Rulemaking 09-11-014 – Phase II

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Joint Workshop Report

September 27, 2010 Workshop on Energy Efficiency and Community Choice

October 22, 2010

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(10-21-10 Final Draft)

This Joint Workshop Report (Report) responds to the direction given to parties in the Assigned Commissioner Ruling and Scoping Memo (ACR), issued September 22, 2010, in Phase II of the Post-2008 Energy Efficiency Rulemaking 09-11-014.

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The ACR directed parties to create a joint report on the Energy Efficiency and Community Choice Aggregation (EE and CCA) Workshop, which was held September 27, 2010:

> Following the workshop, attendees shall jointly prepare and file a workshop report that summarizes the outcome of the workshop and includes a response to the question of whether the procedures set forth in D.03-07-034 by which any party, including a Community Choice Aggregator (CCA), may apply to administer cost-effective energy efficiency and conservation programs, are adequate or whether changes need to be made. The Workshop report shall be served on the service list by October 15. (ACR at p.7)

On October 14, 2010, Administrative Law Judge, Darwin Farrar issued a ruling extending the Report deadline to October 22, 2010, and stating that parties to the proceeding would have the opportunity to file separate comments to the report on October 29, 2010, and reply comments on November 4, 2010.

This Report has been prepared by Pacific Gas and Electric Company (PG&E) and Southern California Edison (SCE), with input from representatives from the City and County of San Francisco (CCSF), Marin Energy Authority (MEA), San Joaquin Valley Power Authority (SJVPA), Women Energy Matters (WEM), San Diego Gas and Electric Company (SDG&E), Southern California Gas Company (SCG) and Natural Resources Defense Counsel (NRDC). To the extent possible, the Report reflects consensus of the workshop participants, and in instances where consensus was not reached, the Report either clarifies party positions, or the comments were omitted and parties were encouraged to clarify their positions in the comments and reply comments provided for by the ALJ ruling.

This report is broken into four general sections:

Part 1 - Brief Summary of Workshop Discussion

Part 2 - Relevant State Statute/CPUC Policy Decisions

Part 3 – Response to Question Addressed to Parties

- General Principles
- CCA Option - CCA submits request to administer EE programs using IOU-collected EE funds to CPUC, independent of the IOU portfolio with certain IOU-collected EE funds passed through to CCA
- Third Party Option - CCA applies for EE funding through the IOU portfolio third-party program
- LGP Option – Third Party Option is adequate; however, if CPUC wants to consider further options, PG&E proposes that CCAs could apply for EE funding through the Local Government Program

Part 4 - Appendices

- Appendix A – Detailed Summary of Workshop Discussion
- Appendix B – List of workshop participants

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- Appendix C – Energy Division Workshop Handout
- Appendix D – Complete text of AB117
- Appendix E – Procedural History

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Part 1: Summary of Outcome of 9/27/10 Workshop

1- Brief Summary of Workshop Discussion

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The workshop followed the outline included in the September 22, 2010, assigned commissioner ruling. The major topic areas covered were:
(1) Review of applicable statutory and regulatory rules that apply to a CCA administering EE funds;
(2) Overview of EE funding sources;
(3) Through what process could a CCA apply to administer a share of EE program funding sources; and
(4) A brainstorming session into the technical issues and questions that would need to be resolved.

The electric and gas "non-bypassable" public purpose program (PPP) charges recover the public goods charge (PGC) and procurement portions of EE funding. Both funding sources are components of the PPP line item on customer bills.

The workshop participants had extensive discussions, but no resolution regarding how to account for funds collected by IOUs via the EE PGC and procurement mechanisms. See Appendix A for additional details..

The workshop participants, led by Steve Roscow of the Energy Division, reviewed the history of stated policies regarding how a CCA could request funds to administer CCA programs. Through that history, it was noted that the existing rules stated in D.03-07-034 were written at a time when the CPUC was the entity that carried out the administrative role of reviewing and selecting EE programs.

For EE program cycles 2002-03 and 2004-05, the CPUC was the overall administrator of EE programs. Third party program administrators applied to the CPUC through a competitive bid process; selection was made by Energy Division/CPUC. The third parties contracted with IOUs who provided limited administrative oversight and funding through collected EE funds.

Since EE program cycles 2006-2008, the IOUs administered EE programs pursuant to D.05-01-055); third party programs implementers apply to the IOUs through a competitive bid process, the selection criteria is developed by IOUs with input from Energy Division and PRG; selection is made by IOUs with ED and PRG review; third parties contract through IOUs. The local government partnership solicitation and selection process has similar Energy Division oversight and involvement by the PRG.

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Part 2 – Relevant State Statute/CPUC Policy Decisions

[XXXMESSAGE TO SANDY: PLEASE LEAVE OUT ALL OF THESE QUOTES- THEY ARE SELECTIVE (FOR IOU BENEFIT) AND NOT COMPLETE. PLEASE PROVIDE JUST A LIST OF DECISIONS, OR USE THE PROCEDURAL HISTORY THAT I FORWARDED TO YOU THIS MORNING. also recommend an appendix with the COMPLETE TEXT of AB117, as there are relevant portions throughout the text, not only in the EE sections.]

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OIR for R0108028, August 23, 2001. This Order Instituting Rulemaking (OIR) is designed to examine the Commission's future energy efficiency policies, administration and programs.

D0111066 (R0108028) **Interim Opinion Adopting Energy Efficiency Policy Rules, including Attachment 1 Energy Efficiency Policy Manual which contains the rules for applications to administer EE programs in the 2002-03 cycle, and criteria for review and selection by CPUC. (These rules were in effect at the time AB117 was passed and D0307034 was issued.)**

Decision 03-07-034 – Interim Opinion Implementing Provisions of Assembly Bill 117 Relating to Energy Efficiency Program Fund Disbursements (R.01-08-028)

Decision 04-01-032 (R0108028) – Order Denying Applications for Rehearing of Decision 03-07-034 and Denying Request for Oral Argument and Motion for Stay (R.01-08-028), including Commissioner Lynch's dissenting opinion

Decision 05-12-041 (R.03-10-003) – Decision Resolving Phase 2 Issues on Implementation of Community Choice Aggregation Programs and Related Matters (R.03-10-003)

D0501055 (R0108028) - **Interim Opinion On The Administrative Structure For Energy Efficiency**

P.U. Code 381.1 (a) and (b) (AB 117)

Part 3: Question to Be Addressed by Parties

Are the procedures set forth in D. 03-07-034, by which any party, including a CCA, may apply to administer cost-effective energy efficiency and conservation programs, adequate or do changes need to be made?

General Principles

The following general consensus principles should guide CPUC policy and procedures regarding CCA requests to administer EE programs using IOU-collected energy efficiency funds:

- CCAs should be allowed the opportunity to administer EE programs, however not all CCAs may wish to provide EE programs in their territory, and should not be required to do so.

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- EE programs should be customer-focused, support effective use of EE public funds, and be coordinated to the extent feasible with existing programs throughout California, including those of investor-owned utilities, publicly owned utilities, California Energy Commission, and other governmental agencies.
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- Program Administrators are accountable to relevant governing agency for specified results (e.g. meeting energy savings goals, furthering portions of the Strategic Plan)
- CCA programs shall provide data on cost effectiveness regarding their programs to the CPUC and other relevant state agencies for the purposes of tracking energy efficiency efforts in California.
- Application of cost effectiveness tests, program evaluation and other CPUC oversight (e.g. audits, reporting, etc.) consistent with statute.
- EE Programs should forward the CPUC goals of statewide program coordination and stakeholder collaboration
- Energy Division should provide oversight in review and of the CCA's request for EE program funding; and the Commission is the final authorizing entity.

[XXXSANDY: THE FOLLOWING NON-CONSENSUS PRINCIPLES CREATE UNNECESSARY CONFUSION SINCE THIS PAGE PURPORTS TO INCLUDE "CONSENSUS" POSITIONS. I MOVED THESE PRINCIPLES TO THE OPTIONS PAGES OF THE PARTIES WHO ENDORSE THEM.

- xxxSandy – I moved these first two to the CCA Option and made some changes:
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Sandy – I moved the last two to BOTH OF the iou options pageS

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CCA Option: CCA Makes Request for EE Funding Directly to CPUC

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Parties supporting: CCSF, SJVPA, MEA [add others]

The simplest and preferred approach for CCA administration of energy efficiency programs within their territories would be to coordinate with an independent (non Investor-Owned Utility) third-party general administrator of energy efficiency in California. As such an independent administration option does not currently exist, the proposal below is designed to further the state's interest in energy efficiency and work with the existing framework.

[xxxxBG moved these here from Part 3, p. 8):
General principles:
CPUC should be the authorizing entity. Incumbent IOU should not be part of the approval path.

CCA's may submit first request to CPUC at any time. Timing of CCA filings would allow CCAs to ensure rates are sufficient to maintain their energy efficiency offerings, and would give CPUC-regulated administrators opportunity to appropriately reflect funding availability and customer base in there planning and CPUC-approval processes.

Option B provides the following benefits:

- CCA administration does not require shareholder incentives thereby reducing costs and administrative burdens regarding CPUC oversight.
- Ensures state's interest in promoting energy efficiency in California
- Protects ratepayer interest and ensures no cross-subsidy from CCA customers to IOU customers (via reductions in IOU procurement costs).
- Independent from IOU approval and potential for forcing competition between CCA's or other local governments.
- Leverages community-based local government oversight.

