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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 DIRECTING ALLOCATION OF PAYMENT ON
PAST-DUE BILLS BETWEEN INVESTOR-OWNED UTILITIES AND COMMUNITY
CHOICE AGGREGATORS**

Evelyn Kahl
General Counsel and Director of Policy
Leanne Bober
Senior Policy Analyst
CALIFORNIA COMMUNITY CHOICE
ASSOCIATION
One Concord Center
2300 Clayton Road, Suite 1150
Concord, CA 94520
(415) 254-5454
regulatory@cal-cca.org

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TABLE OF CONTENTS

I. INTRODUCTION1

II. THE COMMISSION SHOULD ADOPT THE PROPOSED DECISION WHICH ORDERS THE PROPORTIONAL ALLOCATION OF PAYMENTS ON UTILITY BILL DEBT BETWEEN IOUS AND CCAS THROUGH SEPTEMBER 2024.....3

 1. The Proposed Decision Correctly Excludes From Its Application Any Programs Including CAPP and AMP That Already Direct Proportional Allocation of Payments on Utility Bill Debt.....3

 2. The Proposed Decision’s Extension of the Proportional Allocation Between IOUs and CCAs of Payments on Past-Due Electric Utility Bills Through September 2024 is in the Best Interest of All Customers4

 3. The Proposed Decision Correctly Finds That the Express Language of Public Utilities Code Section 779.2 Does Not Mandate the Prioritization of Past Due Payments to IOUs Before CCAs5

 4. The Proposed Decision Appropriately Rejects SCE’s Method of Reverting to the Waterfall Method When a Customer is in Final Call Status for Disconnection6

III. CONCLUSION.....7

TABLE OF AUTHORITIES

	Page
California Government Code	
Cal. Govt. Code § 16429.5(b).....	2
Cal. Govt. Code § 16429.5.....	3
Cal. Govt. Code § 16429.5(f)(4).....	4
Cal. Govt. Code § 16429.5(g).....	4

California Public Utilities Code

Section 779.2.....	passim
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California Public Utilities Commission Rules of Practice and Procedure

Rule 14.3.....	1
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SUMMARY OF RECOMMENDATIONS

- The California Public Utilities Commission (Commission) should adopt in its entirety the Proposed Decision, which orders the proportional allocation of payments on utility bill debt between investor-owned utilities (IOUs) and community choice aggregators (CCAs) through September 2024, as it:
 - ✓ Correctly excludes from its application any programs, including California Arrearage Payment Program (CAPP) and the Arrearage Management Program (AMP) that already direct proportional allocation of payments on utility bill debt;
 - ✓ Is in the best interest of all customers;
 - ✓ Correctly finds that the express language of Public Utilities Code section 779.2 does not mandate the prioritization of past due payments to IOUs before CCAs; and
 - ✓ Appropriately rejects Southern California Edison Company's (SCE's) method of reverting to the waterfall method when a customer is in final call status for disconnection.
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The California Community Choice Association (CalCCA)¹ submits these Comments pursuant to Rule 14.3 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure on the proposed *Decision Directing Allocation of Payment on Past-Due Bills Between Investor-Owned Utilities and Community Choice Aggregators* (Proposed Decision) mailed on October 15, 2021.

I. INTRODUCTION

CalCCA supports the Proposed Decision in its entirety and recommends its adoption by the Commission. The Proposed Decision directs Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and SCE (the IOUs), through September 2024, to allocate all types of payments made on past-due electric utility bills between the IOUs and CCAs

¹ California Community Choice Association represents the interests of 23 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, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

in proportion to their respective shares of the outstanding past due balances. The Proposed Decision therefore rejects the IOUs' practice of prioritizing past due application of customer payments to all IOU arrearages before paying down any CCA arrearage (*i.e.*, the waterfall payment methodology).

The Proposed Decision recognizes the significant financial exposure to bad debt that will be experienced by *all* LSEs, including IOUs *and* CCAs, due to the unprecedented magnitude of customer arrearages resulting from the COVID-19 pandemic. Even after all federal and state relief is allocated, substantial arrearages will remain. Even the potentially largest allocation of relief for energy utility arrearages, the CAPP, will only offset 45.23 percent of the \$1.537 billion in pandemic arrearages accrued by 2,492,652 IOU and CCA customers.² CCA arrearages account for over \$120 million of the outstanding combined IOU/CCA arrearages during the period for which CAPP funding will apply,³ leaving nearly \$55 million in unfunded CCA arrearages.⁴

