

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

Order Instituting Rulemaking to Implement Portions of AB117 concerning Community Choice Aggregation.	Rulemaking 03-10-003
NOT CONSOLIDATED	
Order Instituting Rulemaking on the Commission’s Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities’ Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.	Rulemaking 12-06-013
NOT CONSOLIDATED	
Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues.	Rulemaking 12-11-005
NOT CONSOLIDATED	
Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues.	Rulemaking 13-11-005
NOT CONSOLIDATED	
Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State’s Resource Planning Needs and Operational Requirements.	Rulemaking 13-09-011
NOT CONSOLIDATED	
Order Instituting Rulemaking to Consider Alternative-Fueled Vehicle Programs, Tariffs, and Policies.	Rulemaking 13-11-007
NOT CONSOLIDATED	

Order Instituting Rulemaking Regarding Policies, Procedures and Rules for Development of Distribution Resources Plans Pursuant to Public Utilities Code Section 769.	Rulemaking 14-08-013
And Related Matters.	Application 15-07-002 Application 15-07-003 Application 15-07-006
NOT CONSOLIDATED	
Order Instituting Rulemaking to Create a Consistent Regulatory Framework for the Guidance, Planning and Evaluation of Integrated Distributed Energy Resources.	Rulemaking 14-10-003
NOT CONSOLIDATED	
Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering.	Rulemaking 14-07-002
NOT CONSOLIDATED	
Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local and Flexible Procurement Obligations for the 2016 and 2017 Compliance Years.	Rulemaking 14-10-010
NOT CONSOLIDATED	
Order Instituting Rulemaking to Assess Peak Electricity Usage Patterns and Consider Appropriate Time Periods for Future Time-of-Use Rates and Energy Resource Contract Payments.	Rulemaking 15-12-012
NOT CONSOLIDATED	

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2017. (U39M)	Application 15-09-001
NOT CONSOLIDATED	
Order Instituting Rulemaking to consider policy and implementation refinements to the Energy Storage Procurement Framework and Design Program (D.13-10-040, D.14-10-045) and related Action Plan of the California Energy Storage Roadmap.	Rulemaking 15-03-011
NOT CONSOLIDATED	
Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program.	Rulemaking 15-02-020
NOT CONSOLIDATED	
Application of Southern California Edison Company (U338E) for Authority to Increase its Authorized Revenues for Electric Service in 2018, among other things, and to Reflect that increase in Rates.	Application 16-09-001
NOT CONSOLIDATED	
Application of Pacific Gas and Electric Company for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, And Recovery of Associated Costs Through Proposed Ratemaking Mechanisms (U39E).	Application 16-08-006
NOT CONSOLIDATED	

Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements.	Rulemaking 16-02-007
NOT CONSOLIDATED	
Application of Pacific Gas and Electric Company (U39E) for Approval of Demand Response Programs, Pilots and Budgets for Program Years 2018-2022.	Application 17-01-012
And Related Matters.	Application 17-01-018 Application 17-01-019
NOT CONSOLIDATED	
Application of Southern California Edison Company (U338E), and San Diego Gas & Electric Company (U902E), for Approval of the Portfolio Allocation Methodology for all Customers.	Application 17-04-018
NOT CONSOLIDATED	
Application of Southern California Edison Company (U338E) for Approval of Energy Efficiency Rolling Portfolio Business Plan.	Application 17-01-013
And Related Matters.	Application 17-01-014 Application 17-01-015 Application 17-01-016 Application 17-01-017
NOT CONSOLIDATED	
Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local and Flexible Procurement Obligations for the 2019 and 2020 Compliance Years.	Rulemaking 17-09-020
NOT CONSOLIDATED	

Order Instituting Rulemaking to Consider Streamlining Interconnection of Distributed Energy Resources and Improvements to Rule 21.	Rulemaking 17-07-007
NOT CONSOLIDATED	
Order Instituting Rulemaking to Review, Revise, and Consider Alternatives to the Power Charge Indifference Adjustment.	Rulemaking 17-06-026
NOT CONSOLIDATED	
Application of SAN DIEGO GAS & ELECTRIC COMPANY (U902E) for Approval of SB 350 Transportation Electrification Proposals.	Application 17-01-020
And Related Matters.	Application 17-01-021 Application 17-01-022
NOT CONSOLIDATED	

