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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Senate Bill 237 Related to Direct Access.	Rulemaking 19-03-009 (Filed March 14, 2019)

REPLY COMMENTS OF CALIFORNIA COMMUNITY CHOICE ASSOCIATION ON THE PROPOSED DECISION

Elizabeth M. Kelly
BRISCOE IVESTER & BAZEL LLP
155 Sansome Street, Seventh Floor
San Francisco, California 94104
Telephone: (415) 402-2716
Email: ekelly@briscoelaw.net

Counsel for:
CALIFORNIA COMMUNITY CHOICE ASSOCIATION

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Pursuant to Rule 14.3 of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure, California Community Choice Association ("CalCCA") respectfully submits the following reply to the comments on the Proposed Decision issued on April 29, 2019 ("PD"). Pursuant to Rules 1.15 and 14.3, these comments are timely filed.

I. ENROLLMENT TIMELINES

A. Consistent Application of Resolution E-4907 Is Essential to Ensure Appropriate RA Procurement and to Prevent Cost-Shifting

In their comments on the PD, various parties support an expedited timeline for the reopening of direct access ("DA") that conflicts with Resolution E-4907. CalCCA strongly opposes this approach because it contravenes existing requirements for CCAs and creates an untenable environment for all LSEs to forecast and procure resource adequacy ("RA") in an already constrained market. This will drive up RA costs for California ratepayers, while suppressing accurate reliability planning and execution. CalCCA continues to strongly support the use of existing precedent, Resolution E-4907, to allow for appropriate time horizons to plan for departures and meet all compliance requirements.[1] From the perspective of trying to maximize the effectiveness of the year-ahead RA planning process, which is the reason Resolution E-4907 was passed, there is no basis for treating this DA reopening any differently from any load departure to

[1] While Commercial Energy asserts that each LSE will be able file their August 16, 2019 updated RA forecast and "make adjustments to procurement before the customers begin service on Jan. 1, 2020" (Comments of Commercial Energy on PD at 5), this oversimplifies the requirements imposed on LSEs. In the year-ahead RA filings in October of each year, LSEs must demonstrate that they have procured 90% of system RA in summer months and 90% of flexible RA and 100% of local RA in each month. See, 2019 Filing Guide for System, Local and Flexible Resource Adequacy (RA) Compliance Filings, October 3, 2018 at 5. Available at: http://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=6442459140

CCA. CalCCA proposed appropriate modifications to the Resolution E-4907 for DA departures and this is provided again in Attachment A.

Resolution E-4907 addresses the same departure and stranded cost issues that parties are grappling with in this proceeding, would provide a clear and consistent 1-year timeline to ensure all LSEs comply with the year-ahead RA process before serving customers (a requirement the Commission explicitly imposed on CCAs in Resolution E-4907), would minimize cost-shifts, and would even provide an established waiver process if LSEs want to expedite the process.

B. The Extensive Waivers to Existing Rules Resulting from the Expedited Enrollment Timeline Are Troubling

In their comments on the PD, Pacific Gas and Electric Company, Southern California Edison and San Diego Gas and Electric (the "Joint IOUs") propose several modifications of existing processes in order to implement the PD as drafted.[2] These extensive deviations, waivers and cancellations are unnecessary and inadvisable. The utilities have not presented any rationales that would support these substantial deviations from current practices other than an underlying view that the compressed timelines presented in the PD do not allow for adherence to current rules. Rather than scrapping or deviating from existing rules and precedent, the Commission should adopt a timeline for customer departures that conforms to existing requirements, including the timeline the Commission has implemented in Resolution E-4907.

To implement these deviations, waivers and cancellations, the Joint IOUs propose "to implement all necessary tariff revisions by June 14, 2019, via a Tier 1 advice letter."[3] CalCCA opposes this approach as it does not provide for sufficient review by impacted parties to ensure compliance with the Commission's ultimate decision and because Tier 1 advice letters are intended for routine, non-controversial issues which an expanded DA application for all LSEs is not.

II. PCIA VINTAGE

CalCCA's Opening Comments asked the Commission to clarify that a DA customer maintains its vintage when it takes service from a CCA. The California Large Energy Consumers

[2] These modifications include: a deviation from the terms and conditions stated in each utility's Six-Month Notice, waiver of "the safe harbor, Transitional Bundled Service ("TBS") and bundled portfolio service provisions in the Six-Month Notice," and cancellation of the Notice in certain circumstances. Comments of Joint IOUs on PD at 1-2.

[3] Comments of Joint IOUs on PD at 5.