Process for CCA Request

The following is an outline of a process designed to ensure that the State's interest in energy efficiency are appropriately safeguarded, while maintaining the distinct position the CCA has as an entity that is not regulated by the CPUC. This process mimics the procedure followed by the CPUC in certification of CCA Implementation Plans.

- CCA submits "Intent to manage energy efficiency programs" to CPUC energy division (and serves submission to appropriate service lists)
- CPUC energy division staff reviews submission
- CPUC staff may seek additional data from CCA or relevant parties
- CPUC determines if submission is adequate in detail and scope, and if so deemed, directs the appropriate disposition of funds by relevant IOU.
- IOU would submit necessary advice letters to adjust rates or tariff sheets, as appropriate. (Tariff adjustments would be required to authorize IOUs to transfer energy efficiency funds to an authorized CCA administrator)

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Elements to be included in CCA Submission

To be consistent with existing Public Utilities Code (PU Code Section 381) and direction from D.03-07-034, the following elements shall be included in a successful CCA "Intent to manage energy efficiency programs" submission to the CPUC. The CPUC review will ensure that these elements are satisfactorily covered in the CCA submission.

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- Description of CCA program goals (GHG, as well as MW and MWh) and basis for determining savings
  - IOUs system load profiles would not necessarily apply to specific CCA program.
  - Discussion of how CCA programs fit within the CPUC's strategic plan and are designed to achieve long term energy efficiency results.
- Discussion of how CCA programs are cost effective
- Discussion of CCA oversight (from applicable governing agency) to ensure spending of customer funds achieves energy savings
- Discussion of how CCA program offerings would interact with programs offered by publicly-owned utilities (POUs), third parties, and investor-owned utilities (IOUs) (including "upstream" programs and programs offered throughout IOU territories);
  - Each CCA may decide whether or not to contract for any of its programs or EM&V with any IOU, POU or third party (which may include other CCAs, other government agencies, private businesses or non-profits.
  - Funding Level would be the amount approved by the CPUC for recovery through the non-bypassable energy efficiency related PPP charges collected from CCA-eligible customers. This amount would be allocated to the CCA, which would use such funds for its energy efficiency programs, [XXX NOTE DELETION:]
  - CCAs may choose to fund additional programs [XXXNOTE DELETION:]
- Budget and description of how the CCA EE administrator will evaluate, measure and verify program savings and costs ("EM&V).
- Description of how the CCA EE administrator will incorporate generally accepted EM&V protocols into its evaluation and planning processes.
- Description of accounting mechanisms that shall be utilized to ensure energy efficiency funds are appropriately segregated from CCA general operating revenues (and that funds will be utilized solely for energy efficiency programs and associated EM&V). Discussion of accounting mechanism shall include discussion of audit protocols that the CCA shall have in place.
- CCAs shall include relevant reports on energy efficiency activities that have been made public by the CCA.

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Third Party Option: CCA Applies for EE Funding through the IOU Portfolio Third-Party Program

Parties supporting: PG&E, SCE, SDG&E, SCG, [add others]

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General principles: Parties supporting: PG&E, NRDC [add others]

- CCA should not be treated any differently than any other parties applying to administer EE program funds.
- CCAs should be subject to CPUC jurisdiction to the extent they are applying for rate payer funds to administer EE programs.

The existing rules are adequate as the CCA can apply for EE funds through the IOUs existing third party program on a competitive bid basis. This procedure is optimal because it ensures the following:

Benefits of Third Party Model:
- A balanced portfolio
- Adherence to established CPUC EE Policy rules
- CPUC oversight to ensure ratepayers have a full offering of programs regardless of program administrator
- Recourse for revenue recovery in case of non-compliance or misuse
- EE portfolio application is subject to a full review and approval by the Commission
- No added billing or accounting costs
- Compliance with CPUC directives and guidance

The procedure is consistent with the following CPUC policies:

Energy Efficiency Policy Manual V 4.0, p. 10 and D.03-07-034 state that the CPUC will apply the same procedures and criteria to CCAs that are applied to all third party applicants for EE program funding, including EM&V requirements.

D.05-12-041, Conclusions of Law, Number 2 states "Although relevant portions of AB117 do not confer general regulatory oversight of CCAs, the Commission has the authority to exercise limited jurisdiction over non-utilities in furtherance of their regulation of public utilities, including resource adequacy."

D.04-01-032, p. 6 states that CCAs will not be treated any differently than any other parties.

D.03-07-034 p.10, [CPUC] will apply the same procedures and criteria for review that we now apply to all Third Party applicants for energy efficiency program funding, including EM&V requirements. CCAs shall refer to Commission orders and its energy efficiency policy manual in making requests for Section 381 funding.

Guidelines for Funding EE Applications

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- Any party that has been established by local authorities as a CCA pursuant to Section 331.1 may apply for energy efficiency funding subject to the guidelines, criteria, schedules and EM&V that apply to third parties as set forth in the Policy Manual and Commission rulings and orders.
- The Commission will consider the value of program continuity and planning certainty and the value of allowing competitive opportunities for potentially new administrators (implementers).
- The Commission will weigh the benefits of each party's proposed program to ensure that the program meets the following objectives:
    - Is consistent with the goals of the existing programs established pursuant to Section 381.
    - Advances the public interest in maximizing cost-effective electricity savings and related benefits.
    - Accommodates the need for broader statewide or regional programs.
- CCAs are able to apply for energy efficiency program funding consistent with the timing of Commission authorized solicitations for energy efficiency proposals.

Additional Comments in Support of Third Party Solicitation Process:

- The existing third party process for CCAs to access EE funds has not proven to be ineffective.
- The PRG process provides for a non-biased selection of third party solicitations
    - PRG includes TURN, DRA, NRDC, Energy Division, and a utility representative.
    - D.07-10-032, p. 104 states: "DRA and TURN explain the PRG process has been useful in promoting a fair third-party contracting process but argue that the PAGs have not been successful in promoting innovation, best practices, program design or cost effectiveness."

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LGP Option: Third Party Option is Adequate; However, if CPUC Wants to Consider Further Options, PG&E Proposes that CCAs Could Apply for EE Funding through Local Government Partner Program

Parties supporting: PG&E, [add others]

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General principles: Parties supporting: PG&E, NRDC [add others]

- CCA should not be treated any differently than any other parties applying to administer EE program funds.
- CCAs should be subject to CPUC jurisdiction to the extent they are applying for rate payer funds to administer EE programs.

If the existing Third Party Program option is not adequate for the Commission, another option to consider is for a CCA to apply for EE funding through the existing Local Government Partnership (LGP) Program. The existing program would be revised to allow the Energy Division, or its delegated independent reviewer, to be present during program negotiations and decision-making process for the CCA's request.

Rationale
This option would address two of the concerns that CCAs expressed during the workshop regarding the Third-Party Program option: (1) CCAs expressed concern over the competitive nature of the existing Third-Party Program option; and (2) CCAs expressed concern over IOUs having ultimate decision-making authority of CCA's request.

Process
The Commission would order interested CCAs to apply for funding via the LGP program. CCAs would not be allowed to apply via both the LGP and Third-Party Program routes. Applying via both routes would result in: customer confusion, possible double-dipping where a customer could receive more than one rebate check for the same installed measure or service, funding overlaps that would be inefficient or excessive in one area, and/or mis-use of public funds.

The IOUs would work with the CCA and other local stakeholders (for example, Third Party programs delivered in that area) to develop plan for implementing energy efficiency programs in that region. The plan would include a combination of the CCA-proposed program and the IOU programs (Mass Market Downstream Rebates, Calculated Rebates, Third Party Programs, etc.) The Energy Division, or its delegated independent reviewer, would be present during program negotiations and the decision-making process for the CCA's request to ensure fairness. Under Energy Division oversight, the IOU would be responsible for ensuring coordination with the remainder of its portfolio.

In addition, in the event that both a CCA and a LGP apply to implement programs for the same service area, the IOU and Energy Division will either arrange a solution with all entities or choose the better entity to run the program, subject to final approval by the Commission.

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The IOU would include the agreed to program/funding request in its EE portfolio application that would be subject to a final decision by the Commission. The IOU would establish the contract with the CCA to implement the agreed upon program approved by the Commission.

Criteria for CCA/Local Partner-Implemented Programs[2]

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- Cost effectiveness
- Success in past EE or related projects
- Demonstrated commitment through energy champion, long-term staff assignment or other
- Priority on achieving energy savings in municipal buildings/city energy infrastructures
- Likelihood of success of proposed coordinated-model
- Integrated and comprehensive approach
- Commitment to short and long term energy savings goals and strategies

Review/Decision Making Process

Scoring criteria, selections, and Program Implementation Plans (PIPs) reviewed by:

- Peer Review Group, which includes TURN, NRDC, other
- Energy Division (as ex officio member)
- Division of Ratepayer Advocates (as ex officio member)
- California Energy Commission (as ex officio member)

Energy Division provides a representative, or an independent reviewer to participate in any program negotiations and decision making process for a Local Coordinated-Model plan involving the CCA.

