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

Order Instituting Rulemaking to
Implement Senate Bill No. 1488 (2004
Cal. Stats., Ch. 690 (Sept. 22, 2004))
Relating to Confidentiality of
Information.

Rulemaking 05-06-040

**COMMENTS OF CALIFORNIA COMMUNITY CHOICE ASSOCIATION
ON PROPOSED DECISION**

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SUMMARY OF RECOMMENDATIONS

- The Commission should apply the ESP Matrix to CCAs.
 - In the alternative, the Commission should add categories to the IOU and CCA Matrix to provide CCAs with the same protections afforded this information when submitted by ESPs.
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ON THE PROPOSED DECISION**

The California Community Choice Association (CalCCA) submits these comments pursuant to Rule 14.3 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure on the Proposed Decision Granting In Part Petition to Modify Decision 06-06-066 (Proposed Decision) issued on May 20, 2020.

I. INTRODUCTION AND SUMMARY

CalCCA appreciates the Commission's timely response to CalCCA's Petition to Modify D.06-06-066 (Petition). The PD, if adopted with limited modifications, will provide a better process for the treatment of community choice aggregator (CCA) confidential data submitted in Commission proceedings.

CalCCA asked the Commission to modify D.06-06-066 (Decision) to clarify that the confidentiality guidelines adopted in D.06-06-066 are applicable to CCAs. CalCCA further requested a modification to the Decision's Ordering Paragraph 11 and the addition of a new Conclusion of Law. These proposed modifications create consistency for CCAs and address an issue unique to CCAs among load-serving entities: the application of California's Public Records Act to requests for confidential, market-sensitive information.

CalCCA also requested establishing a “CCA Matrix” that mirrors the confidentiality matrix applicable to ESPs. Instead, the PD proposes applying the “IOU Matrix” to CCAs. CalCCA requests the Commission change the PD and adopt CalCCA’s proposal because the ESP Matrix more closely matches the type of information submitted by CCAs. In the alternative, CalCCA requests that additional categories of information be added to the “IOU and CCA Matrix” to ensure that certain information regarding compliance with Renewable Portfolio Standard (RPS) and Resource Adequacy (RA) requirements, when submitted by CCAs, is given adequate protection.

II. THE COMMISSION SHOULD APPLY THE ESP MATRIX TO CCAS, OR IN THE ALTERNATIVE, ADD CATEGORIES TO THE IOU MATRIX TO PROVIDE CCAS WITH THE SAME PROTECTION AFFORDED INFORMATION SUBMITTED BY ESPS

A. The ESP Matrix Is a Better Fit for Information Provided by CCAs Than the IOU Matrix

Respectfully, CalCCA requests the Commission modify the proposed decision and apply the “ESP Matrix” to CCAs. The majority of information included in the IOU Matrix is not information CCAs are required to provide to the Commission. Among others, the IOU Matrix includes the following categories of information that CCAs do not provide to the Commission:

1. Natural gas information – including forecasts and historical information;
2. Cost forecast data – including electric price forecasts and generation cost forecasts;
3. Forecasts of revenue requirements and customer rates;
4. Resource planning information – including forecasts of IOU generation resources, qualifying facility generation, IOU hydro generation, and pre- and post- 1/1/2003 bilateral contracts, DWR contracts, non-demand response demand side managements and energy efficiency savings;
5. Net open positions for capacity and energy, by bundled customer and by planning area;

6. Strategic procurement information – including qualitative identification of specific uncertainties, description of risk management plans, procurement incentive plans, and procurement mechanics and contract oversight; and

7. Monthly procurement costs for ERRRA filings, and monthly portfolio risk assessments.

In contrast, the information included in the “ESP Matrix” mirrors the information the Commission may request from CCAs. Significantly, the ESP Matrix, unlike the IOU Matrix, includes categories of information that must be submitted by ESPs and CCAs regarding their respective compliance with RPS and RA requirements. These categories of information have no equivalent in the IOU Matrix. Thus, CalCCA requests the ESP Matrix be applied to CCAs.

B. If the IOU Matrix is Applied to CCAs, Additional Categories of Information Must be Included to Mirror the Treatment This Information Receives When Submitted by ESPs and Protect CCAs’ Confidential Information

If the Commission applies the IOU Matrix to CCAs, creating a joint “IOU and CCA Matrix”, it must add categories from the ESP Matrix that have no equivalent in the IOU Matrix to protect confidential information submitted by CCAs, and ensure those categories of information are subject to equivalent treatment when submitted by ESPs and CCAs. These additional categories include information regarding CCAs’ compliance with RPS and RA requirements:

Item	Public/Confidential Treatment	Explanation of Item
XIV) Renewable Portfolio Standard (RPS) Information		
RPS compliance filings required by CPUC, by CCA	Public, unless disclosure of first three years of forecast retail sales and resource mix data (MWh) and/or of historical retail sales and supply data (MWh) for prior year would reveal entire net short of CCA.	Includes one-time and recurring reporting. Shows current and projected contents of a CCA’s portfolios, including sales and resource mix.

