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

Order Instituting Rulemaking to Address Energy Utility Customer Bill Debt Accumulated During the COVID-19 Pandemic.	R.21-02-014 (February 11, 2021)

CALIFORNIA COMMUNITY CHOICE ASSOCIATION OPENING BRIEF

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Pursuant to Rule 13.11 of the California Public Utilities Commission's ("CPUC" or "Commission") Rules of Practice and Procedure, the *Assigned Commissioner's Scoping Memo and Ruling* issued March 15, 2021, and the *Administrative Law Judge's Ruling Inviting Responses to Post-Workshop Questions and Extending Filing Dates of Briefs,* filed April 2, 2021 (Ruling), California Community Choice Association[1] (CalCCA) submits this concurrent opening brief.

I. INTRODUCTION

In the *Assigned Commissioner's Scoping Memo and Ruling* issued on March 15, 2021, the Commission cites two "threshold" questions from the OIR as it relates to developing special relief mechanisms for customer debt accrued during the COVID-19 pandemic.

> 1. Is it reasonable to rely only upon existing policies and customer assistance programs to assist customers with arrearages that have accumulated during the COVID-19 period once the disconnection moratorium ends? On what basis?

[1] California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Baldwin Park Resident Owned Utility District, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, East Bay Community Energy, Lancaster Choice Energy, Marin Clean Energy, Peninsula Clean Energy, Pico Rivera Innovative Municipal Energy, Pioneer Community Energy, Pomona Choice Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Diego Community Power, San Jacinto Power, San José Clean Energy, Silicon Valley Clean Energy, Solana Energy Alliance, Sonoma Clean Power, Valley Clean Energy, and Western Community Energy.

2. Is it reasonable to develop arrearage relief to assist customers with arrearages that have accumulated during the COVID-19 period once the disconnection moratorium ends? On what basis?[2]

CalCCA agrees with many Parties that relief is necessary. Many of the customers we serve are experiencing unusual hardships due to the economic and social turmoil caused by the COVID-19 pandemic. Job loss, unsteady and uncertain sources of income, unexpected medical bills, and changes in living situation are a few of the examples of lived experiences in our communities. CalCCA supports relying on existing policies and customer assistance programs as staffing and resources are more readily available, and can be deployed as soon as possible, while also continuing to explore new arrearage relief mechanisms supported by quantitative and qualitative data.

CalCCA appreciates the opportunity to contribute to solutions and makes the following recommendations. The Commission should:

1. Extend the current "pro rata" application of Partial Payments through the entire COVID-19 transition;

2. Ensure that any debt forgiveness plans, new or existing, are funded through the Public Purpose Program Charge (PPPC);

3. Make several modifications to Arrearage Management Plan (AMP), including:

    - Expand eligibility for the AMP program by lowering the minimum total arrearage requirement for participation from its current level of $500 to $250;

    - Ensure that AMP enrollment is on a "request to participate" basis, as automatic enrollment could result in customers who miss payments being unintentionally locked out of the program for a year without their knowledge; and

    - Prioritize flexibility in payments, by allowing customers extended payback periods, the opportunity to defer payments, and renegotiation of payment plans.

[2] *Assigned Commissioner's Scoping Memo and Ruling*, March 15, 2021, at 3.

4. Leverage existing funding such as the California Housing and Community Development's Emergency Rental Assistance Program (HCD ERAP) and continue to utilize 80% Area Median Income (AMI) as an eligibility threshold, instead of the Federal Poverty Level (FPL) indicator, to allow for increased participation in this statewide program;

5. Use metrics based on income and energy burden, not disconnection data, to prioritize geographic areas eligible for relief programs;

6. Support the invaluable experiences and work of Community Based Organizations (CBOs) by amplifying on-the-ground stories to shape policy and program design; and

7. Tie the extension of the disconnection moratorium end date to California's economic reopening and account for a transition period to allow customers to adjust and stabilize themselves financially.

Adopting these measures will help address outstanding arrearages and ultimately reduce disconnections and advance economic recovery for our communities.

II. EXTEND THE CURRENT "PRO RATA" APPLICATION OF PARTIAL PAYMENTS THROUGH THE ENTIRE COVID-19 TRANSITION

CalCCA noted in its comments responding to the Order Instituting Rulemaking (OIR) that the Commission should extend the suspension of the waterfall payment methodology for the duration of the longest payment plan option adopted in this proceeding.[3] Pacific Gas and Electric Company's (PG&E's) and San Diego Gas and Electric's (SDG&E's) Protection Plans state that partial payments by a residential customer will be applied pro rata to the investor-owned utility (IOU) and community choice aggregators (CCA) customer balances.[4] CalCCA supports this approach as fair and equitable, as it ensures that IOUs and CCAs are placed on equal footing in

[3] *California Community Choice Association Comments On Order Instituting Rulemaking*, March 3, 2021 (CalCCA OIR Comments), at 8-10.

