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**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)

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

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SUMMARY OF RECOMMENDATIONS

- Extend the “pro rata” distribution of partial payments of past due balances through the term of the 24-month COVID-19 relief payment plans to ensure that the payments for substantial arrearages sustained throughout the COVID-19 pandemic are proportionally allocated among IOUs and CCAs.
 - Adopt the Proposed Decision’s proposal to automatically enroll customers in the 24-month COVID-19 relief payment plans, while acknowledging that automatic enrollment is not adopted for the Arrearage Management Plan (AMP).
-

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The California Community Choice Association¹ (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 Addressing Energy Utility Customer Bill Debt Via Automatic Enrollment In Long Term Payment Plans* (Proposed Decision or PD), issued on May 24, 2021.

I. INTRODUCTION

CalCCA supports the Proposed Decision’s directive to “automatically provide all residential customers two years over which to pay off energy bill debt, with an opt-out provision.”² The Proposed Decision omits from its scope, however, a critical issue that must be addressed in the Commission’s final decision: the allocation methodology for partial payments

¹ California Community Choice Association represents the interests of 22 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, Sonoma Clean Power, and Valley Clean Energy.

² Proposed Decision at 1.

made by customers under the adopted payment plan 7.c.³ Absent Commission action in this decision, partial payments under the Pacific Gas and Electric Company (PG&E) and San Diego Gas & Electric Company (SDG&E) tariffs will revert to their pre-pandemic allocation methodology, which prioritizes payments on all arrearages owed the investor-owned utility (IOUs) *before* commencing payment of arrearages owed to the Community Choice Aggregator (CCA). Even in normal conditions, this “utility first” approach increases outstanding arrearages for CCAs and, at worst, could cause a higher proportion of bad debt for CCAs than for the remainder of the customer bill. COVID-19 pandemic conditions have exponentially increased this problem – a risk the Commission and IOUs foresaw in creating pro-rata partial payment rules in the context of emergency protections for residential customers. CalCCA urges the Commission to extend the suspension of the “utility first” payment waterfall through the two-year term of the Proposed Decision’s COVID-19 relief payment plan.⁴

In addition, CalCCA supports the proposed auto-enrollment of eligible customers under the COVID-19 Relief Payment Plans. While this approach may not be suitable for the AMP, as discussed below, it will best serve customers under the new payment plans.

Finally, CalCCA requests that the Commission correct the Proposed Decision to reflect CalCCA’s submission of an opening brief.

II. THE COMMISSION SHOULD EXTEND THE “PRO RATA” PARTIAL PAYMENT WATERFALL FOR THE DURATION OF THE COVID-19 RELIEF PAYMENT PLANS

The Scoping Memo⁵ included seven high level issue categories for consideration in this rulemaking. Issue 7 encompassed issues related to third-party service providers, including CCAs:

³ *Id.* at 14, Issue 7.c.

⁴ If the Commission decides at a future date to extend the relief payment plan, the waterfall should be extended on the same basis.

⁵ *Assigned Commissioner’s Scoping Memo and Ruling*, Mar. 15, 2021 (Scoping Memo).

7. Should arrearage relief be applied to Core Transport Agent (CTA), Energy Service Provider (ESP), and Community Choice Aggregator (CCA) customers? If so, how?⁶

While all of the subparts of this question are important, subpart ‘c’ posed a question of great urgency: “[t]o what extent does Public Utilities Code Section 779.2 require utilities to allocate partial payments first to disconnectable charges?”⁷ Unfortunately, the Proposed Decision excludes all of the questions included in Issue 7, deferring them for further consideration.

As discussed below, Pacific Gas and Electric Company (PG&E) and SDG&E, encouraged by the Commission’s actions, suspended the “utility first” payment waterfall through June 30, 2021 – the currently scheduled end of the COVID-19 customer protections. If the Commission does not act in this decision to direct the IOUs to extend this suspension, CCAs will face disproportional financial risk as payment of their arrearages from residential customers are deferred until the IOUs’ charges have been fully satisfied. The Commission thus should extend the payment waterfall suspension through the term of the COVID-19 relief payment plans.

A. PG&E’s and SDG&E’s Tariffs Require Allocation of Partial Payments to IOU Arrearages before Commencing Application of Payments to CCA Arrearages

PG&E Rule 23.R.2. establishes a general rule for allocation of partial payments by residential customers.

Except as provided below in Section 3, if a customer makes only a partial payment for a service account, the payment shall be allocated proportionally between PG&E’s charges and the CCA’s charges.