Benefits of CCAs Applying Through LGP Program with Additional Energy Division Involvement

- Ensures CCA customers received fully range of offering available through IOU's portfolio.
- Limits customer confusion by offering seamless, coordinated offerings in region.
- Encourages cost effective program marketing and implementation by avoiding the creation of parallel/patch-work of program offerings.
- Promotes program comprehensiveness (installation of both electric and gas measures) with joint IOU/CCA customers.
- Leverages IOU's existing CPUC reporting infrastructure.
- Leverages IOU's existing program management infrastructure used for implementing LGPs.
- Eliminates CPUC's need to establish new infrastructure for administering CCA's directly.
- Facilitates integration across IOU energy efficiency portfolio, including co-marketing of offerings.
- Based on proven collaborative LGP model used to successfully delivered energy efficiency services to a local region.
- Allows for integration with other Demand-Side Management options, including California Solar Initiative, Demand Response, Low-Income, Self-Generation Incentive, Dynamic Pricing, etc.
- No added billing or accounting costs

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[1]

[2] The criteria shown below was agreed to by IOUs and Energy Division for the 2009-2011 (now 2010-2012) EE Portfolio LGP program solicitation and is subject to refinement for the next program cycle solicitation.

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Part 4 – Appendices

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Appendix A

Summary of Workshop Discussion

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SUMMARYOF THE 9-27-10 WORKSHOP ON ENERGY EFFICIENCY AND COMMUNITY CHOICE

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Introduction

The September 22, 2010 Assigned Commissioner's Ruling and Scoping Memo, Phase II, directed parties to create a joint report on the Energy Efficiency and Community Choice Aggregation (EE and CCA) Workshop, which was held September 27, 2010:

> Following the workshop, attendees shall jointly prepare and file a workshop report that summarizes the outcome of the workshop and includes a response to the question of whether the procedures set forth in D.03-07-034 by which any party, including a Community Choice Aggregator (CCA), may apply to administer cost-effective energy efficiency and conservation programs, are adequate or whether changes need to be made. The Workshop report shall be served on the service list by October 15. 9-22-10 Ruling, p. 7.

Steve Roscow, of Energy Division facilitated the workshop. At the outset, he clarified that this workshop would only be discussing a process for CCAs to apply for EE funding, although it is understood that the statue states that "any party" may apply. At the workshop, parties were urged to find consensus on the issues.[3]

Women's Energy Matters (WEM) provided the first draft of the workshop summary as a step in that process that was then revised per participant input.[4] At the workshop, participants agreed that in addition to the summary, the report would provide several options to address the question posed by the ACR. This document summarizes the issues that were discussed at the workshop.

* * *

[3] At the beginning of the workshop, Southern California Edison challenged Women's Energy Matters' right to videotape and audiotape the workshop. A discussion ensued. ALJ Farrar informed parties that video and audio-taping would only be allowed while there was a decision maker such as himself or a Commissioner's representative in the room. After that, all recording must cease. ALJ Farrar noted that although the workshop was a public meeting that anyone could attend, it was intended to be "off-the-record" to foster open and frank communication and sharing of ideas. WEM was only allowed to video and audiotape the workshop during the first 45 minutes, when the Commissioner's advisor was present. After he left, WEM shut off both devices, per the instructions of ALJ Farrar.

[4] On October 1, 2010, WEM circulated detailed notes taken at the workshop to the list of workshop participants.

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Summary of Discussion:

- **Whether existing procedures are adequate.**
  The primary question for the workshop was whether "existing procedures" for CCAs to apply to administer EE programs were adequate. Parties recognized that some elements of the procedures for EE/CCA applications outlined in D.03-07-034 have changed, primarily that the IOUs, instead of the CPUC are responsible for administering the EE programs. Some parties rejected as unacceptable the currently approved process for CCAs to apply for EE funding using current third party solicitation procedures; while other parties feel that the current rules are adequate.

- **EE Funding Sources**
  EE Public Goods Charges and EE procurement charges recover the electric portion of total EE funding in electric Public Purpose Program (PPP) rates. Gas PPP surcharges recover the gas portion of total EE funding. The electric and gas charges (for EE and other PPP programs) are shown as separate PPP line items on ratepayers' bills.

  Parties noted the somewhat complex origins of the elements of ratepayer funding for EE:

  a. **"Public Goods Charges" (PGC)** — is a non-bypassable rate component established by statute to fund energy efficiency, renewables and public interest Research and Development (R&D). The PGC funding level for these programs is a *fixed* amount, subject to an annual inflation factor. The electric portion of Low-Income Energy Efficiency (LIEE) programs funding is also recovered through the PGC rate component.

  b. **"Energy Efficiency Procurement" charges** — is a variable portion of the non-bypassable PPP charges. The current process for determining the amount of the electric EE Procurement charges is as follows:
  As part of the EE applications process for the next program cycle, each utility determines the amount of revenues it would need to execute its program plans in order to meet the goals set by the Commission per MW, MWh and therms. The amount of electric revenue needed over and above the amounts expected from the EE portion of the Public Goods Charges is the amount of the EE procurement surcharge.
  The Commission may adjust the amount of each utility's procurement charges in the order approving portfolios. The authorized amount is recovered through customer PPP rates on an annual basis.

  c. **"Gas PPP Surcharges"** — which is a variable portion of non-bypassable PPP charges. The level of gas PPP surcharge are determined through the IOU EE applications based on the amount of total EE funding approved to be allocated to gas customers. The authorized amount is recovered through gas PPP surcharge rates on an annual basis.

  Since 2006, there are not separately programs funded through EE PGC and EE Procurement funds. Approximately 80% of the total is recovered through electricity rates and 20% is recovered through gas rates. For gas and electric IOUs, the recovery of EE funds from gas and electric customers is based on the forecast electric and gas net benefit of the portfolio. Energy Division provided a handout that summarized the 2010-2012 EE Portfolio approved budgets by electric and gas funding source (See Appendix C)

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- **EE Funding Available to CCAs**
  The discussion centered on whether there should be a set aside of EE funds for the CCA to access for the administration EE programs.

  CCAs expressed a desire to receive all EE charges collected from their customers— from both electric and gas revenues. Whether the CCAs' intend to consume these all by themselves is another matter. CCA participants at the workshop expressed an expectation that they would work with many other parties, implementing some programs themselves, contracting out others, and collaborating with other administrators on some elements — in other words, CCAs would utilize a range of administrative options.
  - The CCAs seek a simple transfer of the EE charges collected from CCA customers by the IOUsas an immediate solution, for example, for the rest of the current program cycle, but in order to create the most cost-effective EE programs as part of their integrated resource plans, CCAs — like IOUs — should be able to set EE program budgets. Since the EE procurement surcharge is variable CCAs would set their own EE procurement surcharge accordingly, as part of CCA ratemaking authority.

  The IOUs explained that the only mandated amount of EE program funding is the EE PGC portion established by statute that is approximately 25% of the total EE funding per year (based on data shown in Appendix C). Rather than trying to make their funding request match a certain level (i.e. "to get a certain amount of a pre-determined size of a pie"), the IOUs request funding through their EE portfolio applications filed at the Commission based on a bottoms-up development of cost effective EE program plans that meet the energy savings goals, strategic plan goals and other policy directions. The Commission ultimately approves the IOU EE portfolio applications.

- **Timing of CCA applications**
  CCAs present expressed a desire to apply for EE funding as soon as the Commission clarifies the process.[5]

  The CPUC approved funding for the current 2010-2012 EE Portfolio cycle in September 2009 in D.09-09-047. IOUs have completed the process of contracting with its Local Government Partners and Third Parties, and began implementing their programs effective January 1, 2010.6

[5] The first full CCA program in California launched in May 2010: the Marin Energy Authority. Clean Power San Francisco hopes to launch within a year. San Joaquin Valley Power Authority suspended its efforts in 2008 when its initial ESP was unable to provide the 5% rate reduction required by its JPA agreement. SJVPA hopes to restart its CCA efforts pending improvements in the economy. A program similar to CCA, called "Community Aggregation" (as opposed to Community Choice Aggregation) began earlier in the city of Cerritos: "Cerritos has provided retail electric services to the local community since mid-2005 as a publicly-owned utility. Public Utilities Code Section 366.1 provides Cerritos, as owner of the Magnolia Power Project, with a right to act as a 'community aggregator' and provide electric services to customers." D.07-04-007 in R.03-01-033.

[6] Utility applications for the current cycle were initially filed in June 2008; LGP and TPP applications were submitted to utilities in May 2008. Utilities' portfolios needed to be revised twice to improve compliance with existing policies; therefore the Commission required an extra year to review the applications. It authorized a year of bridge funding during which the utilities extended programs from 2006-08 that they considered "successful."

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Workshop participants did not come to any agreement on whether or not CCAs should be able apply for EE program funding sooner than the next portfolio cycle.

- **At what point should a CCA apply for EE funds?**

  A separate issue was raised but not resolved about what point in its CCA formation process would a CCA be able to apply for its funds; for example would it be sufficient to be a "certified" CCA, or would it need to be "registered?"

- **What EE programs might CCAs want (or not want) to administer?**
  CCAs at the workshop had different ideas about what programs they would want to administer, and how they would relate to programs they might not choose to administer, which might include upstream programs or certain "statewide" programs. It is likely that each CCA's EE portfolio would be different, based on their unique needs, capabilities, and customer demographics.

- **What should be included in a CCA's application?**
  Parties felt that this question would need further exploration. There was a brief discussion of what is currently involved for IOUs in submitting an EE application to the CPUC: how the process works, what needs to be included, and an overview of the Third Party Program solicitation.

- **Review and approval of CCA requests for EE program funding**
  The parties agreed that the CPUC has the final authority to approve request for public funding of EE programs. The CCAs stated that the CPUC, not utilities, should be responsible for reviewing and approving CCAs' EE applications — in a manner similar to their review of CCAs' Implementation Plans. However, the IOUs should have an opportunity to comment on such requests. The IOUs pointed out that if the CCA were to apply for funding through its portfolios, the Energy Division plays an active role in the review and approval of the IOUs' request.