[4] See SDG&E Rule 27.R.2 (all partial payments are pro-rated); PG&E Rule 23.R.2 footnote (allocate partial payments received from residential CCA customers on a pro rata basis with CCAs for up to one year, through April 16, 202). The protections have been extended pursuant to Resolution M-4842. Resolution M-4842, Feb. 11, 2021, at 22-23.

recovering arrearages. CalCCA therefore requests that the Commission adopt language in the Proposed Decision to maintain a pro rata recovery through the entire COVID-19 transition.

III. ENSURE THAT ANY DEBT FORGIVENESS PLANS, NEW OR EXISTING, ARE FINANCED THROUGH THE PUBLIC PURPOSE PROGRAMS CHARGE

As noted in its opening comments, CalCCA recommends recovering the cost of debt forgiveness through the PPPC.[5] This is the current policy, per Resolution E-5114, which "approves cost recovery for electric arrearages through the electric Public Purpose Program Charge from all customers."[6] CalCCA continues to support this approach. PPPC is the fairest way of recovering costs, as it spreads the costs over the largest possible ratepayer base and does not disproportionately burden IOU or CCA customers. CalCCA will note that The Utility Reform Network (TURN) supports cost recovery for AMP through PPPC.[7]

IV. MAKE SEVERAL MODIFICATIONS TO THE ARREARAGE MANAGEMENT PLAN

CalCCA supports the use of existing relief programs such as AMP. Leveraging existing programs such as these can expedite relief because these programs are already staffed and operational and can thus avoid the ramp-up time and cost of a new program. However, CalCCA believes that the Commission can make several improvements to the program, described below.

First, the Commission should expand eligibility for the AMP by lowering the minimum total arrearage requirement for participation from $500 of total bill arrears to $250. Parties such as the Utility Consumers' Action Network have described lowering AMP eligibility from $500 to $250 total arrearages so more customers are eligible, including those who do not incur large

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5 CalCCA OIR Comments, at 2.

6 Resolution E-5114, at 1.

7 *Opening Comments of The Utility Reform Network on the Order Instituting Rulemaking*, March 3, 2021, at 11.

arrearages yet still experience financial difficulties.[8] SoCalGas has led by example, requiring customers to be enrolled in CARE, have an active account for at least six months, paid at least one full monthly natural gas bill on time, and has a balance of $250 or greater.[9]

CalCCA agrees with lowering the threshold for AMP participation. This will allow more customers to be eligible for arrearage management plans, which is sorely needed due to the economic impacts of COVID. Additionally, broadening AMP eligibility not only permits more participants, it also helps customers avoid incurring an extremely large debt. This is a proactive measure the Commission can adopt to prevent customers from struggling with high arrearages in the future.

CalCCA surveyed its members to gauge the impact of lowering the threshold on AMP eligibility. In total, survey responses indicated that lowering the AMP eligibility level from its current value of $500 of total bill arrearages to $250 of total arrearages would likely increase eligibility by approximately 29% for residential customers on CARE or FERA. The table below shows these illustrative results. Note that CalCCA assumes that the CCA bill is 1/3 of the total bill, as an approximation.[10] Also note that not all CCAs responded to the survey, meaning the numbers above do not represent the entire population of CCAs.

Figure 1. Impact of reducing eligibility threshold from $500 to $250 on CARE/FERA residential customers.

# Customers with estimated $500 in total bill arrearages or more*	54,363
# Customers with estimated $250 in total bill arrearages or more*	69,889
Increase in eligible customers due to lowering threshold from $500 to $250	29%

*Assuming CCA arrearage constitutes 1/3 of total arrearage.

8 *Opening Comments of The Utility Reform Network on Administrative Law Judge's Ruling Inviting Responses to Post-Workshop Questions*, April 12, 2021 (TURN Comments), suggesting to lower AMP eligibility like SoCalGas' AMP program.

9 SoCalGas webpage titled: Past Due Bill Forgiveness.

10 CCAs have reviewed customer blue bills and found that the average residential customer typically sees that 1/3 of their bill goes towards third-party generation charges.

Given the above data, CalCCA recommends that the total arrearage requirement of the AMP should be lowered, as it will allow more customers to be eligible.

Second, the Commission should ensure that AMP enrollment is on a "request to participate" basis, not automatic. CalCCA does not support automatically enrolling eligible customers into AMP as proposed by TURN.[11] Automatic enrollment is not appropriate for all customers, as it may misalign with their finances and cash flow. It may also have harmful, unintended consequences especially for customers who most likely will not know about the program rules when auto enrolled. For example, under current AMP rules, customers cannot reengage in the program for one year after removal.[12] Many customers likely will not know about the program rules when auto-enrolled, which can result in missed payments and therefore inadvertently blocking a customer from AMP benefits for one year. This is detrimental for a customer who wants to re-enroll in AMP on their own terms but must wait for a year to participate after being "locked out" without their knowledge.