Critically, however, the tariff provides an exception in Rule 23.R.3, which provides:

⁶ *Id.* at 6.

⁷ *Id.* at 7.

In evaluating a delinquent residential Service Account for service termination and to the extent required by law or Commission regulations, partial payments shall be allocated first to delinquent disconnectable charges.⁸

This exception, however, applies only in evaluating a delinquent residential account “for service termination.”

SDG&E’s tariff is similar, although broader. SDG&E Rule 27.R.2. provides that all payments, except for disconnectable charges, will be allocated pro rata to SDG&E and the CCA:

Partial payments by customers shall be allocated on a pro rata basis to the Utility charges for which delinquency may result in disconnection, and then any balance shall be prorated between the CCA and other Utility charges.

Any exception applies only in addressing delinquent charges that may result in disconnection. Notably, this rule is not limited to residential customer payments, but extends to all customer payments.

The partial payment provisions of these tariffs were suspended during COVID-19, as discussed below. Absent an extension of the suspension, the IOUs will revert to the “utility first” partial payment allocation.

B. Resolution M-4842 Suspended the “Utility First” Partial Payment Waterfall During the COVID-19 Customer Protections and Resolution M-4849 Extended this Suspension

On April 16, 2020, the Commission issued Resolution M-4842, ordering all utilities to suspend customer disconnections and requiring each IOU to file an implementation advice letter.

⁸ “Disconnectable charges” is not defined in PG&E’s tariff. The phrase appears to derive from Public Utilities Code Section 779.2, which was enacted in 1984 -- nearly two decades before CCAs were authorized to provide electrical services. The statute prohibits an electrical corporation from disconnecting a customer for nonpayment of third-party charges; consequently, only utility charges -- not CCA charges -- are “disconnectable charges.”

Among earlier versions of its advice letters, PG&E filed Advice 4244-G/5816-E, on May 1, 2020. The advice letter responded to CalCCA's protest, which sought suspension of the "utility first" partial payment waterfall. PG&E explained:

As a result of these efforts, PG&E and CalCCA agree on a proposal for PG&E to suspend the allocation method for partial payments relating to past due accounts under Electric Rule 23.R.3 for a limited period due to COVID-19. According to this proposal, PG&E will allocate partial payments received from residential CCA customers on a pro rata basis with CCAs for up to one year, through April 16, 2021, and track any associated uncollectibles through the CPPMA for future recovery as described in Section D of this advice letter. PG&E will resume allocation of payments from residential CCA customers in accordance with Electric Rule 23.R.3 starting April 17, 2021. PG&E and CalCCA will monitor and meet to discuss any potential impacts this proposal may have on customers, and PG&E reserves the right to request modifications due to the uncertainty associated with the COVID-19 pandemic.

Advice 4244-G/5816-E was approved by the Energy Division.

As the pandemic continued, the Commission issued Resolution M-4849 on February 11, 2021, extending the protections directed in Resolution M-4842: It stated:

Therefore, due to the continued economic harm from the COVID-19 pandemic, the Commission extends to California customers the Emergency Customer Protections from D.19-07-015 and D.19-08-025, as ordered by Resolution M-4842, through June 30, 2021, and the Commission reserves an option to extend.

In response, PG&E filed Advice 4388-G/6092-E extending its COVID-19 protections. Among other things, PG&E highlighted a change to Rule 23 as follows:

Revising footnote to Section R.3 of Electric Rule 23 to note that due to the COVID-19 pandemic and pursuant to CPUC Resolutions M-4842 and M-4849, PG&E has suspended Section R.3 of Electric Rule 23 and will allocate partial payments received from residential CCA customers on a pro rata basis with CCAs for up to one year, through June 30, 2021, as described in Advice 4244-G/ 5516-E and Advice 4388-G/6092-E.

Rule 23.R. has a footnote which reads:

Due to the COVID-19 pandemic and pursuant to CPUC Resolutions M-4842 and M-4849, PG&E has suspended Section R.3 of Electric Rule 23 and will allocate partial payments received from residential CCA customers on a pro rata basis with CCAs for up to one year, through June 30, 2021, as described in Advice 4244-G-A/5516-E-A and Advice 4388-G/6092-E.

