DRAFT REPORT
ON 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.

At the workshop, parties were urged to find consensus on the issues.

Women's Energy Matters (WEM) provides this draft report as a step in that process. Last week, we sent our detailed notes taken at the workshop to the list of participants. This current document generally retains the sequence of topics at the workshop, but seeks to group the discussion in a somewhat more logical order, without attributing comments to particular parties. In a few instances, we annotated the report with WEM's further observations and research — these are clearly identified.

This draft is intended to work towards consensus by providing clarity on what issues were discussed, what questions of law or policy were clarified at the workshop and which might need further research, what areas were identified as problematic (or not), and what proposals were put forward as potential solutions.

By the conclusion of the workshop there was consensus regarding many of the facts and the options going forward, but some issues remained that the Commission might still need to resolve, unless there are further changes in some of the parties' positions. See the heading "Summary of workshop outcomes."

* * *

The background for the workshop process

The Energy Division facilitator, Steve Roscow, stated that this is a classic public policy conundrum: the CCA law passed in 2002, a decision on EE and CCAs was made the next year, and then many other decisions were made in the next seven years without much attention to how they affected CCAs. This created a gap that must be addressed.

This workshop process was developed because Marin was asking for an opportunity to apply for its funds, but nobody was certain how that could be done; everything in regard to EE and CCAs had happened under the radar. The Commission seeks to resolve as many of these issues as possible in a collaborative process, rather than in a confrontational manner through comments and replies.

This workshop provided a chance for the people who know the policies and the history to get together with the people who need to know them. The question is whether the current procedures are adequate, or not; the Assigned Commissioner believes that people can figure this out if they get together and talk. She hopes to settle this before she is termed out by the end of this year.

* * *

Next steps

WEM invites parties to send suggestions to us (please use "track changes") if they find mistakes, want further clarification, or want a shorter version. Please let us know if it's ok too. WEM is prepared to revise and file the final report, subject to parties' approval.

Alternatively, we understand that certain parties may offer separate versions of the workshop report providing further details on their own positions. In this case there may be no need to further revise WEM's draft, although we would still be happy to receive comments and make changes if desired.

Please see Appendix A for a list of workshop participants; see Appendix B for links and quotes from statutes and Commission decisions. [parties should feel free to add to this appendix.]

Summary of outcomes:

- **Whether existing procedures are adequate.**
  The primary question for the workshop was whether "existing procedures" for CCAs to apply for their EE funds were adequate. Parties recognized that all elements of the procedures for EE/CCA applications outlined in D0307034 have changed, but the intent of that decision was for CPUC to review and approve the applications. Most parties rejected as unacceptable a utility proposal for CCAs to apply to utilities using current third party solicitation procedures.

- **The size of the pie and what's included.**
  Public Goods Charges and EE procurement surcharges, which are commingled in the programs.

- **How much of the pie do CCAs want?**
  CCAs want all EE surcharges collected from their customers. Whether they intend to consume it 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.
    - A simple transfer of the surcharges collected from CCA customers might be acceptable as 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.

- **How should CCAs apply to administer a share of pie?**
  D0307034 laid out a process whereby CCAs could apply for their funds, but changes that occurred since then require reconsideration. There was widespread agreement at the workshop that CCAs should apply to the CPUC CPUC. *Most parties rejected the proposal for CCAs to apply to IOUs as unacceptable.*

- **Timing of CCA applications**
  All CCAs present expressed a desire to apply for their funds as soon as the Commission clarifies the process.

- **At what point should a CCA apply for its funds?**
  D0307034 urged "cities, counties, and CCAs" to apply for EE funding immediately. Conclusion of Law 1 stated: "…no preconditions exist in the bill before a CCA may apply for energy efficiency funding authorized in Section 381."

- **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 in submitting an EE application: how the process works and what needs to be included.

- **Review and approval of CCA applications**
  Most parties agreed that CPUC, not utilities, should be responsible for reviewing and approving CCAs' EE applications — in a manner similar to their review of CCAs' Implementation Plans. A party pointed out that there were actually *three* options for who would approve the CCAs application: the CPUC, the utility, *or the CCA itself.*

  D0307034 suggests that it is more or less up to the CCA to decide to administer EE programs — in much the same way that local governments decide for themselves whether to move forward with CCA itself.

- **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?**
  Other than approving CCA program plans, opinions at the workshop differed regarding the extent of CPUC authority over CCAs EE programs. The statute only envisions an application process, auditing, and reporting requirements.

  Several decisions indicated that in the future, when CCAs actually show up and ask for EE funds, CCAs might have even more discretion: "While we may ultimately find that CCAs are appropriately independent agencies that should have considerable deference to use Section 381 funds..." D0307034, p. 10.

- **Applicability of goals set by CPUC**
  Its unclear whether CPUC would feel obliged to create goals for CCAs, in view of the limited regulatory powers of CPUC vis-v-vis CCAs. CCAs would still have a responsibility to provide robust savings; state law requires POUs to meet EE goals set by the CEC, and these goals would likely be applied to CCAs.

  All agreed that some amount would be subtracted from the utility's budgets, and its goals would also be reduced, when a CCA was the administrator of its own EE portfolio. 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.

- **EM&V**
  Several parties 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 would 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**
  The process will be seamless 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.