Third, the Commission should prioritize flexibility in payment plans, AMP or otherwise. CalCCA provides several suggestions to improve flexibility below.

- **Offer extended payment plans.** Since the issuance of the OIR, several proposals have emphasized flexible and customizable payment plans that meet the needs of the customer. For example, the Commission proposed Straw Proposal B: Extended Payment Plan, which allows for up to 24-month payment plans. [13] CalCCA also supports offering options of longer payment plans of up to 24 months (i.e., 12, 18 or 24 months).

- **Allow payments to be deferred for up to three months.** In addition, Straw Proposal B refers to a three-monthly deferral payment policy. Initially, CalCCA proposed two non-consecutive missed payments, in alignment with AMP's payment policy for administrative purposes. However, CalCCA is open to supporting a three-monthly deferral plan that encourages more flexibility, as we

11 TURN Comments, suggesting to auto-enrollment of CARE/FERA customers into AMP, at 2.
12 PG&E Advice Letter 4308-G5943-E at 8; SCE 4287-E at 4; SDG&E 2902-G/3602-E at 4; and SoCalGas 5689-G at 4.
13 OIR issued on February 17, 2021.

have heard directly from our communities that utility bills can misalign with their own financial needs. CalCCA therefore suggests that customers can miss up to three consecutive payments and no more than five payments over a one-year period.[14]

- **Allow renegotiation of payment plans.** Additionally, the IOUs have shared that renegotiation is an important part of their payment plans. CalCCA agrees and encourages the IOUs to continue to provide language in their Customer Service Representative (CSR) script about potential renegotiation practices.

- **Allow for simple subscriptions to payment plans.** Finally, some of our customers have shared that they are fully knowledgeable of their bills and have done their best to stay current, but the cost is prohibitive for on-time payments. To address this issue, CalCCA suggests that the Commission adopt an easy mechanism for customers to notify the IOU about a payment deferment such as a text message or a "click here to defer" in an e-bill.

V. LEVERAGE EXISTING FUNDING SUCH AS THE CALIFORNIA HOUSING AND COMMUNITY DEVELOPMENT'S EMERGENCY RENTAL ASSISTANCE PROGRAM AND CONTINUE TO UTILIZE 80% AREA MEDIAN INCOME AS AN ELIGIBILITY THRESHOLD, INSTEAD OF THE FEDERAL POVERTY LEVEL INDICATOR

Another existing program that utilities and partners should elevate is the state's Housing and HCD ERAP. [15] CalCCA appreciates the Administrative Law Judge's direction in conducting a small pilot to assist customer enrollment in this program.[16] Many CCAs represent cities or counties that received funding for ERAP and are currently engaging with city and/or county staff to apply funds to utility arrearages. Some CCAs have shared interest in applying to be a Tier 1 partner to bring awareness of the ERAP application process. At minimum, CCAs plan to push

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14 If a customer was in between jobs, three months could provide enough leeway for the customer to secure payment in the fourth month.

15 Partners can increase awareness and support access to the program. This includes leveraging United Way 211 call/text capability for multilingual program information, as well as conduct outreach efforts.

16 *Administrative Law Judge's Ruling Directing Utility Action to Leverage Federal Funding Available for Utility Arrearages*, April 5, 2021, at 2.

out information about the ERAP program in their respective communities as part of their overall outreach efforts to customers about available assistance.

In addition to CCA partnership, the Commission should advise IOUs to work closely with CBOs to host office hours either via phone or safely in-person to get customers enrolled in ERAP, CARE/FERA, or AMP. For example, East Bay Community Energy hosted two office hours in both English and Cantonese with non-profit East Bay Asian Local Development Corporation at their computer lab to get residents enrolled in CARE/FERA. This direct interaction is the best way for customers to get enrolled.[17]

As staff of the Commission, IOUs, and CCAs are working to better grasp the ERAP application approach, CalCCA suggests that the Commission clearly identify how the program funding is applied (i.e., whether it is on the IOU and/or CCA's side of the bill). The HousingIsKey presentation at the Commission's two-day workshop notes that 100% of unpaid utility arrearages should be covered by the state's funding, which includes both transportation and delivery costs as well as generation costs.[18] CalCCA requests that the Commission, IOUs, and third-party providers like CCAs collaboratively identify the lessons learned and logistics of the state's program so we can best utilize and promote it to our customers.