SDG&E's circumstances are similar to PG&E's. Most recently, Advice 3716-E/2961-G confirmed its treatment. SDG&E explained:

D.19-07-015 directs SDG&E to coordinate with community choice aggregators (CCAs) during disasters to share information on affected customers. Consistent with its discussion with the CCAs in SDG&E's service territory, SDG&E suspended the allocation method for partial payments under Rule 27R.2 for CCA customers on payment plans implemented pursuant to the emergency customer protections for a limited period. During this period, SDG&E has allocated partial payments from CCA customers on a pro rata basis between SDG&E charges and CCA charges. Any associated uncollectibles resulting from this temporary adjustment will be tracked through the CPPMA for future recovery. SDG&E will resume allocating the payments from all CCA customers to disconnectable charges first, in accordance with Rule 27R.2, starting July 1, 2021.

PG&E and SDG&E will thus resume their "utility first" partial payment allocation methodologies on July 1, 2021 absent Commission action.

C. The Importance of the Pro Rata Allocation Methodology Has Grown Exponentially in the Face of Substantial Pandemic-Related Arrearages

The Proposed Decision highlights the magnitude of customer arrearages the IOUs and other load-serving entities face, concluding that arrearages have grown to \$1.3 billion over the pandemic period.⁹ These balances, provided by the IOUs in their March 30, 2021, responses to the Administrative Law Judge's request for data, include the substantial arrearages owed CCAs.

⁹ Proposed Decision at 9.

For example, PG&E breaks out arrearages for bundled and unbundled residential customers, showing that of \$654 million in total residential customer arrearages, unbundled (i.e., CCA) customers account for \$255 million or nearly 40 percent.¹⁰ Southern California Edison Compay's (SCE's) submission shows that of \$353 million in residential customer arrearages, \$44 million or 12 percent are unbundled accounts.¹¹ SDG&E was unable to separate the unbundled portion of its reported \$76 million of residential arrearages.¹²

CCAs are likely exposed to more than \$300 million of bad debt expense; like the IOUs, this exposure presents a challenge to their financial stability. Applying customer payments to all IOU arrearages *before* paying down any CCA arrearages materially exacerbates that risk.

D. The Commission Should Extend the Pro Rata Allocation Methodology for Partial Payments of Past Due Balances through the Term of the COVID-19 Relief Payment Plans

Not all customer arrearages will be covered by federal or state relief funds, and all LSEs will be exposed to some level of increased bad debt expense as a result of the COVID-19 pandemic. With the disconnection moratorium and customer protections set to expire soon on June 30, 2021, CalCCA urges the Commission to extend the “pro rata” treatment now to ensure that both IOUs and CCAs enter the post-COVID transition period on equal footing and to prevent CCAs from being exposed to greater risk in terms of revenue recovery. This approach

¹⁰ *Response of Pacific Gas and Electric Company (U 39 M) to the Administrative Law Judge's Ruling Directing Utilities to Provide Data*, Mar. 30, 2021, Attachment A, Table 6, at 11.
<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M376/K042/376042388.PDF>

¹¹ *Responses of Southern California Edison Company (U 338-E) on Administrative Law Judge's Ruling Directing Utilities to Provide Data*, Mar. 30, 2021, Attachment A at A-1.
<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M376/K054/376054716.PDF>

¹² *San Diego Gas & Electric Company's (U 902 M) Response to the Administrative Law Judge's Ruling Directing Utilities to Provide Data*, Mar. 30, 2021, Attachment A, Excel Data.
<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M376/K031/376031787.PDF>

should apply to all payments of past due balances, regardless of the customer's enrollment in any payment plan.

Timing is important. Extension of the suspension now is necessary to ensure the IOUs' billing systems are prepared for the June 30, 2021, transition, which will occur only six days after the Commission's decision is voted out.

III. THE COMMISSION SHOULD ADOPT THE PROPOSED DECISION'S AUTOMATIC ENROLLMENT PROPOSAL

The Proposed Decision establishes a 24-month payment plan for customers with arrearages of 60-days or older.¹³ The general payment plan is designed to "bridge the gap between the end of the disconnection moratorium and the availability of significant arrearage relief on the horizon"¹⁴ and to provide the "simplest and most direct strategy to reach all customers in need of assistance," at a critical time of economic recovery.¹⁵ The 24-month payment plans, also known as the Covid-19 Relief Payment Plan, will prevent customer disconnections, if customers are making their on-time, partial payments. CalCCA supports the proposal because this is a step to protecting customers from a disconnection.

The Commission should modify the Proposed Decision, however, to clarify CalCCA's views. The Proposed Decision explains that Parties, including CalCCA, have expressed concerns for automatic enrollment of customers in relief programs.¹⁶ To provide clarity, CalCCA does not support automatic enrollment of the AMP, and suggests that enrollment occurs on a request-to-

¹³ Proposed Decision, Order 1 at 40.