**COMMENTS OF SEMBRA SERVICES IN  
RESPONSE TO QUESTIONS REGARDING CUSTOMER CHOICE WORKSHOP**

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**COMMENTS OF SEMpra SERVICES IN  
RESPONSE TO QUESTIONS REGARDING CUSTOMER CHOICE WORKSHOP**

**I. INTRODUCTION**

Sempra Services hereby submits its comments in response to questions posed by the Customer Choice Project Team in follow up to the October 31st Informal Public Workshop. Sempra Services was established to begin a dialogue on how the San Diego region can best reduce emissions, ensure all community stakeholders are well-informed of the realities and opportunities for reducing GHG emissions and ensure that all electricity customers in the region have access to clean, affordable power. Sempra Services supports CCA under the right conditions. Customer choice, specifically in the sources of energy that power the homes of hard-working San Diego families, is important to us. However, a government-controlled energy program must be designed to accomplish three key objectives:

1. It must be equitable for all of the region's electric customers: Utility customers should not have to subsidize CCA customers.
2. It must provide real and additional environmental benefits: Tangible environmental improvements, beyond what would otherwise occur or are already occurring as a result of governmental action or investments by others are necessary to justify the municipal risk.
3. It must reduce greenhouse gas (GHG) emissions: New renewable energy projects must be built to incrementally reduce GHG emissions and meet the City's goal of 100-percent

renewable energy by 2035. Claiming credit for emissions reductions that are already occurring from existing renewable energy resources fails to achieve this objective and fails to create new jobs.

The CPUC Staff Customer Choice Whitepaper notes that a significant percentage of the state's electricity load could be served by non-Investor Owned Utilities in the future:

*Between rooftop solar, Community Choice Aggregators (CCAs) and Direct Access providers (ESPs), as much as 25% of Investor Owned Utility (IOU) retail electric load will be effectively unbundled and served by a non-IOU source or provider sometime later this year. This share is set to grow quickly over the coming decade with some estimates that over 85% of retail load served by sources other than the IOUs by the middle of the 2020s.<sup>1</sup>*

To the extent this load shift is attributable to Community Choice Aggregation (CCA), it could result in significant cross-subsidies as well as a shift from long-term to short-term electricity procurement strategies. Even though customers would be told that taking CCA service is good for the environment, if the renewable energy they receive is purchased under short-term contracts, it will not result in new renewable generation development, and, as a result, will not result in real and additional emission reductions.

## **II. THE COMMUNITY CHOICE AGGREGATION MODEL CURRENTLY FAILS TO INCLUDE ADEQUATE CONSUMER PROTECTIONS**

Question number 1 asks:

*How does this choice model ensure consumer protections?*

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<sup>1</sup> See, Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework, Staff White Paper, California Public Utilities Commission, May 2017, [http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/News\\_Room/News\\_and\\_Updates/Retail%20Choice%20White%20Paper%205%208%2017.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/News_Room/News_and_Updates/Retail%20Choice%20White%20Paper%205%208%2017.pdf), at p. 3.

Unfortunately, CCA has often been implemented in California to date in a manner that fails to fully and accurately inform CCA customers about the actual source of their electricity and the impact of their electricity purchase on overall GHG emission levels. In addition, absent revision to the existing PCIA mechanism, CCA growth can result in significant rate increases to non-CCA customers.<sup>2</sup>

Public Utilities Code Section 399.13 requires Investor Owned Utilities (IOUs) to procure 100% of their renewable energy pursuant to long-term contracts unless the CPUC relieves them of this requirement:

*In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no less than 10 years duration, unless the commission approves of a contract of shorter duration.*<sup>3</sup>

By contrast, Section 399.13 does not impose any long-term contracting requirement on CCA providers until 2021. At that time, 65% of the renewables in the RPS portfolio of a CCA provider must be procured under a long-term contract, but none of the “renewables” that are procured by a CCA provider beyond the RPS requirement need to be from long-term contracts, and nothing requires CCA providers to inform consumers about the difference. Section 399.13 only requires:

*A retail seller may enter into a combination of long- and short-term contracts for electricity and associated renewable energy credits. Beginning January 1, 2021, at least 65 percent of the procurement a retail seller counts toward the renewables portfolio standard requirement of each compliance period shall be from its contracts of 10 years*

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<sup>2</sup> The Commission has recently opened a rulemaking proceeding to reconsider how the PCIA should be calculated, and Sempra Energy defers to this proceeding for a decision that adequately protects non-CCA customers. See, CPUC Rulemaking 17-06-026.

