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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)

NOT CONSOLIDATED

Order Instituting Rulemaking Evaluating the
Commission's 2010 Water Action Plan
Objective of Achieving Consistency between
Class A Water Utilities' Low-Income Rate
Assistance Programs, Providing Rate Assistance
to All Low – Income Customers of Investor-
Owned Water Utilities, and Affordability.

R.17-06-024
(June 29, 2017)

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S
COMMENTS ON RULING SETTING JOINT STATUS CONFERENCE AND
ORDERING COMMENTS**

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TABLE OF CONTENTS

I. INTRODUCTION2

II. THE COMMISSION SHOULD GRANT CALCCA’S MOTION TO
MODIFY SCOPE TO CONFORM TO GOVERNMENT CODE SECTION
16429.5 TO PREVENT DELAY OF THE CAPP PROGRAM FUNDING4

III. THE COMMISSION SHOULD REFRAIN FROM ENGAGEMENT IN THE
CAPP PROCESS4

 A. The Commission Should Refrain from Implementing Any Further
 COVID-19 Arrearage Programs Until the CAPP Funding Program Is
 Completed5

 B. If Arrearages Remain After the CAPP Allocation is Completed, the
 Commission Can Then Determine Whether Additional Arrearage
 Relief is Necessary7

 C. The Commission Should Refrain From Examining the Process of
 Customer Data Exchanges Between CSD and the IOUs Until After
 the CAPP Applications are Submitted7

IV. CONCLUSION8

SUMMARY OF RECOMMENDATIONS

- Remove the Section 3/Issue 7 questions from the scope of this proceeding as they relate to the CAPP program by granting CalCCA's Motion to Modify Scope to Conform to Government Code §16429.5 in order to prevent the delay of the CAPP funding for CCA customers in need;
- In the absence of a ruling on, or a denial of, CalCCA's Motion, grant the requests in CalCCA's Brief on Scoped Issue 7, Allocation of Payments on Arrearages for CCA Customers, to complete the Commission's consideration of Section 3/Issue 7 by September 30, 2021 and find that the CAPP allocation and pro rata allocation of partial payments on past due accounts between IOUs and CCAs are in accordance with Government Code sections 16429.5(f) and (g)(4);
- Refrain from implementing any further COVID-19 arrearage relief programs until the CAPP funding is allocated and the magnitude of remaining arrearages is ascertained; and
- Examine the process of customer data exchanges between CSD and the IOUs after the CAPP Applications are submitted.

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R.17-06-024
(June 29, 2017)

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S
COMMENTS ON RULING SETTING JOINT STATUS CONFERENCE AND
ORDERING COMMENTS**

The California Community Choice Association¹ (CalCCA) submits these Comments in response to the *Ruling Setting Joint Status Conference and Ordering Comments* (Ruling), issued July 29, 2021, and *E-Mail Ruling Correcting Schedule and Due Dates of Comments in Administrative Law Judge Rulings Dated July 29, 2021* (E-Mail Ruling), issued August 3, 2021.

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.

I. INTRODUCTION

CalCCA appreciates the opportunity to submit these comments responsive to the questions posed in the Ruling regarding the need for electric utility and community choice aggregator (CCA) customer arrearage relief as a consequence of the COVID-19 pandemic. CalCCA's members are CCAs providing electric generation service to unbundled customers of the investor-owned utilities (IOUs). These comments are limited to the sections in the Ruling related to the energy sector, and specifically sections 1 and 5 related to COVID-19 arrearage relief programs for electric utility and CCA customers.² CalCCA previously addressed section 3 of the Ruling and E-mail Ruling regarding CCA customer arrearages and the allocation between IOUs and CCAs of partial payments on past due accounts in its Motion to Modify Scope to Conform to Government Code §16429.5, filed August 25, 2021,³ and its Brief on Scoped Issue 7, Allocation of Payments on Arrearages for CCA Customers, filed August 27, 2021.⁴

As set forth more fully below, the California Department of Community Services and Development (CSD) is currently administering the California Arrearage Payment Program (CAPP) that will allocate nearly \$700 million of arrearage relief for energy utility and CCA customers. CalCCA requests that the Commission allow the CAPP program to be completed prior to making any further determinations on additional COVID-19 arrearage relief programs. Once the CAPP allocations are complete, the magnitude of remaining arrearages can be

² The Ruling originally requested Comments on sections 1, 3, 4, and 5 by September 13, 2021, but the Email Ruling provided a correction requesting Comments on sections 1, 2, 4 and 5 by September 13, 2021. *See* Ruling at 10; *see also* Email Ruling at 3. Section 2 requests comments from water stakeholders only, and therefore CalCCA provides no comments on section 2. *See* Ruling at 6. In addition, section 4 requests comments regarding coordination between water and energy utilities concerning COVID-19 relief and affordability, and CalCCA has no comment on the section 4 issues.

³ *California Community Choice Association's Motion to Modify Scope to Conform to Government Code §16429.5*, Rulemaking (R.) 21-02-014 (Aug. 24, 2021) (CalCCA Motion).