- **What is the extent of CPUC authority over CCAs?**
  In general, the Commission has very limited authority over CCAs, for example, it does not approve CCA procurement plans. The Local Government(s) or the Joint Powers Authority that created the CCA provide regulatory oversight, including reviewing and approving plans for procurement, and energy efficiency.

- **What is the extent of CPUC authority over CCA EE plans?**
  Opinions at the workshop differed regarding the extent of CPUC authority over CCAs EE programs. The statute states that an application process, auditing, and reporting requirements shall apply to all applicants.

- **Applicability of goals set by CPUC**
  CCAs stated that they would still have a responsibility to provide robust savings; state law requires publicaly owned utilities (POUs) to meet EE goals set by the California Energy Commission (CEC), and these goals would likely be applied to CCAs. IOUs suggested that the CPUC might assign a portion of the EE goals directly to a CCA applicant.

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If a CCA was the administrator of its own EE portfolio, there remains un-answered questions as to how the IOUs energy savings goals might be impacted. The Commission would have to determine what that amount would be, since the utilities do not allocate any part of EE funds or goals to any particular part of their territories.

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- **EM&V**
  CCAs commented that changes were needed in EM&V to accommodate CCAs, especially if CPUC goals do not apply — for example, developing EM&V standards and processes based on ensuring grid reliability. The applicability of EM&V requirements may depend in part on how the goals question is resolved. If CPUC goals are found to apply to them, CCA want to receive shareholders incentives, like the utilities.

- **Relation between Local Government Partnerships and CCAs**
  CCAs were asked how they intended to coordinate with existing IOU local government partnership efforts. The CCA explained that they envisioned a seamless process in CCA territories where the same staff administers both programs; they plan to go to every door, providing one set of offers or the other, depending on whether the customer is served by the CCA customers or the utility. Currently, local governments are already working with multiple accounts because stimulus funds and other local financing are being rolled in with ratepayer funding.

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Joint Workshop Report 10/22/10 (Phase II, R. 09-11-014)-

Appendix B – List of workshop participants and additions per parties' requests

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Appendix C – Energy Division Workshop Handout

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Appendix D – AB117

Assembly Bill No. 117
CHAPTER 838
An act to amend Sections 218.3, 366, 394, and 394.25 of, and to add Sections 331.1, 366.2, and 381.1 to, the Public Utilities Code, relating to public utilities.
[Approved by Governor September 24, 2002. Filed with Secretary of State September 24, 2002.]
LEGISLATIVE COUNSEL'S DIGEST
AB 117, Migden. Electrical restructuring: aggregation.
(1) Existing law, relating to transactions between electricity suppliers and end-use customers, authorizes various entities to aggregate electrical loads, and defines an "aggregator" as one of those entities that provides power supply services, including combining the loads of multiple end-use customers and facilitating the sale and purchase of electrical energy, transmission, and other services on behalf of the end-use customers.
This bill would authorize customers to aggregate their electrical loads as members of their local community with community choice aggregators, as defined. The bill would authorize a community choice aggregator to aggregate the electrical load of interested electricity consumers within its boundaries. The bill would require a community choice aggregator to file an implementation plan with the Public Utilities Commission in order for the commission to determine a cost-recovery mechanism to be imposed on the community choice aggregator to prevent a shifting of costs to an electrical corporation's bundled customers. The bill would require a retail end-use customer electing to purchase power from a community choice aggregator to pay specified amounts for Department of Water Resources costs and electrical corporation costs, as described. The bill would require the commission to prepare and submit to the Legislature, on or before January 1, 2006, a report on community choice aggregation. Because a violation of an order or decision of the commission is a crime, this bill would impose a state-mandated local program.
(2) Existing law requires the Public Utilities Commission to order certain electrical corporations to collect and spend certain funds for public benefit programs, including cost-effective energy efficiency and conservation programs.
The bill would require the commission, not later than July 15, 2003, to establish policies and procedures by which any party, including, but
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not limited to, a local entity that establishes a community choice aggregation program, may apply to become administrators for cost-effective energy efficiency and conservation programs. The bill would require the commission, if a community choice aggregator is not the administrator, to require the administrator of cost-effective energy efficiency and conservation programs to direct a proportional share of its approved energy efficiency program activities for which the community choice aggregator's customers are eligible, to the community choice aggregator's territory without regard to customer class. Under the bill, the commission would be authorized to order an adjustment to the share

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of energy efficiency program activities directed to a community
aggregator's territory if necessary for an equitable and cost-effective
allocation of program activities.
(3) Existing law defines "electric service provider" as an entity that
offers electrical service to residential and small commercial customers,
but not including an electrical corporation and requires these providers
to register with the commission.
This bill would instead define "electric service provider" as an entity
that offers electrical service to customers within the service territory of
an electrical corporation, but not including an electrical corporation or
a person employing cogeneration technology or producing electricity
from other than conventional power sources, for its own use or the use
of its tenants or an adjacent property and not for sale or transmission to
others.
This bill would provide that, if a customer of an electric service
provider or community choice aggregator is involuntarily returned to
service provided by an electrical corporation, any reentry fees imposed
on that customer are to be the obligation of the electric service provider
or community choice aggregator, except as specified. The bill would
require the electric service provider or community choice aggregator, as
a condition to its registration, to post a bond or demonstrate insurance
sufficient to cover paying those reentry fees.
(4) The California Constitution requires the state to reimburse local
agencies and school districts for certain costs mandated by the state.
Statutory provisions establish procedures for making that
reimbursement.
This bill would provide that no reimbursement is required by this act
for a specified reason.
The people of the State of California do enact as follows:
SECTION 1. Section 218.3 of the Public Utilities Code is amended
to read:
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218.3. "Electric service provider" means an entity that offers
electrical service to customers within the service territory of an electrical
corporation, as defined in Section 218, but does not include an entity that
offers electrical service solely to service customer load consistent with
subdivision (b) of Section 218, and does not include an electrical
corporation, as defined in Section 218, or a public agency that offers
electrical service to residential and small commercial customers within
its jurisdiction, or within the service territory of a local publicly owned
electric utility. "Electric service provider" includes the unregulated
affiliates and subsidiaries of an electrical corporation, as defined in
Section 218.
SEC. 2. Section 331.1 is added to the Public Utilities Code, to read:
331.1. For purposes of this chapter, "community choice
aggregator" means any of the following entities, if that entity is not
within the jurisdiction of a local publicly owned electric utility that
provided electrical service as of January 1, 2003:
(a) Any city, county, or city and county whose governing board elects
to combine the loads of its residents, businesses, and municipal facilities
in a communitywide electricity buyers' program.
(b) Any group of cities, counties, or cities and counties whose
governing boards have elected to combine the loads of their programs,
through the formation of a joint powers agency established under

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Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of
the Government Code.
SEC. 3. Section 366 of the Public Utilities Code is amended to read:
366. (a) The commission shall take actions as needed to facilitate
direct transactions between electricity suppliers and end-use customers.
Customers shall be entitled to aggregate their electrical loads on a
voluntary basis, provided that each customer does so by a positive
written declaration. If no positive declaration is made by a customer, that
customer shall continue to be served by the existing electrical
corporation or its successor in interest, except aggregation by
community choice aggregators, accomplished pursuant to Section
366.2.
(b) Aggregation of customer electrical load shall be authorized by the
commission for all customer classes, including, but not limited, to small
commercial or residential customers. Aggregation may be accomplished
by private market aggregators, special districts, or on any other basis
made available by market opportunities and agreeable by positive
written declaration by individual consumers, except aggregation by
community choice aggregators, which shall be accomplished pursuant
to Section 366.2.
SEC. 4. Section 366.2 is added to the Public Utilities Code, to read:
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366.2. (a) (1) Customers shall be entitled to aggregate their
electric loads as members of their local community with community
choice aggregators.
(2) Customers may aggregate their loads through a public process
with community choice aggregators, if each customer is given an
opportunity to opt out of their community's aggregation program.
(3) If a customer opts out of a community choice aggregator's
program, or has no community choice program available, that customer
shall have the right to continue to be served by the existing electrical
corporation or its successor in interest.
(b) If a public agency seeks to serve as a community choice
aggregator, it shall offer the opportunity to purchase electricity to all
residential customers within its jurisdiction.
(c) (1) Notwithstanding Section 366, a community choice
aggregator is hereby authorized to aggregate the electrical load of
interested electricity consumers within its boundaries to reduce
transaction costs to consumers, provide consumer protections, and
leverage the negotiation of contracts. However, the community choice
aggregator may not aggregate electrical load if that load is served by a
local publicly owned electric utility, as defined in subdivision (d) of
Section 9604. A community choice aggregator may group retail
electricity customers to solicit bids, broker, and contract for electricity
and energy services for those customers. The community choice
aggregator may enter into agreements for services to facilitate the sale
and purchase of electricity and other related services. Those service
agreements may be entered into by a single city or county, a city and
county, or by a group of cities, cities and counties, or counties.
(2) Under community choice aggregation, customer participation
may not require a positive written declaration, but all customers shall be
informed of their right to opt out of the community choice aggregation
program. If no negative declaration is made by a customer, that customer
shall be served through the community choice aggregation program.