<sup>3</sup> California Public Utilities Code Section 399.13(a)(6).

*or more in duration or in its ownership or ownership agreements for eligible renewable energy resources.*<sup>4</sup>

There is a significant policy reason for supporting procurement of renewable energy under long-term contracts and ensuring consumers know if their renewable energy has been procured under long-term contracts: long-term contracts are necessary to promote new renewable generation development.<sup>5</sup> Because renewable generation generally operates on a must-run basis and generates renewable energy whether that energy is being sold to a Load Serving Entity (LSE) under a Purchase Power Agreement (PPA) or not,<sup>6</sup> new renewable development is required to achieve a material level of additional GHG emission reductions. As a result, to the extent the possible shift in load highlighted in the Staff Report is in favor of CCA providers, and CCA providers procure less renewable energy under long-term contracts than would have been procured under long-term contracts by IOUs, CCA past procurement practices could actually result in a net emission increase, even as consumers are being led to believe CCA is helping reduce emissions.

Experience to date in California demonstrates that there is reason for concern over this issue. In 2016, 43% of the electricity provided to SDG&E's customers came from renewable energy procured under long-term contracts:

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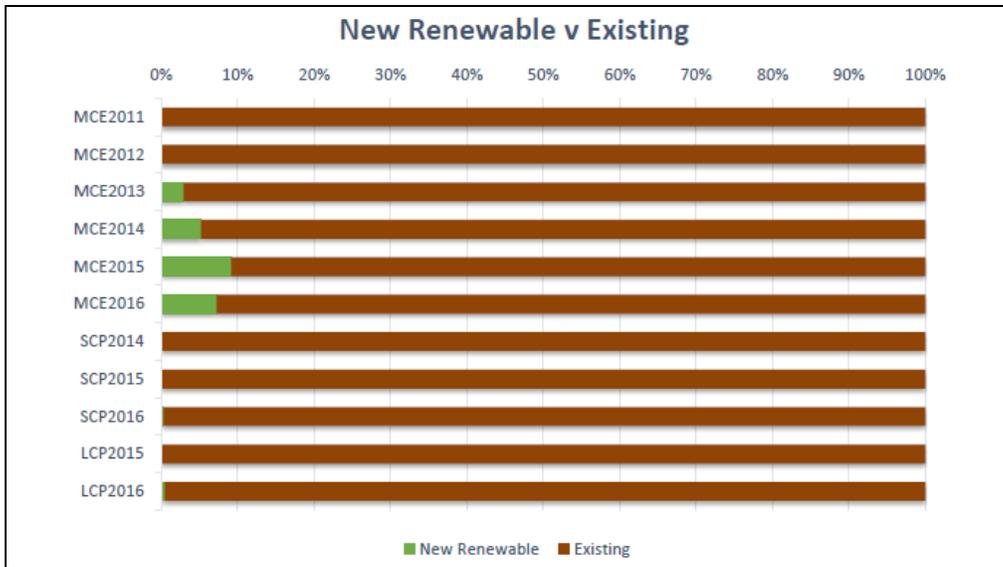
<sup>4</sup> California Public Utilities Code Section 399.13(b).

<sup>5</sup> See, Sierra Club response to questions issued by the IPA following the May workshops on Illinois Long-Term Renewable Resources Plan, June 27, 2017, p.2, <https://www.illinois.gov/sites/ipa/Documents/Sierra-Club-IPA-Comments-LTRRPP.pdf>; Direct Testimony of R. Thomas Beach on behalf of Idaho Conservation League and the Sierra Club, before the Idaho Public Utilities Commission, docket IPC-E-15-01, April 23, 2015, p. 1, 8, 10-11, <http://www.puc.idaho.gov/fileroom/cases/elec/IPC/IPCE1501/intervenor//SIERRA%20CLUB/20150422B EACH%20DIRECT.PDF>.

<sup>6</sup> See, U.S. Department of Energy, 2011/2012 Economic Dispatch and Technological Change, Report to Congress, September 2012, at p. 4, <https://energy.gov/sites/prod/files/2014/12/f19/2011-2012-EconomicDispatch-TechChange-RptCongress.pdf>.