The Proposed Decision appropriately considers the public interest in ensuring the financial stability and longevity of CCAs as well as IOUs. As stated in the Proposed Decision, “[t]he Commission has determined that CCAs are in the public interest, in that CCAs allow for a publicly-managed alternative to private utility procurement of resources,”⁵ and “[f]inancially sound CCAs benefit customers as a whole.”⁶ The Commission should adopt the Proposed

² California Department of Community Services and Development, CAPP Program Notice No. 2021-06 (Oct. 28, 2021) at 3-4, located at <https://www.csd.ca.gov/Pages/CAPP.aspx>

³ Cal. Govt. Code § 16429.5(b) (defining the COVID-19 pandemic bill relief period as March 4, 2020 through June 15, 2021 for purposes of the application of CAPP funding).

⁴ CAPP Program Notice No. 2021-06-E (Oct. 28, 2021), with attached Spreadsheet of CAPP Utility Arrearages & Allocations as of 10/28/21, at 4, located at <https://www.csd.ca.gov/Pages/CAPP.aspx>

⁵ Proposed Decision at 11.

⁶ *Id.* at 15, Finding of Fact 9.

Decision in its entirety as it fairly and appropriately removes a financial disadvantage placed on CCAs through the IOU waterfall payment methodology. This recommendation rests on grounds that the Proposed Decision:

- ✓ Correctly excludes from its application any programs, including CAPP and the AMP that already direct proportional allocation of payments on utility bill debt;
- ✓ Is in the best interest of all customers;
- ✓ Correctly finds that the express language of Public Utilities Code section 779.2 does not mandate the prioritization of past due payments to IOUs before CCAs; and
- ✓ Appropriately rejects SCE's method of reverting to the waterfall method when a customer is in final call status for disconnection.

There is no justification based in law or principles of equity to maintain the waterfall payment methodology.

II. THE COMMISSION SHOULD ADOPT THE PROPOSED DECISION WHICH ORDERS THE PROPORTIONAL ALLOCATION OF PAYMENTS ON UTILITY BILL DEBT BETWEEN IOUS AND CCAS THROUGH SEPTEMBER 2024

The Proposed Decision strikes the right balance, ensuring the protection of all customers, as well as the financial stability of both IOUs and CCAs, by requiring the proportional allocation of past due payments on utility bill debt between IOUs and CCAs through September 2024. The Proposed Decision should be adopted in its entirety, for the reasons set forth below.

1. The Proposed Decision Correctly Excludes from Its Application Any Programs Including CAPP and AMP That Already Direct Proportional Allocation of Payments on Utility Bill Debt

The Proposed Decision correctly limits its application to the allocation methodology for payments on arrearages not already resolved by statute or Commission directive.⁷ Government Code section 16429.5 explicitly requires (1) the allocation of CAPP payments proportionally between IOUs and CCAs, and (2) that IOUs continue the proportional payment processes

⁷ Proposed Decision at 7.

adopted by the Commission during the COVID-19 pandemic.⁸ In addition, the Commission previously included CCAs in the AMP, providing proportional allocation of arrearage forgiveness to CCAs.⁹ The Proposed Decision correctly limits its scope to payments not already covered by existing statutes or Commission directives such as CAPP and AMP.

2. The Proposed Decision’s Extension of the Proportional Allocation Between IOUs and CCAs of Payments on Past-Due Electric Utility Bills Through September 2024 is in the Best Interest of All Customers

The IOUs maintain that prioritizing partial payments to utility charges to prevent disconnection is in the best interest of customers.¹⁰ The Proposed Decision disagrees for two reasons. First, when a utility prioritizes past due payments to the utility, the risk inequitably shifts from an individual customer facing disconnection to the CCA, who must continue serving the customer without collecting revenue.¹¹ The Proposed Decision finds that placing CCAs at disproportionate financial risk could expose CCA customers to being involuntarily transferred back to the IOU.¹² The Proposed Decision highlights that:

[t]he Commission has determined that CCAs are in the public interest, in that CCAs allow for a publicly-managed alternative to private utility procurement of resources. Resources have been devoted to the establishment, integration, and growth of CCAs within the IOU service territories.¹³

⁸ *Id.* at 5, 8; Cal. Govt. Code § 16429.5(f)(4), (g).

⁹ Commission Resolution E-5114 (Dec. 17, 2020) (approving remittances to CCAs for forgiven debt, funded through the Public Purpose Programs Charge).