¹⁴ *Id.*, Finding of Fact 8, at 36.

¹⁵ *Id.*, Finding of Fact 12, at 36.

¹⁶ *Id.* at 17.

participate basis.¹⁷ Customers who may not know program rules when auto-enrolled may miss payments, therefore inadvertently blocking the customer from AMP benefits for one year.

The 24-month Covid-19 Relief Payment Plan, however, should not have similar consequences. Therefore, CalCCA supports automatically enrolling residential and commercial customers who have 60-days or older arrearages to amortize their debt over 24 months. One point, however, requires clarification. The Proposed Decision states:

At the very least, the parameters we mandate of automatic enrollment, coupled with a two-year term and two waivers for customers who miss payments, provide a minimum five months of time for customers to access one of the many promising programs offering significant forgiveness.¹⁸

The Commission should clarify, in the final decision or through the implementing advice letters, what steps will be taken if a customer misses two payments.

Finally, the Proposed Decision orders the IOUs to file Tier 2 Advice Letters reporting their networks of Community-Based Organizations (CBOs).¹⁹ This exercise will map out potential partnerships, ensuring various communities are reached and supported at this time. CalCCA supports the plans to include CBOs, especially informing customers about the automatic enrollment plans. Targeted mailers to customers auto-enrolled is a potential outreach mechanism. Lastly, CCAs are open to using their established platforms to inform customers of these plans with the help of the IOUs' materials.

¹⁷ *California Community Choice Association Opening Brief*, Apr. 23, 2021, at 6.
<https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=380856215>

¹⁸ Proposed Decision at 16.

¹⁹ *Id.* at 41.

IV. CONCLUSION

CalCCA appreciates the opportunity to submit these comments and requests adoption of the recommendations proposed herein. For all the foregoing reasons, the Commission should modify the Proposed Decision as provided in Attachment A.

Respectfully submitted,

A handwritten signature in blue ink that reads "Evelyn Kahl".

Evelyn Kahl
General Counsel to the
California Community Choice Association

June 14, 2021

ATTACHMENT A Proposed Changes

FINDINGS OF FACT

2. The dollar amount of utility bill arrearages has increased throughout the COVID-19 pandemic period. The substantial utility bill arrearages reflect the magnitude of bundled and unbundled customer arrearages faced by IOUs and CCAs.

15. Nothing prevents customers enrolled in COVID-19 Relief payment plans from accessing additional or alternative programs, such as opting in to enroll in the Arrearages Management Plan (AMP), to address their utility arrearages. However, opting into the AMP program according to the AMP rules would necessitate moving out of the COVID-19 Relief payment plans.

NEW CONCLUSIONS OF LAW

PG&E and SDG&E, in response to Resolutions M-4842 and M-4849, suspended the provisions of their respective payment rules requiring application of partial payments on past due balances first to IOU balances before remitting payment to CCAs on their past due balances.

Resolution M-4849, which extended Resolution M-4842's suspension of the application of partial payment balances first to IOU balances, and instead allowed a pro-rata allocation of the partial payments between the IOU and CCAs, is set to expire as of July 1, 2021. In Resolution M-4842, the Commission reserved an option to extend the suspension.

It is reasonable to extend the "pro-rata" distribution of partial payments among IOUs and CCAs through the term of the 24-month COVID-19 relief payment plans to ensure that the payments for substantial arrearages sustained throughout the COVID-19 pandemic are proportionally allocated among IOUs and CCAs.

The pro-rata distribution among IOUs and CCAs, extended through the term of the 24-month COVID-19 relief payment plans, shall apply to all payments of past due balances, regardless of the customer's enrollment in any payment plan.

NEW ORDERING PARAGRAPH

Pacific Gas and Electric Company and San Diego Gas & Electric Company shall continue to apply partial payments on past due balances pro-rata between the IOU and CCAs, throughout the term of the COVID-19 Relief Payment Plans. The pro rata distribution among IOUs and CCAs shall apply to all payments of past due balances, regardless of the customer's enrollment in any payment plan.

TEXT CHANGE at page 6

The following parties filed opening and reply briefs on schedule:5 CASMU, PG&E, SCE, SDG&E, SoCalGas, TURN, Cal Advocates, CalCCA, UCAN, jointly LCJA, CEJA and Greenlining, jointly NCLC and CforAT.