*SDG&E achieved 43% renewable energy in 2016, 100% of which was also from long-term contracts; see Appendix 2 for further detail. SDG&E is forecasted to reach 49% renewable energy in 2021, 98% of which will be from long-term contracts.<sup>7</sup>*

By contrast, an analysis by Sempra Services of CEC Power Content Label data, as well as information provided by CCA advocates regarding new renewables constructed in response to CCA demand indicates that little renewable energy procured by CCA providers has come from newly constructed renewable generation to date:



The contrast between IOU and CCA renewable procurement in California to date is striking and important. However, few CCA customers are aware of this information.

To the extent California electricity consumers move from IOU energy procurement to CCA energy procurement, CCAs should be held to the same procurement standards that have been applied to IOUs. The need to ensure renewable energy procurement is pursued in a way that continues new renewable development and leads to real and additional emission reductions

<sup>7</sup> See, SDG&E Renewable Procurement Plan, filed with CPUC in R.15-02-020 on July 21, 2017, <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M195/K911/195911028.PDF>, at Attachment "A," pp. 1-2.

is but one example. It will also be necessary to ensure adequate long-term capacity commitments are made to ensure continued reliability and that a means exists to ensure compliance with any procurement mandates that may be adopted in the future. Otherwise, California will fail to achieve its environmental policy goals, and may even end up placing reliability at risk.

### **III. IN THE SHORT RUN, THE COMMUNITY CHOICE AGGREGATION MODEL REDUCES THE LONG-TERM RENEWABLE INVESTMENTS NECESSARY TO FINANCE THE EVOLUTION OF THE ELECTRIC GRID**

Question 4 asks:

*How does the choice model leverage investment necessary to finance the evolution of the electric grid?*

Evolution of the electric grid will require significant investments to integrate significantly higher levels of renewable energy, support increased use of electric vehicles, and seamlessly integrate behind the meter resources and price signals that lead to economically efficient deployment of Distributed Energy Resources. Evolution of the grid will also require that adequate long-term investments are made in renewable generation development, as is discussed in the forgoing section. However, there is little statewide regulatory oversight to ensure that CCA providers fulfill these obligations.

At the CPUC Community Choice Aggregation En Banc Hearing that was held on February 1, 2017, Suzanne Casazza, of the CPUC's Energy Division gave a presentation providing some background information about CCA. Slide 12 noted differences in regulatory oversight over IOUs and CCA providers:

- ***Renewables Portfolio Standard (RPS)***
  - *CCAs are subject to the same RPS requirements as IOUs*

- CPUC “accepts” CCAs’ RPS plans
- ***Integrated Resource Planning (IRP)*** (PU Code Section 452.52)
- *CCAs must submit IRP proposal for CPUC certification*<sup>8</sup>

Sempra Services submits that, if CCA has the potential to grow to the extent anticipated in the CPUC Staff Whitepaper, merely “accepting” RPS plans and providing a “certification” of CCA Integrated Resource Plans will not be adequate to ensure that the investments necessary for evolution of the reliable electric grid are made.

#### **IV. THE COMMUNITY CHOICE AGGREGATION MODEL DOES NOT FACILITATE A SMOOTH TRANSITION OF UTILITY OBLIGATIONS**

Question 5 asks:

*How does this choice model consider the transition of utility obligations?*

For the reasons articulated above, Sempra Services submits the current regulatory structure has not been designed to provide for a smooth transition of utility obligations if a significant percentage of load currently served by IOUs migrates to CCA service. As Commission staff pointed out:

*CPUC oversight of IOU procurement, through the legacy LTPP proceedings, has historically been extremely rigorous, with CPUC approval required for both resource need and individual contracts for resources that anticipate recovery of contract costs from customers. The challenge facing the CPUC in the implementation of the IRP proceeding is that as non-IOU LSEs serve an ever-greater percentage of load, the CPUC’s top-down approach to regulation will be challenged by the need to interact with many more procuring entities. Further complicating the issue is the fact that there are*

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<sup>8</sup> See, Staff Presentation, Community Choice Aggregation (CCA), By Suzanne Casazza, Energy Division, Community Choice Aggregation En Banc, February 1, 2017, [http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/Utilities\\_and\\_Industries/Energy/Energy\\_Programs/Costs\\_and\\_Rates/CCA\\_and\\_Direct\\_Access/FinalStaffEnBancPresentation2.1.17.pptx](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy/Energy_Programs/Costs_and_Rates/CCA_and_Direct_Access/FinalStaffEnBancPresentation2.1.17.pptx), at slide 12.