¹⁰ *See Brief of Pacific Gas and Electric Company (U 39 M) Addressing Allocation of Partial Payments of COVID-19 Related Arrearages From CCA Customers*, R.21-02-014 (Aug. 27, 2021) at 6; *Brief of San Diego Gas & Electric Company (U 902 M) Addressing Allocation of Partial Payments of COVID-19 Related Arrearages From CCA Customers*, R.21-02-014 (Aug. 27, 2021) at 7; *Southern California Edison Company (U 338-E) Brief on Ruling Setting Joint Status Conference and Ordering Comments*, R.21-02-014 (Aug. 27, 2021) at 5.

¹¹ Proposed Decision at 11.

¹² *Id.* at 11-12.

¹³ *Id.* at 11.

The Proposed Decision therefore finds that “the shift of financial risk from individual customer to CCA is not in the interest of customers as a whole,”¹⁴ and that “[f]inancially sound CCAs benefit customers as a whole.”¹⁵

Second, the Proposed Decision correctly finds that any individual customer advantage of preventing disconnection by applying charges to utility charges first “can only be applied unevenly” as not all customers have the option to unbundle.¹⁶ A customer in an IOU service territory not served by a CCA would not have access to the extra disconnection protection (by only paying the IOU portion of the bill).¹⁷ CalCCA agrees with the Proposed Decision’s finding that the waterfall method “arbitrarily provides some customers extra support by virtue of the presence of a CCA serving their community.”¹⁸

For the reasons set forth above, CalCCA supports the Proposed Decision’s determination that the extension through September 2024 of the proportional allocation between IOUs and CCAs of partial past due payments is in the best interest of all customers.

3. The Proposed Decision Correctly Finds That the Express Language of Public Utilities Code Section 779.2 Does Not Mandate the Prioritization of Past Due Payments to IOUs Before CCAs

The Proposed Decision correctly concludes that Public Utilities Code section 779.2, which prohibits IOUs from disconnecting customers due to past due third-party charges, does not (1) require IOUs to apply payments on outstanding bills first to utility charges before CCA charges or (2) prohibit utilities from allocating such payments between IOUs and CCAs on a proportional basis.¹⁹ While the IOUs contend that Public Utilities section 779.2 supports the

¹⁴ *Id.* at 12.

¹⁵ *Id.* at 15, Finding of Fact 9.

¹⁶ *Id.* at 11.

¹⁷ *Id.* at 15, Findings of Fact 6, 7.

¹⁸ *Id.* at 11.

¹⁹ *Id.* at 15, Conclusions of Law 1, 2.

waterfall payment method to minimize customer disconnection risk, the Proposed Decision correctly finds that this utility standard practice “is not legislatively required.”²⁰ In addition, CalCCA agrees with the Proposed Decision’s finding that the interpretation of section 779.2 as a signal to prioritize partial payments toward disconnectable charges is unfair to customers without a CCA serving their location (who could not take advantage of the reduced risk of disconnection for nonpayment of the generation portion of the bill). Accordingly, the Proposed Decision correctly finds that section 779.2 does not mandate the waterfall methodology.

4. The Proposed Decision Appropriately Rejects SCE’s Method of Reverting to the Waterfall Method When a Customer is in Final Call Status for Disconnection

The Proposed Decision also requires that the IOUs “shall apply payments proportionally regardless of the disconnection status of the customer.”²¹ Both PG&E and SDG&E apply the proportional allocation scheme regardless of a customer’s disconnection status. SCE, on the other hand, utilizes a “zig zag” payment allocation, alternating payments between SCE and the CCA. However, when a customer enters “Final Call” status, the zig zag method is dropped, and SCE reverts to the waterfall method until the customer is no longer at disconnection risk. The Proposed Decision finds that while SCE’s method was acceptable during the disconnection moratorium (because no customer would enter Final Call status), “SCE may no longer revert to the waterfall payment method even when customer disconnection is imminent.”²² CalCCA agrees with the Proposed Decision’s distinction of SCE’s methodology as “inconsistent with legislative preferences and negative impacts on customers as a whole.”²³ The Proposed

²⁰ *Id.* at 9.

²¹ *Id.* at 12.

²² *Id.* at 13.

²³ *Id.*

Decision's requirement that SCE proportionally allocate past due payments without reverting to the waterfall when a customer enters "Final Call" status should be adopted.

III. CONCLUSION

For the reasons set forth above, CalCCA recommends the adoption of the Proposed Decision in its entirety. CalCCA appreciates the opportunity to submit these comments.

Respectfully submitted,

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

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

November 4, 2021