Lastly, CalCCA continues to support utilizing HCD's 80% AMI eligibility threshold for ERAP, which is a crucial program for helping customers who may not meet the income eligibility of CARE of FERA. Throughout the two-day workshop on March 25 to March 26, many Parties described the need to reach customers who are financially struggling and are not within the bounds of 200% - 250% Federal Poverty Level. CalCCA agrees that FPL is not a comprehensive metric. California is a large, diverse state with a higher cost of living than the

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17 Abiding by the state's COVID-19 precaution is a priority.

18 *CA COVID-19 Rent Relief Program Utility Provider Listening Session*, March 11, 2020, slide 7.

United States average, and significant variation in income and socioeconomic status. AMI is a preferred metric to FPL because it captures this variation, as well as the state's high cost of living in California.

VI. USE METRICS BASED ON INCOME AND/OR ENERGY BURDEN TO PRIORITIZE GEOGRAPHIC AREAS ELIGIBLE FOR RELIEF PROGRAMS, NOT DISCONNECTION DATA

CalCCA believes that the Commission should use metrics based on income and/or energy burden to prioritize geographic areas eligible for relief programs, not disconnection data. CalCCA outlines its reasons below.

Due the disconnection moratorium beginning March 2020, there have been no new disconnections since that date. Therefore, the latest disconnection data is from 2019 - there is no data for 2020 and 2021. Because this 2019 data predates the pandemic, it is stale and does not capture the economic damage caused by COVID. Some customers' financial situations will have drastically worsened since 2019, meaning that 2019 data is an inadequate proxy for the economic harms of COVID.

Leaving aside the problems with stale data, CalCCA notes that TURN similarly pointed out problems with using disconnection rates: "Thus, if the Commission targets ZIP codes with the highest disconnection rate for arrearages relief, the Commission would miss large swaths of population centers, and thereby miss a large number of customers who need assistance. This approach would not lead to a fair or equitable result."[19] CalCCA concurs.

Therefore, CalCCA suggests using metrics such as energy burden, income, or metrics proposed in the affordability proceeding (Rulemaking (R.)18-07-006) to ensure we are meeting the needs of targeted communities. These metrics are a better measure of economic hardship than

[19] TURN Comments, at 12.

disconnections and provide a more complete picture than simply disconnection rates. They are thus better suited to prioritize relief.

VII. SUPPORT THE INVALUABLE EXPERIENCES AND WORK OF CBOS BY AMPLIFYING ON-THE-GROUND STORIES TO SHAPE POLICY AND PROGRAM DESIGN

CalCCA supports the Public Advocates Office (Cal Advocates) proposal to promote any new types of assistance programs relief mechanisms through CBOs so customers can hear from a trusted source.[20] From the experience of outreach efforts conducted by CCAs, we know that CBOs provide an exceptionally important channel of communication to its community members. Listening to the experiences of CBOs and of ratepayers affected by the COVID-19 pandemic would greatly contribute to program design. CalCCA suggests that the Commission continue to invite CBOs and members of the community at workshops to listen to the specific issues that communities face while the Commission shapes relief proposals.

VIII. EXTENSION OF THE DISCONNECTION MORATORIUM END DATE SHOULD BE TIED TO THE STATE'S ECONOMIC REOPENING, ALLOWING CUSTOMERS A TRANSITION PERIOD TO REGAIN ECONOMIC STABILITY AND ENSURE THE SUCCESS OF A COVID RELIEF PROGRAM

In considering the extension of the disconnection moratorium past June 30, 2021, CalCCA recommends that the Commission tie the end date of the moratorium to the state's economic re-opening. Governor Gavin Newsom recently outlined his intention to fully open the state's economy if criteria around vaccination supply and hospitalization rates are met.[21] Should the state re-open at a later date, the shutoff moratorium should be extended accordingly or at the Governor's direction to account for the state's level of economic openness and activity. In the

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[20] *Comments of The Public Advocates Office on the Administrative Law Judge's Ruling Inviting Responses to Post - Workshop Questions and Extending Filing Dates of Briefs*, April 12, 2021, at 2.

[21] April 6, 2021 Press release by the Office Governor Gavin Newsom: https://www.gov.ca.gov/2021/04/06/governor-newsom-outlines-the-states-next-step-in-the-covid-19-pandemic-recovery-moving-beyond-the-blueprint.

IOUs' transition plans,[22] the utilities plan on a "buffer" period to allow for continued outreach, customer enrollment into assistance programs, and noticing before making any disconnections. Once the end date of the disconnection moratorium is extended, the utilities should shift that buffer period accordingly. A transition period is needed to ensure that customers have time to adjust and stabilize themselves financially before disconnections resume and to help ensure the success of any new COVID relief program.

IX. CONCLUSION

For all of the foregoing reasons, CalCCA respectfully submits its Opening Brief to the Commission.

Respectfully submitted,

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22 IOU Customer Protections Transition Plans submitted pursuant to Resolution M-4849, Ordering Paragraph 5.