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(3) A community choice aggregator establishing electrical load aggregation pursuant to this section shall develop an implementation plan detailing the process and consequences of aggregation. The implementation plan, and any subsequent changes to it, shall be considered and adopted at a duly noticed public hearing. The implementation plan shall contain all of the following:
(A) An organizational structure of the program, its operations, and its funding.
(B) Ratesetting and other costs to participants.
(C) Provisions for disclosure and due process in setting rates and allocating costs among participants.
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(D) The methods for entering and terminating agreements with other entities.
(E) The rights and responsibilities of program participants, including, but not limited to, consumer protection procedures, credit issues, and shutoff procedures.
(F) Termination of the program.
(G) A description of the third parties that will be supplying electricity under the program, including, but not limited to, information about financial, technical, and operational capabilities.
(4) A community choice aggregator establishing electrical load aggregation shall prepare a statement of intent with the implementation plan. Any community choice load aggregation established pursuant to this section shall provide for the following:
(A) Universal access.
(B) Reliability.
(C) Equitable treatment of all classes of customers.
(D) Any requirements established by state law or by the commission concerning aggregated service.
(5) In order to determine the cost-recovery mechanism to be imposed on the community choice aggregator pursuant to subdivisions (d), (e), and (f) that shall be paid by the customers of the community choice aggregator to prevent shifting of costs, the community choice aggregator shall file the implementation plan with the commission, and any other information requested by the commission that the commission determines is necessary to develop the cost-recovery mechanism in subdivisions (d), (e), and (f).
(6) The commission shall notify any electrical corporation serving the customers proposed for aggregation that an implementation plan initiating community choice aggregation has been filed, within 10 days of the filing.
(7) Within 90 days after the community choice aggregator establishing load aggregation files its implementation plan, the commission shall certify that it has received the implementation plan, including any additional information necessary to determine a cost-recovery mechanism. After certification of receipt of the implementation plan and any additional information requested, the commission shall then provide the community choice aggregator with its findings regarding any cost recovery that must be paid by customers of the community choice aggregator to prevent a shifting of costs as provided for in subdivisions (d), (e), and (f).
(8) No entity proposing community choice aggregation shall act to furnish electricity to electricity consumers within its boundaries until the

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commission determines the cost-recovery that must be paid by the

customers of that proposed community choice aggregation program, as provided for in subdivisions (d), (e), and (f). The commission shall designate the earliest possible effective date for implementation of a community choice aggregation program, taking into consideration the impact on any annual procurement plan of the electrical corporation that has been approved by the commission.
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(9) All electrical corporations shall cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs. Cooperation shall include providing the entities with appropriate billing and electrical load data, including, but not limited to, data detailing electricity needs and patterns of usage, as determined by the commission, and in accordance with procedures established by the commission. Electrical corporations shall continue to provide all metering, billing, collection, and customer service to retail customers that participate in community choice aggregation programs. Bills sent by the electrical corporation to retail customers shall identify the community choice aggregator as providing the electrical energy component of the bill. The commission shall determine the terms and conditions under which the electrical corporation provides services to community choice aggregators and retail customers.
(10) (A) A city, county, or city and county that elects to implement a community choice aggregation program within its jurisdiction pursuant to this chapter shall do so by ordinance.
(B) Two or more cities, counties, or cities and counties may participate as a group in a community choice aggregation pursuant to this chapter, through a joint powers agency established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, if each entity adopts an ordinance pursuant to subparagraph (A).
(11) Following adoption of aggregation through the ordinance described in paragraph (10), the program shall allow any retail customer to opt out and to continue to be served as a bundled service customer by the existing electrical corporation, or its successor in interest. Delivery services shall be provided at the same rates, terms, and conditions, as approved by the commission, for community choice aggregation customers and customers that have entered into a direct transaction where applicable, as determined by the commission. Once enrolled in the aggregated entity, any ratepayer that chooses to opt out within 60 days or two billing cycles of the date of enrollment may do so without penalty and shall be entitled to receive default service pursuant to paragraph (3) of subdivision (a). Customers that return to the electrical corporation for procurement services shall be subject to the same terms

and conditions as are applicable to other returning direct access customers from the same class, as determined by the commission, as authorized by the commission pursuant to this code or any other provision of law. Any reentry fees to be imposed after the opt-out period specified in this paragraph, shall be approved by the commission and shall reflect the cost of reentry. The commission shall exclude any amounts previously determined and paid pursuant to subdivisions (d),

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(e), and (f) from the cost of reentry.
(12) Nothing in this section shall be construed as authorizing any city or any community choice retail load aggregator to restrict the ability of retail electricity customers to obtain or receive service from any authorized electric service provider in a manner consistent with law.
(13) (A) The community choice aggregator shall fully inform participating customers at least twice within two calendar months, or 60 days, in advance of the date of commencing automatic enrollment. Notifications may occur concurrently with billing cycles. Following enrollment, the aggregated entity shall fully inform participating customers for not less than two consecutive billing cycles. Notification may include, but is not limited to, direct mailings to customers, or inserts in water, sewer, or other utility bills. Any notification shall inform customers of both of the following:
(i) That they are to be automatically enrolled and that the customer has the right to opt out of the community choice aggregator without penalty.
(ii) The terms and conditions of the services offered.
(B) The community choice aggregator may request the commission to approve and order the electrical corporation to provide the notification required in subparagraph (A). If the commission orders the electrical corporation to send one or more of the notifications required pursuant to subparagraph (A) in the electrical corporation's normally scheduled monthly billing process, the electrical corporation shall be entitled to recover from the community choice aggregator all reasonable incremental costs it incurs related to the notification or notifications. The electrical corporation shall fully cooperate with the community choice aggregator in determining the feasibility and costs associated with using the electrical corporation's normally scheduled monthly billing process to provide one or more of the notifications required pursuant to subparagraph (A).
(C) Each notification shall also include a mechanism by which a ratepayer may opt out of community choice aggregated service. The opt out may take the form of a self-addressed return postcard indicating the customer's election to remain with, or return to, electrical energy service provided by the electrical corporation, or another straightforward means
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by which the customer may elect to derive electrical energy service through the electrical corporation providing service in the area.
(14) The community choice aggregator shall register with the commission, which may require additional information to ensure compliance with basic consumer protection rules and other procedural matters.
(15) Once the community choice aggregator's contract is signed, the community choice aggregator shall notify the applicable electrical corporation that community choice service will commence within 30 days.
(16) Once notified of a community choice aggregator program, the electrical corporation shall transfer all applicable accounts to the new supplier within a 30-day period from the date of the close of their normally scheduled monthly metering and billing process.
(17) An electrical corporation shall recover from the community choice aggregator any costs reasonably attributable to the community choice aggregator, as determined by the commission, of implementing

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this section, including, but not limited to, all business and information system changes, except for transaction-based costs as described in this paragraph. Any costs not reasonably attributable to a community choice aggregator shall be recovered from ratepayers, as determined by the commission. All reasonable transaction-based costs of notices, billing, metering, collections, and customer communications or other services provided to an aggregator or its customers shall be recovered from the aggregator or its customers on terms and at rates to be approved by the commission.
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(18) At the request and expense of any community choice aggregator, electrical corporations shall install, maintain and calibrate metering devices at mutually agreeable locations within or adjacent to the community aggregator's political boundaries. The electrical corporation shall read the metering devices and provide the data collected to the community aggregator at the aggregator's expense. To the extent that the community aggregator requests a metering location that would require alteration or modification of a circuit, the electrical corporation shall only be required to alter or modify a circuit if such alteration or modification does not compromise the safety, reliability or operational flexibility of the electrical corporation's facilities. All costs incurred to modify circuits pursuant to this paragraph, shall be born by the community aggregator.
(d) (1) It is the intent of the Legislature that each retail end-use customer that has purchased power from an electrical corporation on or after February 1, 2001, should bear a fair share of the Department of Water Resources' electricity purchase costs, as well as electricity
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purchase contract obligations incurred as of the effective date of the act adding this section, that are recoverable from electrical corporation customers in commission-approved rates. It is further the intent of the Legislature to prevent any shifting of recoverable costs between customers.
(2) The Legislature finds and declares that this subdivision is consistent with the requirements of Division 27 (commencing with Section 80000) of the Water Code and Section 360.5, and is therefore declaratory of existing law.
(e) A retail end-use customer that purchases electricity from a community choice aggregator pursuant to this section shall pay both of the following:
(1) A charge equivalent to the charges that would otherwise be imposed on the customer by the commission to recover bond related costs pursuant to any agreement between the commission and the Department of Water Resources pursuant to Section 80110 of the Water Code, which charge shall be payable until any obligations of the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code are fully paid or otherwise discharged.
(2) Any additional costs of the Department of Water Resources, equal to the customer's proportionate share of the Department of Water Resources' estimated net unavoidable electricity purchase contract costs as determined by the commission, for the period commencing with the customer's purchases of electricity from the community choice aggregator, through the expiration of all then existing electricity purchase contracts entered into by the Department of Water Resources.