Annual RPS compliance filings, by CCA	Public, unless disclosure of first three years of forecast retail sales and resource mix data (MWh) or of historical retail sales and supply data would reveal the entire net short of CCA.	Includes Annual Procurement Target (APT) reporting required in Rulemaking 04-04-026 and all other required reports.
XV) Resource Adequacy Information		
Supply data (both year ahead and month ahead)	Supply data for first 3 years of forecast period confidential.	Year ahead data show that CCA has secured adequate generation capacity to cover the required percentages of forecast peak load for next summer months or annual local RA requirements. Month ahead data show that CCA has secured adequate capacity to cover the required percentage of its forecast load plus a reserve requirement.
Customer counts by month	Public	Monthly customer count data used to evaluate reliability of CCA load forecasts.
XVI) Load Forecast Information and Data-Electric		
Detailed load forecasts filed in spring for upcoming year, by CCA	Upcoming year forecast confidential; public once data is one year old.	
XVII) Recorded (Historical) Data and Information-Electric		
Market purchases of energy and capacity	Public after data are one year old.	

With the addition of these categories, the public/confidential treatment for CCAs will effectively protect CCAs' confidential information and mirror the treatment currently afforded this information when submitted by ESPs.

III. CONCLUSION

California Community Choice Association appreciates the opportunity to submit these comments and request adoption of the recommendations proposed herein. For all the foregoing reasons, the Commission should modify the proposed decision as provided in Appendix A.

Respectfully submitted,

/s/ Ann Springgate

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June 9, 2020

ATTACHMENT A
Proposed Changes to Conclusions of Law and Ordering Paragraphs

CONCLUSIONS OF LAW

3. There is no apparent reason to treat the same category of market-sensitive information submitted to the Commission differently depending on whether it is submitted by a CCA as opposed to an ~~IOU~~ ESP.
4. D.06-06-066 should be modified to apply the ~~IOU~~ ESP Matrix to CCAs.

ORDERING PARAGRAPHS

1. Decision (D.) 06-06-066, as modified by D.07-05-032 and D.08-04-023, is modified to add the following conclusions of law:
 25. It is reasonable to apply the ~~IOU~~ ESP Matrix to CCAs.
 26. Pursuant to Gov. Code § 6254.5(b) and (e), CCAs' production of confidential market-sensitive information pursuant to the protections and requirements of this decision and related decisions does not constitute a waiver of the exemptions from public disclosure under the Public Records Act.
3. Ordering Paragraph 2 of Decision (D.) 06-06-066, as modified by D.07-05-032 and D.08-04-023, is modified as follows:
 2. We adopt the confidentiality conclusions set forth in the ~~IOU and CCA~~ Matrix and ESP and CCA Matrix attached hereto as Appendices 1 and 2 (collectively Matrix, unless otherwise stated). Where a party seeks confidentiality protection for data contained in the Matrix, its burden shall be to prove that the data match the Matrix category. Once it does so, it is entitled to the protection the Matrix provides for that category. The submitting party must file a motion in accordance with Law and Motion Resolution ALJ-164 or any successor Rule, accompanied with any proposed designation of confidentiality, proving:
 - 1.) That the material it is submitting constitutes a particular type of data listed in the Matrix,
 - 2.) Which category or categories in the Matrix the data correspond to,
 - 3.) That it is complying with the limitations on confidentiality specified in the Matrix for that type of data,
 - 4.) That the information is not already public, and
 - 5.) That the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.
5. ~~The Investor Owned Utilities (IOU) Matrix attached to Decision 06-06-066 as Appendix 1 is retitled as "IOU and CCA Matrix."~~ The Energy Service Provider (ESP) Matrix is retitled as "ESP and CCA" Matrix.

In the alternative, the Commission should order as follows:
New Order:

6. The following categories are added to the end of the IOU and CCA Matrix:

<u>Item</u>	<u>Public/Confidential Treatment</u>	<u>Explanation of Item</u>
<u>XIV) Renewable Portfolio Standard (RPS) Information</u>		
<u>RPS compliance filings required by CPUC, by CCA</u>	<u>Public, unless disclosure of first three years of forecast retail sales and resource mix data (MWh) and/or of historical retail sales and supply data (MWh) for prior year would reveal entire net short of CCA.</u>	<u>Includes one-time and recurring reporting. Shows current and projected contents of a CCA’s portfolios, including sales and resource mix.</u>
<u>Annual RPS compliance filings, by CCA</u>	<u>Public, unless disclosure of first three years of forecast retail sales and resource mix data (MWh) or of historical retail sales and supply data would reveal the entire net short of CCA.</u>	<u>Includes Annual Procurement Target (APT) reporting required in Rulemaking 04-04-026 and all other required reports.</u>
<u>XV) Resource Adequacy Information</u>		
<u>Supply data (both year ahead and month ahead)</u>	<u>Supply data for first 3 years of forecast period confidential.</u>	<u>Year ahead data show that CCA has secured adequate generation capacity to cover the required percentages of forecast peak load for next summer months or annual local RA requirements.</u> <u>Month ahead data show that CCA has secured adequate capacity to cover the required percentage of its forecast load plus a reserve requirement.</u>
<u>XVI) Load Forecast Information and Data-Electric</u>		
<u>Detailed load forecasts filed in spring for upcoming year, by CCA</u>	<u>Upcoming year forecast confidential; public once data is one year old.</u>	

<u>XVII) Recorded (Historical) Data and Information- Electric</u>		
<u>Market purchases of energy and capacity</u>	<u>Public after data are one year old.</u>	