

DOCKETED

Docket Number:	22-RENEW-01
Project Title:	Demand Side Grid Support Program
TN #:	244247
Document Title:	CalCCA CommeCalCCA Comments on Proposed Guidelines 07 29 22
Description:	N/A
Filer:	Chester Hong
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	7/29/2022 12:23:03 PM
Docketed Date:	7/29/2022

**STATE OF CALIFORNIA ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

IN THE MATTER OF:

Demand Side Grid Support Program
(Assembly Bill 205, 2022)

Docket No. 22-RENEW-01

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S COMMENTS
ON THE PROPOSED DRAFT PROGRAM GUIDELINES – DEMAND SIDE GRID
SUPPORT (DSGS) PROGRAM, FIRST EDITION**

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

July 29, 2022

**STATE OF CALIFORNIA ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

IN THE MATTER OF:

Demand Side Grid Support Program
(Assembly Bill 205, 2022)

Docket No. 22-RENEW-01

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION’S COMMENTS
ON THE PROPOSED DRAFT PROGRAM GUIDELINES – DEMAND SIDE GRID
SUPPORT (DSGS) PROGRAM, FIRST EDITION**

The California Community Choice Association (CalCCA)¹ appreciates the opportunity to provide comments on the Draft Program Guidelines for the Demand Side Grid Support (DSGS) Program (Draft Guidelines).² CalCCA proposes a modification to the Draft Guidelines to resolve an ambiguity regarding eligibility criteria, which could prevent California from realizing the intended reliability benefits of the DSGS Program.

The statute underlying the Draft Guidelines creates an ambiguity in determining which customers and retail sellers may participate in the DSGS Program. The California Energy Commission’s (Commission) proposal carries the statutory ambiguity into the Draft Guidelines. Failure to internally harmonize the statute and resolve its interpretation in the context of policy

¹ California Community Choice Association represents the interests of 23 community choice electricity providers in California: Apple Valley Choice Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, East Bay Community Energy, Lancaster Choice Energy, Marin Clean Energy, Orange County Power Authority, 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.

² CalCCA submits these Comments pursuant to the Notice of Availability and Request for Comments on Draft Proposed DSGS Program Guidelines, dated July 20, 2022.

outcomes will gravely restrict program eligibility and eviscerate the program’s intended benefits. CalCCA thus requests modification of the Draft Guidelines to make clear that all customers – regardless of the retailer seller who serves them – may participate in the DSGS Program as long as they do not engage in “dual participation” in another California Public Utilities Commission (CPUC) administered program.

Public Resources Code (PRC) section 25792(b), enacted by Assembly Bill (AB) 205, provides as follows:

Eligible recipients shall include all energy customers in the state, except those that are eligible to participate in demand response or emergency load reduction programs offered by entities under the jurisdiction of the Public Utilities Commission.³

Virtually all customers of an investor-owned utility (IOU), a community choice aggregator (CCA), and an Electric Service Provider (ESP) “are eligible to participate” in one or more CPUC-administered demand response or emergency load reduction programs. A literal reading of this language thus would suggest that since they are all eligible for CPUC-administered programs -- whether or not they actually participate -- no IOU, CCA, or ESP customers are eligible to participate in the DSGS Program. This interpretation, however, leads to an implausible result: that the Legislature intended to apply this program *only* to customers of publicly owned utilities (POU).

Additional language in this subsection suggests this restrictive reading is not at all what the Legislature had in mind. Subparts (1)-(3) of subdivision (b) provide that payments will be made to participating “individual entities,” “aggregators of multiple energy customers,” and “local publicly owned electric utilities and load-serving entities.” Had the Legislature intended to

³ Cal. Pub. Res. Code § 25792(b) (emphasis supplied).

limit program eligibility to POU, it would have made no sense to permit “load-serving entities,” which include IOUs, CCAs, and ESPs, to receive payments under the program.

A more inclusive reading of the statute is further supported when considering the counterproductive policy impacts of a literal interpretation of the statute. The program should aim to maximize participation in the DSGS Program to benefit reliability. In fact, IOU, CCA, and ESP customers constitute roughly 75 percent of the total load in California. By foreclosing these customers from participation, the Commission would severely limit program participation and the resulting benefits to system reliability. With a full awareness of this balance, the Legislature could not have intended this result.

The more likely statutory intent of the eligibility criteria is not to limit participation by IOU and CCA customers, but to limit dual participation in both a CPUC-administered program and the DSGS Program. “Dual participation” has long been an issue in the realm of CPUC-administered programs. Most recently, in the rulemaking addressing preparation for potential extreme weather events for Summers 2022 and 2023, the Commission addressed “dual participation” in various programs. Approving the Southern California Edison Company (SCE) Whole Home Savings Pilot, the Commission concluded: “[d]ual participation in another Demand Response program is not permitted.”⁴ In contrast, the Commission permitted non-residential customers enrolled in SCE’s Summer Discount Program “to dual participate in [emergency load reduction programs (ELRP)]...,”⁵ yet retained the “dual participation bar” in other circumstances.⁶

⁴ D.21-12-015, *Phase 2 Decision Directing Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company to Take Actions to Prepare for Potential Extreme Weather in the Summers of 2022 and 2023*, R.20-11-003 (Dec. 2, 2021), Ordering Paragraph (OP) 35, at 171.

⁵ *Id.*, OP 49 at 157.

⁶ *Id.* at 133.

The Draft Guidelines, if not corrected, would carry the most literal statutory interpretation into regulation. The Draft Guidelines section A.2.a state that “[c]ustomers or aggregators of a DSGS provider are eligible to receive incentives under the DSGS program if they are not...[eligible] to participate in demand response, net energy metering,⁷ or [ELRP] offered by entities under the jurisdiction of the California Public Utilities Commission.”⁸ Section A.2.b of the Draft Guidelines adds more reasonable criterion, akin to the “dual participation” requirement; this section prohibits payments to customers receiving payment for “the same reduction in use of electricity through any other utility or state program.”⁹ Indeed, the guidelines make perfect sense if subpart a is eliminated and subpart b is retained.

Internal harmonization of PRC section 25792(b), particularly when considering policy impacts, requires granting DSGS program eligibility to customers of all retail sellers, provided only that they do not engage in dual participation. Consistent with this conclusion, CalCCA proposes that the Commission **strike Draft Guideline section A.2.a** while retaining section A.2.b:

2. Eligible Participants Customers or aggregators of a DSGS provider are eligible to receive incentives under the DSGS program if they are not:

- a. ~~Eligible to participate in demand response, net energy metering, or emergency load reduction programs offered by entities under the jurisdiction of the California Public Utilities Commission.~~
- b. Receiving payment or accounting for the same reduction in use of electricity through any other utility or state program.
- c. Cogeneration facilities with a power purchase agreement.

CalCCA thanks the Commission for its consideration of this important proposed change.

⁷ CalCCA notes that the statute does not include a requirement associated with net metering.

⁸ Proposed Draft Program Guidelines, Demand Side Grid Support (DSGS Program, First Edition, Chapter 2.A.2.a) at 2.

⁹ *Id.*

Respectfully submitted,

A handwritten signature in blue ink that reads "Evelyn Kahl". The signature is written in a cursive, flowing style.

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

July 29, 2022