities. The discussion must begin somewhere, and SEA looks forward to contributing to it.

The Green Book poses the following questions, and SEA provides a response after each question:

Question: How does California continue its course as a global leader in achieving deep decarbonization as regulated utilities provide electricity to fewer Californians?

- **Does there need to be a single entity for policy target setting, implementation, oversight and enforcement?**
- **How can California continue to support innovation and provide financing for scaling up new technologies?**
- **What is needed reduce the use of fossil fuels such as natural gas, which is used not just for electric power, but also for industry and in homes and buildings?**
- **How are the utilities compensated for providing the essential infrastructure to achieve these policies?**

Comment: The state should continue to push forward with its pioneering approach to decarbonization by setting aggressive goals, monitoring progress toward those goals and making adjustments along the way. The Legislature is and should remain the driver of establishing new

carbon reduction policies. Currently, the vast majority of CCA programs are procuring and/or generating higher renewable energy content than the incumbent IOUs and have significantly accelerated the movement away from the use of fossil fuels, further solidifying California's lead in this regard. Accordingly, there is no need for a single entity that sets policy, implementation, oversight and enforcement. Instead, the state should adopt an agnostic view toward business models and work with existing providers, regardless of internal structure, to achieve these important goals. The IOUs should be compensated reasonably according to customer use and held accountable to ensure prudent use of ratepayer funds.

Question: What are the essential grid operations to make sure California's lights stay on?

- **Who has the requirement to perform the necessary functions?**
- **Who establishes the rules and has enforcement authority?**
- **What does it cost and who pays?**

Comment: This question is unclear and requires a fact-intensive response that is beyond the scope of these comments. At a high level, essential grid planning and operations are performed by the California Independent System Operator (CAISO) and the IOUs, and they are compensated in various ways, including through transmission and distribution rates paid by all customers. Costs must be scrutinized carefully and disallowed in some instances, but all customers that benefit from grid planning and operations should pay a commensurate share of the costs.

Question: Can California provide investment and operational certainty to address reliability and resiliency, especially in the face of catastrophic events that impact the electric sector, such as the 2017 wildfires?

- **With so many decision-makers entering into the market to provide electrical supply, how do we ensure coordination to provide all the energy needs for reliability purposes?**
- **Who will provide backstop procurement for resource adequacy if there are shortages of power needs identified in planning and a disaggregated set of electricity purchasers cannot fill the need?**
- **Who will coordinate supply and operations during local events where resources must come from outside the region? What is the responsibility of non-utility electricity suppliers to help meet unexpected contingencies?**
- **What role do non-utility providers play to ensure adequate responses to catastrophic and emergency events?**

Comment: Yes, the state can provide investment and operational certainty to address reliability and resiliency. By law, all LSEs including CCA programs and DA providers are required to meet reliability requirements.¹⁷ As discussed above, the Commission has established a regulatory framework to ensure reliable supply and is conducting several proceedings to prevent shortages from occurring.¹⁸ Coordinating supply and operations during local events and unexpected contingencies should be a shared responsibility among all affected energy providers and IOUs.

¹⁷ Pub. Util. Code, § 380.

¹⁸ See R.17-09-020, R.16-02-007.

Question: Are there adequate protections for all customers with the wider choices created by Direct Access, CCAs and behind-the-meter installations?

- **Should there be a state entity that provides basic customer protections to customers of services that are either behind the meter or served by entities not historically under the jurisdiction of the CPUC?**
- **Who will ensure that customers have access to power service if a lightly or unregulated electric power provider fails?**
- **What protects customers who are not interested in choice, elect not to engage or unwittingly make the wrong decision or might otherwise be left behind?**

Comment: Customers taking advantage of opportunities to generate power behind the meter have a number of existing consumer protection laws at their disposal. There is no apparent need for a single entity to be responsible for protecting them. Access to power in the event of provider failure is presently addressed by legal protections,¹⁹ and while there is no evidence that provider failure will be a serious problem in the future, the issue can be explored further in future regulatory proceedings. Consumers in competitive markets face choices and those choices carry some degree of risk. That risk must be compared against the risks associated with IOU service. Education is the best way to prevent vulnerable customers from making detrimental choices.

Question: What is the role of the investor-owned utilities in the new regulatory construct?

- **Under all visions of the future, the IOUs continue to provide transmission, distribution and other grid services, what are the requirements to maintain these systems?**
- **How will these utilities be compensated for building the necessary infrastructure and operating the grid?**

¹⁹ See D. 18-05-022.

Comment: The IOUs have great responsibility in the new regulatory construct to operate and maintain the grid and oversee its transformation to a system that can accommodate the widespread use of distributed resources, electric vehicles and demand response. IOUs are and will continue to be the primary entities responsible for the infrastructure upon which all energy providers depend for the delivery of their product and services. Presently, they are compensated through rates passed on to customers of all LSEs, regardless of whether they are IOU, CCA or DA customers. In the future, they should be compensated reasonably and held accountable for expenses based on a proportionate share of customer use.

Question: Regulated utilities were required by laws, like the Renewables Portfolio Standard, to enter into long-term contracts. If customers increasingly buy electricity from non-utility sources, what happens to the contracts that the regulated entities executed?

- **Who will execute the long-term contracts that can be used to finance construction of new facilities going forward?**
- **Should the incumbent electric utilities be allowed to compete with other market participants, or should they be limited to offering a platform for other electricity suppliers?**

Comment: The Commission is presently considering these questions in the PCIA proceeding²⁰ where SEA is a party. The California Community Choice Association (CalCCA) has developed several proposals that merit further consideration and should be adopted. These include a proposal to auction IOU resources and securitize utility owned generation.²¹ Ultimately, the IOUs should become a platform for other competitive suppliers rather than a market participant.

²⁰ R.17-06-026.

²¹ CalCCA Opening Brief at 69-78, 115-132 (R.17-06-026.)

D. CONCLUSION

SEA appreciates the opportunity to participate in the initial round of comments on this important subject and looks forward to future opportunities to engage with the Commission and other stakeholders on these important issues.

Sincerely,



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