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(f) A retail end-use customer purchasing electricity from a
community choice aggregator pursuant to this section shall reimburse
the electrical corporation that previously served the customer for all of
the following:
(1) The electrical corporation's unrecovered past undercollections for
electricity purchases, including any financing costs, attributable to that
customer, that the commission lawfully determines may be recovered in
rates.
(2) Any additional costs of the electrical corporation recoverable in
commission-approved rates, equal to the share of the electrical
corporation's estimated net unavoidable electricity purchase contract
costs attributable to the customer, as determined by the commission, for
the period commencing with the customer's purchases of electricity
from the community choice aggregator, through the expiration of all then
existing electricity purchase contracts entered into by the electrical
corporation.
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(g) (1) Any charges imposed pursuant to subdivision (e) shall be the
property of the Department of Water Resources. Any charges imposed
pursuant to subdivision (f) shall be the property of the electrical
corporation. The commission shall establish mechanisms, including
agreements with, or orders with respect to, electrical corporations
necessary to ensure that charges payable pursuant to this section shall be
promptly remitted to the party entitled to payment.
(2) Charges imposed pursuant to subdivisions (d), (e), and (f) shall be
nonbypassable.
(h) Notwithstanding Section 80110 of the Water Code, the
commission shall authorize community choice aggregation only if the
commission imposes a cost-recovery mechanism pursuant to
subdivisions (d), (e), (f), and (g). Except as provided by this subdivision,
this section shall not alter the suspension by the commission of direct
purchases of electricity from alternate providers other than by
community choice aggregators, pursuant to Section 80110 of the Water
Code.
(i) (1) The commission shall not authorize community choice
aggregation until it implements a cost-recovery mechanism, consistent
with subdivisions (d), (e), and (f), that is applicable to customers that
elected to purchase electricity from an alternate provider between
February 1, 2001, and January 1, 2003.
(2) The commission shall not authorize community choice
aggregation until it submits a report certifying compliance with
paragraph (1) to the Senate Energy, Utilities and Communications
Committee, or its successor, and the Assembly Committee on Utilities
and Commerce, or its successor.
(3) The commission shall not authorize community choice
aggregation until it has adopted rules for implementing community
choice aggregation.
(j) The commission shall prepare and submit to the Legislature, on or
before January 1, 2006, a report regarding the number of community
choices aggregations, the number of customers served by community
choice aggregations, third party suppliers to community choice
aggregations, compliance with this section, and the overall effectiveness
of community choice aggregation programs.
SEC. 5. Section 381.1 is added to the Public Utilities Code, to read:

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381.1. (a) No later than July 15, 2003, the commission shall
establish policies and procedures by which any party, including, but not
limited to, a local entity that establishes a community choice aggregation
program, may apply to become administrators for cost-effective energy
efficiency and conservation programs established pursuant to Section
381. In determining whether to approve an application to become
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administrators, the commission shall consider the value of program
continuity and planning certainty and the value of allowing competitive
opportunities for potentially new administrators. The commission shall
weigh the benefits of the party's proposed program to ensure that the
program meets the following objectives:
(1) Is consistent with the goals of the existing programs established
pursuant to Section 381.
(2) Advances the public interest in maximizing cost-effective
electricity savings and related benefits.
(3) Accommodates the need for broader statewide or regional
programs.
(b) All audit and reporting requirements established by the
commission pursuant to Section 381 and other statutes shall apply to the
parties chosen as administrators under this section.
(c) If a community choice aggregator is not the administrator of
energy efficiency and conservation programs for which its customers are
eligible, the commission shall require the administrator of cost-effective
energy efficiency and conservation programs to direct a proportional
share of its approved energy efficiency program activities for which the
community choice aggregator's customers are eligible, to the
community choice aggregator's territory without regard to customer
class. To the extent that energy efficiency and conservation programs are
targeted to specific locations to avoid or defer transmission or
distribution system upgrades, the targeted expenditures shall continue
irrespective of whether the loads in those locations are served by an
aggregator or by an electrical corporation. The commission shall also
direct the administrator to work with the community choice aggregator,
to provide advance information where appropriate about the likely
impacts of energy efficiency programs and to accommodate any unique
community program needs by placing more, or less, emphasis on
particular approved programs to the extent that these special shifts in
emphasis in no way diminish the effectiveness of broader statewide or
regional programs. If the community choice aggregator proposes energy
efficiency programs other than programs already approved for
implementation in its territory, it shall do so under established
commission policies and procedures. The commission may order an
adjustment to the share of energy efficiency program activities directed
to a community aggregator's territory if necessary to ensure an equitable
and cost-effective allocation of energy efficiency program activities.
SEC. 6. Section 394 of the Public Utilities Code is amended to read:
394. (a) As used in this section, "electric service provider" means
an entity that offers electrical service to customers within the service
territory of an electrical corporation, but does not include an electrical
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corporation, as defined in Section 218, does not include an entity that
offers electrical service solely to serve customer load consistent with

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subdivision (b) of Section 218, and does not include a public agency that offers electrical service to residential and small commercial customers within its jurisdiction, or within the service territory of a local publicly owned electric utility. "Electric service provider" includes the unregulated affiliates and subsidiaries of an electrical corporation, as defined in Section 218.

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(b) Each electric service provider shall register with the commission. As a precondition to registration, the electric service provider shall provide, under oath, declaration, or affidavit, all of the following information to the commission:

(1) Legal name and any other names under which the electric service provider is doing business in California.

(2) Current telephone number.

(3) Current address.

(4) Agent for service of process.

(5) State and date of incorporation, if any.

(6) Number for a customer contact representative, or other personnel for receiving customer inquiries.

(7) Brief description of the nature of the service being provided.

(8) Disclosure of any civil, criminal, or regulatory sanctions or penalties imposed within the 10 years immediately prior to registration, against the company or any owner, partner, officer, or director of the company pursuant to any state or federal consumer protection law or regulation, and of any felony convictions of any kind against the company or any owner, partner, officer, or director of the company. In addition, each electric service provider shall furnish the commission with fingerprints for those owners, partners, officers, and managers of the electric service provider specified by any commission decision applicable to all electric service providers. The commission shall submit completed fingerprint cards to the Department of Justice. Those fingerprints shall be available for use by the Department of Justice and the Department of Justice may transmit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The commission may use information obtained from a national criminal history record check conducted pursuant to this section to determine an electric service provider's eligibility for registration.

(9) Proof of financial viability. The commission shall develop uniform standards for determining financial viability and shall publish those standards for public comment no later than March 31, 1998. In determining the financial viability of the electric service provider, the commission shall take into account the number of customers the

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potential registrant expects to serve, the number of kilowatthours of electricity it expects to provide, and any other appropriate criteria to ensure that residential and small commercial customers have adequate recourse in the event of fraud or nonperformance.

(10) Proof of technical and operational ability. The commission shall develop uniform standards for determining technical and operational capacity and shall publish those standards for public comment no later than March 31, 1998.

(c) Any registration filing approved by the commission prior to the effective date of this section which does not comply in all respects with the requirements of subdivision (a) of Section 394 shall nevertheless continue in force and effect so long as within 90 days of the effective date

of this section the electric service provider undertakes to supplement its registration filing to the satisfaction of the commission. Any registration that is not supplemented by the required information within the time set forth in this subdivision shall be suspended by the commission and shall not be reinstated until the commission has found the registration to be in full compliance with subdivision (a) of Section 394.
(d) Any public agency offering aggregation services as provided for in Section 366 solely to retail electric customers within its jurisdiction that has registered with the commission prior to the enactment of this section may voluntarily withdraw its registration to the extent that it is exempted from registration under this chapter.
(e) Before reentering the market, electric service providers whose registration has been revoked shall file a formal application with the commission that satisfies the requirements set forth in Section 394.1 and demonstrates the fitness and ability of the electric service provider to comply with all applicable rules of the commission.
(f) Registration with the commission is an exercise of the licensing function of the commission, and does not constitute regulation of the rates or terms and conditions of service offered by electric service providers. Nothing in this part authorizes the commission to regulate the rates or terms and conditions of service offered by electric service providers.
SEC. 7. Section 394.25 of the Public Utilities Code is amended to read:
394.25. (a) The commission may enforce the provisions of Sections 2102, 2103, 2104, 2105, 2107, 2108, and 2114 against electric service providers as if those electric service providers were public utilities as defined in these code sections. Notwithstanding the above, nothing in this section grants the commission jurisdiction to regulate electric service providers other than as specifically set forth in this part. Electric service providers shall continue to be subject to the provisions
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of Sections 2111 and 2112. Upon a finding by the commission's executive director that there is evidence to support a finding that the electric service provider has committed an act constituting grounds for suspension or revocation of registration as set forth in subdivision (b) of Section 394.25, the commission shall notify the electric service provider in writing and notice an expedited hearing on the suspension or revocation of the electric service provider's registration to be held within 30 days of the notification to the electric service provider of the executive director's finding of evidence to support suspension or revocation of registration. The commission shall, within 45 days after holding the hearing, issue a decision on the suspension or revocation of registration, which shall be based on findings of fact and conclusions of law based on the evidence presented at the hearing. The decision shall include the findings of fact and the conclusions of law relied upon.
(b) An electric service provider may have its registration suspended or revoked, immediately or prospectively, in whole or in part, for any of the following acts:
(1) Making material misrepresentations in the course of soliciting customers, entering into service agreements with those customers, or administering those service agreements.
(2) Dishonesty, fraud, or deceit with the intent to substantially benefit the electric service provider or its employees, agents, or representatives,