Association ("CLECA") made the same recommendation for an administrative clarification to ensure consistency.[4] CalCCA supports this clear and simple approach and opposes the Joint IOUs' new vintaging proposal that modifies – does not clarify – existing rules.[5]

III. CUSTOMER CONFIDENTIALITY AND THE WAITLIST

A. The Confidentiality and 15/15 Rules Are Misapplied in Parties' Comments

CLECA proposes that the PD "explicitly reference critical rules on protection of confidential customer information set in D. 14-05-016; the PD should explain that those rules serve to protect particularly commercially sensitive industrial customer data, and ensure they apply to the release of aggregated load data to [CCAs]."[6] CLECA commits legal error in its proposed application of: (1) D.14-05-016, which is not applicable to CCAs,[7] (2) Section 394.4(a) of the California Public Utilities Code regarding confidentiality, which does not apply to waitlist number or data that CCAs are already properly in possession of,[8] and (3) the 15/15 Rule, which does not apply to waitlist numbers. CCAs already have in place applicable non-disclosure agreements with the IOUs with regards to confidentiality of customer data and the Commission has applied the same rules and responsibilities regarding data access to CCAs as it has IOUs.[9]

B. Aggregated Information Is Not Sufficient for Planning Purposes

CCAs' request to have complete information regarding their customers on the waitlist is not academic. CCAs request this data to appropriately plan for customer departures. The assertion that "aggregated data should give CCAs and ESPs all the information they need for planning purposes"[10] is an erroneous assumption. The need for data regarding the waitlist is set forth in

[4] "The PCIA vintage is determined when a ~~CCA~~ customer leaves bundled service for either CCA or ESP service." Comments of CLECA on the PD at 1.
[5] The Joint IOUs, however, recommend an entirely new approach to vintaging for DA customers in the guise of creating "parity with regard to PCIA vintaging." Joint IOUs at 5.
[6] CLECA at 1.
[7] The Decision is applicable only to "local government entities, researchers, and state and federal agencies" seeking customer load data for research purposes. D. 14-05-016 at 1.
[8] Comments of CLECA on PD at 2
[9] "In our view, a policy of granting CCAs full access to customer usage data and holding CCAs responsible for protecting the advanced metering data that they obtain from PG&E, SCE and SDG&E provides the CCAs the same usage rights and responsibilities as a utility. Moreover, in this particular situation, such a policy provides CCAs with all rights to data that it requests." D.12-08-045 at 25, emphasis added.
[10] Comments of Advanced Energy Economy ("AEE") and the Advanced Energy Buyers Group ("AEBG") on PD at 9.

CalCCA's comments on the OIR and the PD. Moreover, speculative comments regarding usage of data beyond planning for load departures and to avoid cost shifts by CCAs are not supported by the record in this docket and should be rejected as a legitimate rationale for denying CCAs the data they need to plan. The IOUs already receive this information and there is no principled reason why a CCA, which is in the same position as the IOU in reliably serving its community, should not have equivalent information on the same terms as the IOUs, as set forth on Attachment A.

IV. CCA CAP

A. The CCA Cap Is Not Discriminatory and Is Consistent with Customer Choice

CalCCA throughout this proceeding has sought to avoid disproportionate allocations of DA departure from individual CCAs, consistent with other limits on DA departures. Certain parties' opening comments view this protection as "discriminatory" and "stifl[ing] customer choice."[11] These concerns are inaccurate and misplaced.

The term discrimination has been widely used – and widely misused – in this proceeding. Parties have viewed the CCA cap as discriminatory. Parties have viewed the use of different waitlists as discriminatory.[12] However, for a decision to be discriminatory, it must make an unfair or prejudicial distinction between different categories of people or things. It is not unfair or prejudicial to develop rules to provide safeguards for CCAs in a manner that is consistent with the overall approach to capping load departures contained in legislative analysis. The proposed CCA cap is fully consistent with and advances customer choice, contrary to the assertion of Commercial Energy, which asserts that the CCA cap is "inconsistent with customer choice and should be rejected."[13] In CCA service areas, all customers have a choice of energy provider. Outside of CCA service areas, commercial customers have the option for DA only in large IOU territories subject to a cap. To the extent load departures to DA are concentrated in CCA territories, that concentration deprives customers in other IOU, non-CCA areas, the option of an alternative service provider.

B. Alternate LSE Cap Proposal of EBCE

CalCCA continues to support its proposal to cap loads in CCA territories. However, if the

[11] *See*, Comments of AEE and AEBG on the PD at 9.
[12] See, Comments of Energy Producers and Users Coalition ("EPUC") on PD at 1; See, also, Comments of Shell Energy North America ("SENA") on PD at 3-4.
[13] Comments of Commercial Energy on PD at 7.

Commission is not inclined to adopt the CalCCA proposal, East Bay Community Energy ("EBCE") proposes an alternative to the CCA cap in its Opening Comments. "For SB 237 volumes, the Commission should adopt a cap of 3% of total load for each non-DA LSE (*i.e.*, CCAs and IOUs), spread over two years. This would put all CCAs and IOUs on an equal footing with respect to DA reopening impacts. Furthermore, a 3% cap would accommodate most would-be DA customers on the 2019 waitlist."[14] CalCCA does not oppose this proposal.