⁴ *California Community Choice Association's Brief on Scoped Issue 7, Allocation of Payments on Arrearages for CCA Customers*, R.21-02-014 (Aug. 27, 2021) (CalCCA Issue 7 Brief).

ascertained, and the Commission can determine if additional programs should be established other than the COVID-19 payment plans created by Decision (D.) 21-06-036⁵ and the Arrearage Management Program (AMP).⁶ In addition, the Commission should address the process of low-income customer data exchanges between the IOUs and CSD after the CAPP Applications are submitted.

At this point in the proceeding during which the CAPP allocation is being administered by CSD, CalCCA requests that the Commission:

- Remove the Section 3/Issue 7 questions from the scope of this proceeding as they relate to the CAPP program by granting CalCCA's Motion to Modify Scope to Conform to Government Code §16429.5 in order to prevent the delay of the CAPP funding for CCA customers in need;
- In the absence of a ruling on, or a denial of, CalCCA's Motion, grant the requests in CalCCA's Brief on Scoped Issue 7, Allocation of Payments on Arrearages for CCA Customers, to complete the Commission's consideration of Section 3/Issue 7 by September 30, 2021 and find that the CAPP allocation and pro rata allocation of partial payments on past due accounts between IOUs and CCAs are in accordance with Government Code sections 16429.5(f) and (g)(4);
- Refrain from implementing any further COVID-19 arrearage relief programs until the CAPP funding is allocated and the magnitude of remaining arrearages is ascertained; and
- Examine the process of customer data exchanges between CSD and the IOUs after the CAPP Applications are submitted.

⁵ D.21-06-036, *Decision Addressing Energy Utility Customer Bill Debt Via Automatic Enrollment in Long Term Payment Plans*, R.21-02-014 (June 24, 2021).

⁶ D.20-06-003, *Phase 1 Decision Adopting Rules and Policy Changes to Reduce Residential Customer Disconnections for the Large California-Jurisdictional Energy Utilities*, R.18-07-005 (June 11, 2020) (creating the AMP to assist customers on California Alternate Rates for Energy (CARE) and Family Electric Rate Assistance (FERA) with large unpaid arrearages).

II. THE COMMISSION SHOULD GRANT CALCCA’S MOTION TO MODIFY SCOPE TO CONFORM TO GOVERNMENT CODE SECTION 16429.5 TO PREVENT DELAY OF THE CAPP PROGRAM FUNDING

CalCCA previously addressed section 3 of the Ruling and E-Mail Ruling in the CalCCA Motion and the CalCCA Brief. Section 3 addresses the questions posed in Issue 7 of the Scoping Memo regarding (1) whether and how to allocate arrearage relief to CCA customers, and (2) how to allocate partial payments on past due accounts between IOUs and CCAs.⁷ CalCCA’s Motion requests that Issue 7 be removed from this proceeding to the extent the questions pertain to CAPP, as CSD has jurisdiction over the CAPP program. The Commission has not yet ruled on the Motion. CalCCA requests in its subsequently filed Brief on Section 3/Issue 7 that in the absence of a ruling on or a denial of CalCCA’s Motion, the Commission accelerate its schedule to complete its consideration of Issue 7 by September 30. CalCCA further requests in the Brief that the Commission make findings that the CAPP allocation and pro rata allocation of partial payments on past due accounts between IOUs and CCAs are in accordance with Government Code sections 16429.5(f) and (g)(4). The requests in CalCCA’s Motion and CalCCA’s Brief are intended to allow the CAPP process to proceed without any overlapping Decision by the Commission, which could interrupt and/or delay the allocation of CAPP funding to customers in need.

III. THE COMMISSION SHOULD REFRAIN FROM ENGAGEMENT IN THE CAPP PROCESS

CalCCA’s comments on sections 1 and 5 of the Ruling specifically request that the Commission refrain at this time from making decisions on or implementing any further COVID-19 arrearage relief programs until the CAPP program allocation is completed. CalCCA provides comments below to the questions in the Ruling regarding: (1) the status of the CAPP process; (2)

⁷ *Assigned Commissioner’s Scoping Memo and Ruling*, R. 21-02-014 (Mar. 15, 2021) at 6-7.

what need will remain for arrearage relief after the CAPP funding is allocated, and how such arrearage relief should be addressed; and (3) whether any further action should be taken to address the process of the exchange of low-income customer data between the IOUs and CSD for purposes of CAPP funding disbursement.

A. The Commission Should Refrain from Implementing Any Further COVID-19 Arrearage Programs Until the CAPP Funding Program Is Completed

The CAPP program is currently being administered by CSD to allocate arrearage relief for utility customers. Assembly Bill (AB) 135 was signed by Governor Newsom on July 16, 2021, enacting CAPP and delegating oversight of the CAPP program to CSD pursuant to Government Code section 16429.5.⁸ The CAPP program is a comprehensive scheme for CSD to allocate \$694,953,250 to “all distribution customers of investor-owned utilities, including customers served by a CCA.”⁹ Government Code section 16429.5(g) requires the utilities to:

credit funding received through CAPP against customer charges owing the utility and all other load serving entities serving the customer in proportion to their respective shares of customer arrearages.¹⁰

Energy utilities will apply for CAPP benefits on behalf of eligible customers. A credit will be automatically applied to eligible customer bills once the allocations of the CAPP funding are made. Customers eligible for CAPP funds include those who incurred a past due balance of 60 days or more on their energy bill during the period covering March 4, 2020 through June 15, 2021. Government Code section 16429.5(f)(1) requires the prioritization of customers with past

⁸ AB 135, Section 9 (adding Article 12 (the CAPP Program) under the American Rescue Plan Act of 2021, to Section 16429.5 of the California Government Code) (July 16, 2021). *See* https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB135.