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or to disadvantage retail electric customers.
(3) Where the commission finds that there is evidence that the electric service provider is not financially or operationally capable of providing the offered electric service.
(4) The misrepresentation of a material fact by an applicant in obtaining a registration pursuant to Section 394.
(c) Pursuant to its authority to revoke or suspend registration, the commission may suspend a registration for a specified period or revoke the registration, or in lieu of suspension or revocation, impose a moratorium on adding or soliciting additional customers. Any suspension or revocation of a registration shall require the electric service provider to cease serving customers within the boundaries of investor-owned electric corporations, and the affected customers shall be served by the electrical corporation until the time when they may select service from another service provider. Customers shall not be liable for the payment of any early termination fees or other penalties to any electric service provider under the service agreement if the serving electric service provider's registration is suspended or revoked.
(d) The commission shall require any electric service provider whose registration is revoked pursuant to paragraph (4) of subdivision (b) to refund all of the customer credit funds that the electric service provider

received from the State Energy Resources Conservation and Development Commission pursuant to paragraph (1) of subdivision (e) of Section 383.5. The repayment of these funds shall be in addition to all other penalties and fines appropriately assessed the electric service provider for committing those acts under other provisions of law. All customer credit funds refunded under this subdivision shall be deposited in the Renewable Resource Trust Fund for redistribution by the State Energy Resources Conservation and Development Commission pursuant to Section 383.5. This subdivision may not be construed to apply retroactively.
(e) If a customer of an electric service provider or a community choice aggregator is involuntarily returned to service provided by an electrical corporation, any reentry fee imposed on that customer that the commission deems is necessary to avoid imposing costs on other customers of the electric corporation shall be the obligation of the electric service provider or a community choice aggregator, except in the case of a customer returned due to default in payment or other contractual obligations or because the customer's contract has expired. As a condition of its registration, an electric service provider or a community choice aggregator shall post a bond or demonstrate insurance sufficient to cover those reentry fees. In the event that an electric service provider becomes insolvent and is unable to discharge its obligation to pay reentry fees, the fees shall be allocated to the returning customers.
SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
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Appendix E – Procedural History[7]

Procedural History regarding Energy Efficiency and Community Choice

Introduction: Commission promised to make EE consistent with other CCA policies

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The Commission's decision on energy efficiency for Community Choice Aggregators, D0307034, recognized that the rules it was creating might need to be modified to make them consistent with rules governing other CCA issues, which would be decided later:

> AB 117 requires the Commission to conduct a broader inquiry in order to develop rules by which cities and counties may aggregate local load and purchase power as CCAs. The initiation of that broader inquiry is imminent. ***Today's order addressing energy efficiency program funding precedes our order adopting broader rules for cities and counties to become CCAs because the statute requires our attention to this narrower issue no later than July 15, 2003. In the meantime, we interpret the statute narrowly and adopt rules here that do not presume any particular outcome in the broader inquiry. We do so recognizing that the skeletal rules adopted here today may require modifications to make them consistent with the policy direction and rules the Commission ultimately adopts on the broader issues.*** D0307034, pp. 3-4.

Overall CCA policies were subsequently established in D0412046 and D0512041, in the CCA proceeding R0310003. D0512041 recognized that the Commission's jurisdiction was very limited regarding CCAs, which were sovereign governmental entities providing energy for their local residents and businesses. D0512041, p. 2. As California requires all load-serving entities to provide energy efficiency *first* in the energy "loading order," it follows that a CCA should have full administrative control over EE, if it chooses to exercise it.

AB117 addressed an ongoing debate over independent administration of EE

At the time AB117 was making its way through the legislature in 2001 and 2002[8], the Commission was attempting to move towards independent administration of energy efficiency, albeit cautiously. It was trying to avoid another setback like it experienced in the late 1990s, when a variety of challenges derailed an 18-month effort to create an independent administrator pursuant to AB1890.

The OIR for R0108028 announced that the Commission was taking practical steps to provide opportunities for non-utilities to apply for energy efficiency funding, and would take up the question of administration after that:

> In the short term, we wish to encourage utilities and non-utilities to propose energy efficiency programs for 2002 and beyond… For the longer term, we also plan in this

[7] This Procedural History was **authored by Women's Energy Matters.**

[8] AB117 passed the legislature twice, in 2001 and also in 2002, when it was finally signed by the Governor.

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> proceeding to settle on the appropriate administrator(s) of Commission-ordered energy efficiency programs…
> Decision (D.) 99-03-056 created the expectation that such [utility] administration for energy efficiency would not continue into 2002, stating, "Interim utility administration of energy efficiency programs should not continue past December 31, 2001."[9] However, there is insufficient time to change the basic structure of administration before the beginning of 2002. Therefore the IOUs should continue, until we notify them of a change, to assume responsibility for energy efficiency program administration.

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AB117 set a firm deadline of July 15, 2003 for the Commission to set up procedures by which CCAs could apply to administer EE programs. The broader CCA proceeding had not even begun at that time.

It was therefore in the context of the cautious approach to EE administration in the energy efficiency rulemaking R0108028 that D0307034 concluded:

> AB 117 requires the Commission to permit parties other than utilities to apply for energy efficiency program <u>funding</u> authorized in Section 381. Conclusion of Law #2, emphasis added.

D0307034 pointedly stated that it did not address the question of administration, which would be addressed later in the CCA rulemaking. D0307034, p. 5.

However, the decision *did* in fact address EE administration, in an odd way, by interpreting "administer" as "implementer" when it comes to CCAs.[10] It took pains to point out that this definition differed from the one in the Policy Manual:

> We interpret "administrator" in this context to mean any entity implementing an energy efficiency program which is the subject of Section 381, which authorizes the expenditure of certain funds on energy efficiency programs. This contrasts with the Commission's energy efficiency policy manual, which distinguishes "administrators" from "implementers." Ibid, fn. 2 p. 7.

D0307034 clearly meant this to be a short-term, quick and dirty solution. As noted above, it promised to consider modifications once broader policies regarding CCAs were established. It also stated:

> While we may ultimately find that CCAs are appropriately independent agencies that should have considerable deference to use Section 381 funds, <u>we leave the issue of CCA's role and discretion to our broader rulemaking… [in other words, the CCA Rulemaking R0310003]</u> D0307034, p. 10, emphasis added.

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[9] D.99-03-056, 1999 Cal. PUC LEXIS 327, at *50 (Conclusion of Law 2).

[10] This caused Women's Energy Matters to file an Application for Rehearing, which was denied in D0401032. Commissioner Lynch filed a dissent, as described below. WEM appealed to the Supreme Court, which declined to hear the case.

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No preconditions before a CCA may apply for EE funds

D0307034 established that cities do not have to be full-fledged CCAs before they apply for EE funding. On the contrary:

> AB 117 does not prescribe any preconditions before a CCA may apply for energy efficiency program funding or implementing energy efficiency programs. Further evidence that the Legislature intended the energy efficiency program move forward expeditiously is the legislative deadline of July 15, 2003 for the Commission to develop procedures under which CCAs may apply for energy efficiency program funding. ***For purposes of AB 117, CCAs may apply for energy efficiency program funding beginning with the first solicitation for proposals following issuance of this order.***[11]

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The next month, August 2003, the Commission decided (in D0308067) to hold another solicitation, but there were no CCAs prepared to step up and ask for their funds that fall. *That did not happen until now, seven years later in 2010.*

D0307034 described the CPUC solicitations being held at that time, explaining how they were already consistent "in some respects" with AB117:

> In some respects, the Commission already conducts its energy efficiency program solicitations in ways that are consistent with AB 117. Specifically, it solicits proposals and allocates program funds to any party, including cities and counties, that presents a proposal that is compelling and complements other programs. It selects programs to recognize local system needs, equity and cost-effectiveness, among other things.
>
> Section 381.1(a) also requires the Commission's process for allocating funding to various energy efficiency programs to consider certain criteria and outcomes. The Commission's existing rules explicitly or implicitly consider "program continuity" and "planning certainty" when the Commission considers the length of program funding, the types of programs to fund and the appropriate administrators. It has recognized the "value of competitive opportunities for potentially new administers" by allocating some funds to third parties. It has emphasized the need for cost-effective programs and creating a portfolio of statewide and local programs that are complementary. The Commission will continue to consider these program objectives and those set forth in Section 381, consistent with AB 117. This is also consistent with Section 381.1((c)) which provides that CCAs proposing energy efficiency programs shall do so "under established Commission policies and procedures." D0307034, p. 8.

It went on to affirm that AB117 "encodes the Commission's current policy to permit third parties to apply for energy efficiency program funding rather than allocating all energy efficiency program funding and responsibilities to the Commission's jurisdictional utilities." Ibid, p. 8.

[11] Section 381.1 provides that CCAs may apply for funds subject to Section 381, which are collected from electric customers. We limit the scope of this inquiry to those funds collected pursuant to Section 381 and do not address energy efficiency programs funded by revenues collected from jurisdictional gas utilities.

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D0307034 acknowledged that it is the intent of AB117 to "promote the use of Section 381 funds by cities, counties, and CCAs…." It encouraged CCAs to apply and stated "a commitment to granting them funding:"

> Although we here interpret the statute literally and retain our discretion to allocate funds to the most responsible administrators and the programs that best meet our stated criteria, ***we nevertheless believe the intent of AB 117 is to promote the use of Section 381 funds by cities, counties, and CCAs in ways that are responsive to local needs, cost-effective and fair.*** For that reason, ***we encourage those entities to apply for funding and state a commitment to granting them funding <u>where they demonstrate that their programs meet with statewide objectives and will be well-managed.</u> (p. 13)***

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Dissent analyzed legislative intent regarding administration of EE under AB117

Commissioner Lynch's dissent to D0401032 stated:

> [T]he Commission runs afoul of the clear intent of that legislation by continuing to conflate the implementation of energy efficiency programs with program administration and by avoiding the statutory directive to make third parties eligible to apply to administer energy efficiency programs. While I supported the initial decision on this matter (D.03-07-034), upon further review of the statute I realized the error of this interpretation. Lynch Dissent to D0401032, p. 1.[12]

She explained at length the difference between administrator and implementer, and why the ordinary meaning of the words must apply in the context of AB117. She concluded with an in-depth analysis of why this was such an issue in the legislative history of AB117, as well as in the EE proceeding R0108028 during those same years.