C. Proliferating Exit Fees Are Not a Solution and Harm Customer Choice

CalCCA thanks the Commission for acknowledging in the PD the right of CCAs to implement exit fees. However, as noted in CalCCA's comments on the PD, exit fees could add to customer confusion and are not customer-friendly. Furthermore, it is impractical for CCAs to implement an exit fee structure in the proposed departure timeline. The Direct Access Customer Coalition ("DACC") appears to share CalCCA's concerns regarding the deleterious impacts of proliferating exit fees noting that "further exit fees will impair retail competition, inhibit customer choice and actually be deleterious to CCA interests as it could encourage DA-eligible customers currently taking CCA service to depart to bundled service so as not to be subject to CCA exit fees that might be applied in the future that would make a move to direct access less economical." CalCCA agrees that further exit fees are not the preferred answer. Instead, the Commission should develop a cap on load departures within CCA service territories to mitigate the need for exit fees.

V. PHASE 2 AND THE DA-CCA SWITCHING ISSUE

Commercial Energy and DACC support the Commission's early determination regarding DA-CCA switching rules as set forth in Section 3.4.5 of the PD.[15] CalCCA opposes prejudging this issue and asks that the Commission address the proposed switching rule modification in Phase 2 of the docket as stated in the Scoping Memo. CalCCA asks that this issue be fully heard.

VI. CONCLUSION

CalCCA thanks Assigned Commissioner Picker and Assigned Administrative Law Judge Powell for the opportunity to provide this reply to the comments on the Proposed Decision.

[14] Comments of EBCE on PD at 7.
[15] Comments of Commercial Energy on PD at 6; Comments of DACC on PD at 9-10.

Respectfully submitted,

/s/ Elizabeth Kelly

Elizabeth M. Kelly
BRISCOE IVESTER & BAZEL LLP
155 Sansome Street, Seventh Floor
San Francisco, California 94104
Telephone: (415) 402-2716
Email: ekelly@briscoelaw.net

Counsel for:
CALIFORNIA COMMUNITY CHOICE ASSOCIATION

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ATTACHMENT A

ORDERING PARAGRAPH AND DA EXPANSION TIMELINE

New Ordering Paragraph, replacing Ordering Paragraphs 3-5:

The Direct Access (DA) enrollment schedule to enroll new loads is as set forth as follows:

DA Expansion Timeline Consistent with Resolution E-4907

Date	DA Customer and ESP Action
Day 1, Year 1 (On or before January 1 Year 1)	(1) The prospective DA customer submits its Intent to Take DA Service to Energy Division and to the LSE serving that load.
Day 1 – 90, Year 1	(1) The CPUC sends a letter confirming that it has received the Intent to Take DA Service. This letter informs the ESP about any cost recovery mechanism. If and when the CPUC requests additional information from an ESP, the ESP shall respond to CPUC staff within 10 days, or notify the staff of a date when the information will be available. (2) The CPUC provides the ESP with its findings regarding any cost recovery that must be paid by customers of the CCA in order to prevent cost shifting. (3) The ESP and the Utility should Meet-and-Confer regarding the ESP's ability to conform its operations to the Utility's tariff requirements.
Day 1 – 90, Year 1	(1) The ESP submits its registration packet to the CPUC, including: a. Signed UDC-ESP service agreement with the utility, b. Completed ESP Registration Application Form, c. Fingerprints are prescribed for required personnel d. Applicable bond amount e. Scheduling coordinator agreement f. ESPs offering electric service to residential or small commercial customers, submit a copy of your Section 394.5 Notice to the Energy Division of the CPUC on or before the date you sign up your first customer or when the first standard service plan filing is due, whichever is earliest
Day 90 – 120, Year 1	(1) If the registration packet is complete, the CPUC confirms Registration as an ESP.
April, Year 1	(1) The ESP submits its year ahead Resource Adequacy forecast (P.U. Code Section 380)
August, Year 1	(1) The ESP submits its updated year-ahead RA forecast

Date	DA Customer and ESP Action
October Year 1 (75 days before service commences)	(1) ESPs submit their Monthly load migration forecast for the Resource Adequacy program, filed about 75 days prior to the compliance month.
Within 30 days of the CCA's or ESP's Commencement of Customer Automatic Enrollment	(1) Once notified of the DA departure, the Utility shall transfer all applicable accounts to the new supplier within a 30-day period from the date of the close of their normally scheduled monthly metering and billing process.
January 1, Year 2	(1) ESP begins service.

ORDERING PARAGRAPH AND WAITLIST

New Ordering Paragraphs, replacing Ordering Paragraph 6:

Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company shall revise Direct Access Program rules such that each affected Community Choice Aggregator (CCA) receives a confidential table that provides the lottery position and the customer account number for each of its customers on the waitlist.

Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company shall revise their electric rules such that any affected Community Choice Aggregator (CCA) shall be informed of the proposed switching date.