⁹ Cal. Gov. Code §16429.5(d)(2) (emphasis added). \$298,546,750 of the funding will be allocated to publicly owned utilities and electric cooperatives. *Id.* §16429.5(d)(1).

¹⁰ *Id.* §16429.5(g) (emphasis added).

due balances in the following order: (1) active residential customers at risk of disconnection; (2) active residential customers; (3) inactive residential customers; and (4) commercial customers.¹¹

CSD has issued four Program Notices containing details and a schedule for the four phases of the CAPP Program:¹²

- Phase 1, Utility Survey: Utilities complete a CSD survey requesting eligible utility and CCA residential and commercial customer arrearage information by September 16, 2021. After review and verification of the utility survey information regarding a CCA's customers, that CCA must sign and provide to CSD by September 16, 2021 an attestation verifying the CCA customer arrearage information.
- Phase 2, CAPP Application: After CSD's review of the utility surveys, CSD will release statewide utility and CCA CAPP allocations, and a CAPP Application for utilities to submit to CSD on behalf of eligible utility and CCA customers to receive that allocation. Applications are due within 60 days of the (likely early October 2021) release of the CAPP Application by CSD (therefore Applications will likely be due in early December 2021).
- Phase 3, CAPP Awards: Upon approval of a utility CAPP Application, CSD will disburse the CAPP allocation award to the utility applicant (no later than January 31, 2022). Utility customers will then receive credits on their utility and CCA arrearages within 60 days of a utility receiving the CAPP funds (by late March 2022). CSD has indicated in meetings with the IOUs and CCAs, however, that it will process applications on a rolling basis to the extent a utility submits its application before the Application deadline.
- Phase 4, Outcomes Reporting: Utilities will provide documentation as requested by CSD to assist in preparing CSD's final CAPP report to the Legislature that outlines benefit outcomes for residential and commercial accounts assisted.

CSD is currently working closely with the CCAs and IOUs to complete the time-consuming and data intensive work in Phase 1. Pursuant to its statutory authority and mandate, CSD is working on a tight timeline to complete the CAPP allocation by January 31, 2022.

¹¹ Cal. Govt. Code §16429.5(f)(1).

¹² See CAPP Program Notice No. 2021-01 (Jul. 19, 2021) (overview of four phases of CAPP); CAPP Program Notice No. 2021-02 (Aug. 2, 2021) (providing details on Phase 1, CAPP Utility surveys); CAPP Program Notice No. 2021-03 (Aug. 20, 2021) (revisions to survey requirements in Program Notice 2); CAPP Program Notice No. 2021-03-R (extending the CAPP Utility Survey submission deadline, including CAPP Attestation Forms applicable to CCAs, to September 16, 2021). The CSD CAPP Program Notices are located at <https://www.csd.ca.gov/Pages/CAPP.aspx>.

CalCCA requests that the Commission refrain from implementing any COVID-19 arrearage programs until the CAPP process is complete.

B. If Arrearages Remain After the CAPP Allocation is Completed, the Commission Can Then Determine Whether Additional Arrearage Relief is Necessary

The magnitude of remaining arrearages after the CAPP allocation (as well as any other arrearage relief funding) will not be known until CSD determines the allocations, disburses the funds, and the utilities credit customer accounts. As described above, the CAPP allocation of funds will be prioritized among four customer groups. Whether all customer groups will be allocated CAPP funds is unclear at this point.

CalCCA requests that the Commission refrain from ordering or implementing any additional COVID debt relief until the CAPP process is complete pursuant to Government Code section 16429.5(e) requires CSD to complete the process by January 31, 2022. If COVID-19 arrearages remain at that time, the Commission can determine whether existing payment plans, including the COVID-19 payment plans and the AMP, are sufficient or whether additional relief is necessary.

C. The Commission Should Refrain From Examining the Process of Customer Data Exchanges Between CSD and the IOUs Until After the CAPP Applications are Submitted

At this point, the Commission should not take action to address the process of customer data exchanges between the IOUs and CSD for purposes of CAPP funding disbursement. The IOUs are mid-course in the data sharing process for CAPP, and formal intervention by the Commission could slow the process being administered by CSD. Following the completion of Applications, however, the Commission should take the opportunity to conduct a “lessons learned” workshop to review the data exchange process between CSD and the IOUs, and the IOUs and the CCAs.

IV. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests consideration of the comments set forth herein.

Respectfully submitted,

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

Evelyn Kahl
General Counsel and Director of Policy
CALIFORNIA COMMUNITY CHOICE
ASSOCIATION

September 13, 2021