> The distinction between administration and implementation is significant and is reflected in the legislative history of § 381.1, which reveals that the concern of all involved was administration of energy efficiency funds and programs in the ordinary sense of the term discussed above. At the time AB 117 was being considered, the Commission had already begun to make funds available to third parties to implement energy efficiency programs but the utilities were still administering all energy efficiency funding, including controlling fund disbursement and determining how program funds should be spent within guidelines established by the Commission. *See* D.01-11-060. That is, no third party program had administrative control over energy efficiency funds. The legislative history of the bill, including documents from the author's files, indicates that the concern all parties sought to address was whether entities other than the utilities should be awarded a portion of energy efficiency funds to administer themselves.
>
> The concern was not merely with allowing third parties to receive funds as program implementers, as third parties *already* were eligible to receive such funds. Thus, for example, PG&E, which supported the bill if amended, objected to the provisions of § 381.1 that allow third parties to administer programs, noting that if the bill was aimed at ensuring third parties can share in energy efficiency funds if they propose cost-effective programs,

[12] D0401032 denied rehearing of D0307034.

> the bill would be solving a problem that does not exist. Similarly, San Francisco lobbied for the bill, arguing that it needed the ability to have a sum of money that it could manage itself. San Francisco argued that while the utilities were initially selected as the administrators of the energy efficiency programs because they already had an administrative structure in place, it was expected that others could take on the responsibility of managing these programs but that the Commission had not yet developed a process for evaluating alternatives to the utility management function. In a similar vein, Local Power noted that the goal of the bill was to see that there was local control of a share of the energy efficiency funds…
>
> The Commission's interpretation of § 381.1(a), focusing on requirements for allocating funding for implementation of energy efficiency programs, is at odds with the language of the statute, past Commission decisions on energy efficiency, and the arguments in favor on the legislation.
>
> The only part of the administrative structure approved by the Commission majority that appears even to partially reflect the goals of § 381.1 is the fact that the Commission has taken over from the utilities the administrative task of selecting the third party programs that actually receive funding. Section 381.1, however, goes farther than that, and requires a system in which third parties, such as Community Choice Aggregators, can be awarded substantial sums of energy efficiency funds to administer themselves, including choosing what energy efficiency programs to fund, within the constraints imposed by the statute, and under the oversight of the Commission. Lynch Dissent to D0401032, pp. 6-8.

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Subsequent EE decisions affirmed the likelihood of modifying D0307034

Subsequent decisions in EE proceedings reiterated the tentative nature of D0307034 and the likelihood of modifications — even D0501055, the decision that re-established IOUs as monopoly EE administrators:

> We have interpreted our decisions that allow CCAs and other third parties to apply for PGC funds as consistent with this requirement while at the same time recognizing that, <u>as the procedures for allowing CCAs to begin serving customers evolve, we may need to revisit the issue…</u>
>
> <u>At the same time, we have recognized that "we may ultimately find that CCAs are appropriately independent agencies that should have considerable deference to use Section 381 funds" and have reserved broader issues about CCAs role and discretion for later determination.</u>[13] We are currently establishing the procedures required by AB 117 before CCAs begin serving customers, including obligations of CCAs, recovery of IOU costs, and required reports to the legislature.[14] <u>Once those details are resolved, we may revisit the issue of allocating electric energy efficiency PGC funds to CCAs in the context of their role in delivering electricity to their customers… Nothing in this decision prevents us from modifying the process for allocating PGC funds to CCAs in the future. D0501055, pp. 75-77, emphasis added.</u>

D0501055 ended CPUC's open solicitations for non-utility programs and re-established utility control. Ever since then, only the utilities were allowed to apply for energy efficiency

[13] *Ibid.*, p. 10.

[14] See R.03-10-003, Order Instituting Rulemaking to Implement Portions of AB 117 Concerning CCA.

[15] Applications were held in 2005 for 2006-08 programs and in 2008 for the 2009-11 programs (the start of the cycle

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funds.[15] Utilities, not CPUC, ran solicitations for third party programs and local government partners.

Decision in Community Choice proceeding acknowledged sovereignty of CCAs

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Eleven months after D0501055 was issued in the EE rulemaking, the Commission issued D0512041 in the Community Choice proceeding, R0310003.[16]

D0512041 was preoccupied with all the other issues involved in CCA startup, and did not further address energy efficiency. However, the decision left no doubt that CCAs are indeed "appropriately independent agencies" that "should have considerable deference to use Section 381 funds." It explained in detail that the Commission's authority over CCAs is very limited:

> Our review of AB 117 leads us to the general conclusion that our authority over CCAs is circumscribed. AB 117's provisions are generally either permissive with respect to CCAs or direct us to regulate the utilities that serve them. …
>
> The Commission must adopt rules *for the utility* in order that it may provide adequate service to the CCA and its customers while simultaneously protecting utility bundled customers and the utility's system. <u>Nothing in the statute directs the Commission to regulate the CCA's program</u> except to the extent that its program elements may affect utility operations and the rates and services to other customers. <u>For example, the statute does not require the Commission to set CCA rates or regulate the quality of its services.</u> To the contrary, while providing very precise guidelines on a number of issues involving the utilities' services to CCAs and ways to protect utility customers, <u>the statute does not refer to how the Commission might oversee the rates and services CCA's offer to their customers.</u>
>
> We are confident that existing law protects CCA customers. Entities of local government, such as CCAs, are subject to numerous laws that will have the effect of protecting CCA customers and promoting accountability by CCAs. Under existing law, a CCA must conduct public hearings, operate within a budget and disclose most types of information to members of the public. To the extent that a CCA fails to consider the interests of its customers - who are local citizens - there is recourse in subsequent elections, the courts and before local government agencies. We are not convinced that our oversight would necessarily contribute anything in that regard, as long as utility tariffs provide adequate protections for the integrity of the utility system and bundled ratepayers are protected from costs that are attributable to CCA customers, as AB 117 requires. D0512041, pp. 8-10.

was delayed for a year, so it became the 2010-12 cycle).

[16] Phase 1 issues were addressed in D0412046.

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The language of D0512041 was explicit about the limitations of the Commission authority regarding a CCA's Implementation Plan — "or some other document." The CCA's application for energy efficiency funds would almost certainly be included in this policy description:

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> We may agree with the utilities that the implementation plan - or some other document - should disclose relevant information to CCA customers and prospective customers. However, we do not agree it is our job to determine what that information should disclose. Instead, we believe it is up to the CCA to comply with the statute. This view is supported by the Legislature's historical treatment of local governments that operate utilities for such commodities as electricity, sewage treatment and water. We have no evidence to suggest that utility operations performed by local government have failed to operate successfully absent strict state oversight. CCAs are government entities subject to specific statutes with regard to their operations, decision-making procedures and information disclosure. No one has claimed that those statutes are inadequate to protect local citizens and we choose not to second guess them. Ibid, p. 16 emphasis added.

D0512041 specifically rejected the advice letter process for its review of a CCA's Implementation Plan, because it would impose an "elaborate and time-consuming procedure" on both the CCA and the Commission.

> Because we do not believe the AB 117 intended to give this Commission broad jurisdiction over CCAs, we reject the utilities' proposal to subject CCAs to the advice letter process, a formal administrative procedure that the Commission employs for the purpose of authorizing changes to the tariffs of regulated utilities. The procedure would require the formal adoption of a CCA's implementation plan at a public meeting following the filing of formal comments by parties, the issuance of a proposed resolution, and the filing of comments on the proposed resolution, a process that would take no less than 60 days and would probably take much longer. Nothing in the statute authorizes the Commission to conduct this elaborate and time-consuming procedure. D0512041, pp. 14-16

Similarly, for the Commission to approve a CCA's application for its energy efficiency funds, it should be unnecessary to conduct a formal process requiring parties' comments and replies and the formal adoption of a decision or resolution at a public meeting.

D0307034 had noted (p. 9): "AB 117 does not specify the process the Commission should use to consider CCA applications for energy efficiency program funding…" but went on to assume that the Commission could use a somewhat similar process it was already using to conduct solicitations.

D0512041 refined that thinking, clarifying that silence in a statute was not an invitation to the Commission to fill in the blanks — quite the opposite:

> A general rule of statutory interpretation suggests that where a statute

> provides specific guidance -- in this case on the Commission's role and authority -- its silence in a related section or on related issues implies a limit on that role and authority. (*Louise Gardens of Encino Homeowners' Assoc. v. Truck Insurance Exchange, Inc.* 82 Cal. App. 4th 648 at 657). Here, the statute *does* require the CCA to file the plan here and gives the Commission authority to request information about the plan and to register the CCA. We assume that if the Legislature intended for us to regulate the CCA's implementation plan in other ways, the Legislature would have included explicit language in the statute with regard to its intent. D0512041, p. 15.

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Conclusion

The Commission has continued to recognize that AB117 promised CCAs a chance to apply to administer energy efficiency programs, and D0307034 might need to be modified if and when CCAs asked for their funds. D0512041 established conclusively that the modifications must reflect the very limited authority of CPUC regarding any aspect of CCAs, which must included energy efficiency.

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