*outstanding questions regarding what role the CPUC has in the CCA IRP process.<sup>11</sup> Depending on the resolution of these questions, issues of consistency and coordination between CPUC requirements and CCA independent authority could diminish the long-term effectiveness of the IRP process and could limit the state’s ability to meet its GHG emission reduction goals.<sup>9</sup>*

CalCCA (a trade organization that advocates on behalf of various CCA providers) has recently argued that CCA providers cannot and should not be subject to the same level of regulatory oversight as IOUs:

*The CCA-specific IRP process set forth at Section 454.52(b)(3) differs from the general IRP process set forth at Section 454.52(a) in three key ways. First, in the general IRP process, the Commission has the authority to approve individual IRPs. [Footnote omitted.] In the CCA-specific IRP process, each CCA Program’s governing board is vested with approval authority, and the Commission’s role is limited to certifying each CCA’s IRP. [Footnote omitted.] In the context of Commission review of CCA program activities, “certify” is a well-established term of art, referring to the informal review of a CCA plan to ensure that it includes the content required by statute without assessing the substantive adequacy of said content. [Footnote omitted.] Second, while IOU’s IRPs are required to strictly comply with the eight criteria set forth at 454.52(a)(1)(A)–(H), including meeting GHG reduction targets and minimizing impacts on ratepayers’ bills, CCA programs’ IRPs are required to achieve “benefits and performance characteristics” that are “consistent with” the eight criteria. Third, while, as a general rule, the Commission is responsible for “ensuring” that LSE IRPs comply with the eight criteria, [footnote omitted] Section 454.52(b)(3) carves out a specific exception to this rule for CCA programs by explicitly vesting each CCA program’s governing board with the authority to approve that program’s IRP<sup>10</sup>.*

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<sup>9</sup> See, Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework, Staff White Paper, California Public Utilities Commission, May 2017, [http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/News\\_Room/News\\_and\\_Updates/Retail%20Choice%20White%20Paper%205%208%2017.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/News_Room/News_and_Updates/Retail%20Choice%20White%20Paper%205%208%2017.pdf), at p. 7.

<sup>10</sup> See, Comments of the California Community Choice Association on the Proposed Reference System Plan, CPUC Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework

CalCCA basically contends that the Commission’s authority is limited to engaging in, “informal review of a CCA plan to ensure that it includes the content required by statute without assessing the substantive adequacy of said content.” Under this view, substantive regulatory oversight of CCA providers would be provided by essentially the same people who manage CCA operations. Their priorities may well be biased in favor of cost minimization and local concerns, to the exclusion of statewide reliability and environmental needs or policy mandates. Sempra Services does not agree that Section 452.52 limits the Commission’s authority over CCA providers in this way. In fact, it is clear that absent statewide regulatory oversight, a smooth transition of utility obligations will not occur in the case of significant future customer migration from IOUs to CCA providers.

## V. CONCLUSION

One of the questions posed by the Customer Choice Project Team asks:

*... what are the “must haves” as California considers regulatory framework options to manage the transition associated with customer choice?*

Sempra Services submits that customer choice in the form of CCA requires:

- Equal regulatory oversight to ensure that statewide policy objectives, procurement mandates, and reliability needs are met;
- Equal rules and oversight to ensure that CCA does not result in a transition from long-term to short-term contracting that stifles renewable development, environmental achievements and places system reliability at risk; and,

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and to Coordinate and Refine Long-Term Procurement Planning Requirements, R. 16-02-007, dated October 26, 2017, <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M197/K933/197933674.PDF>, at pp. 6-7.

- Revisions to the PCIA mechanisms to ensure that CCA customers pay for the above-market costs that were incurred by IOUs on their behalf.

By addressing these needs, the Commission will be able to ensure that CCA is:

- Equitable for all electric customers in the region;
- Provides real and additional environmental benefits; and,
- Reduces greenhouse gas (GHG) emissions by promoting new renewable energy projects.

Respectfully submitted,

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