WORKSHOP DISCUSSION

Limited scope of the workshop

Mr. Roscow clarified that this workshop would only be discussing a process for CCAs to apply for funds, although it is understood that the CCA law states that "any party" may apply. Parties agreed to a narrower discussion in this workshop, while confirming that the law's scope includes "any party."

The size of the pie and what's included

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

a. **"Public Goods Charges" (PGC)** — which are *fixed* percentages of ratepayers' bills; they were set by two statutes — one for electricity, one for natural gas. The statutes determined what portion would fund each of the following categories: energy efficiency, renewables, R&D, and low-income programs including Low-Income Energy Efficiency (LIEE).

b. **"Energy Efficiency Procurement" surcharges** — which are *variable. The current process for determining the amount of the EE Procurement surcharges 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 portfolios are tested for cost-effectiveness. *The amount of revenue needed over and above the amounts expected from the Public Goods Charges is the amount of the EE procurement surcharge.*

The Commission may adjust the amount of each utility's procurement surcharges in the order approving portfolios. The final step is for the utility's rate staff to figure out how to collect the amount on an annual basis.

There has been no attempt to separate Public Goods Charges funds for EE from EE Procurement funds; surcharges are commingled in the programs.

All of the surcharges (for EE and other categories) are combined in a single line item on ratepayers' bills: "Public Purpose Programs" (PPP). Approximately 80% of the total is recovered through electricity rates and 20% is recovered through gas rates.

How much of the EE pie do CCAs want?

CCAs want their full slice of pie — in other words, all EE surcharges collected from their customers. Whether they intend to consume it 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.

In response to Mr. Roscow's query, CCAs at the workshop stated that they would like to receive surcharges collected from both electric and gas revenues.

Questions were raised about whether the amount the IOUs determined they need to meet their goals would be the right amounts for CCAs (i.e., proportionally). If the total amount of PPP surcharges in the CCA territory were simply transferred over to CCA administrators, they would be determining program plans based on how much is in the pot (or slice of pie) rather than CCAs determining their budgets based on their own goals and program designs.

Parties felt that a simple transfer of the surcharges collected from CCA customers might be acceptable as an immediate solution, for example, for the rest of the current program cycle. (See Timing issues, below). *However, 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.

Questions were also raised about whether CCAs planned to carry out all the types of programs currently being offered by IOUs. (See discussion, under the heading *What EE programs might CCAs want (or not want) to administer?)*

How should CCAs apply to administer a share of pie?

D0307034 laid out a process whereby CCAs could apply for their funds, but changes that occurred since then require reconsideration. ***At that time all entities submitted applications to the CPUC,*** which conducted the review and selection process for the 2002-03 and 2004-05 program cycles. Entities eligible to apply to CPUC were IOUs and all "third parties" (which at that time included Local Governments, as well as non-utility businesses and non-profits).

Critical changes have occurred since D0307034:

- **D0501055 changed the administrative structure.** Since then, only IOUs have been allowed to submit applications to the CPUC; ***all other business, non-profit and local government entities were required to submit applications to the IOUs,*** who conduct the review and selection process.
  - **"Peer Review Groups"** (PRGs), selected by each IOU, were supposed to review that utility's criteria and selection processes to prevent bias.[1]
  - **Local governments were encouraged to become "Local Government Partners"** (LGPs), whose budgets and program plans are subject to IOU discretion. Utilities assign a portion of the IOU's goals to be met by each LGP.

Some IOU representatives argued that current procedures are adequate, and that pursuant to D0307034, CCAs should apply *to the utilities* for EE funds. Utilities asserted that they would treat CCA applications just like those of Local Government Partners and Third Party Programs. They pointed out that there is a process for IOUs to conduct solicitations mid-cycle and add a few new programs through an advice letter process.

There was widespread agreement at the workshop that CPUC — not utilities — should conduct the review and selection process. *Most parties rejected the proposal for CCAs to apply to IOUs as unacceptable,* especially in light of PG&E's spending on Prop 16 and its ongoing efforts to undermine CCAs. By the end of the workshop, only two or three people still maintained that CCAs should apply to utilities for funds.

[1] Two (out of three) members of the PRGs, who were present at the workshop, stated that the PRGs' authority was not sufficient to fully protect against bias.

WEM note (after the workshop): D0307034 made it clear that the intention of the statute was for CCAs to apply *to the CPUC:*

> **The bill also permits CCAs to apply to the Commission for energy efficiency program funding** so that they may implement energy efficiency programs in their areas. D0307034, p. 1 (emphasis added).

Timing of CCA applications

To date, no CCA has attempted to apply for its EE funds, in part because local governments encountered unexpected barriers in the process of forming CCAs, due to the opposition by one utility.[2] ***All CCAs present expressed a desire to apply for their funds as soon as the Commission clarifies the process.***[3]

CPUC approved programs for the current 2010-12 EE cycle in September 2009 in D0909047; utilities have completed the process of contracting with Local Government Partners and Third Parties, and are just beginning to roll out their programs.[4]

Workshop participants were in agreement that CCAs should have a chance to apply sooner than the next cycle, and the Commission appears to be considering allowing them to do that. Otherwise, applications for 2013-15 EE would be due in approximately June, 2012, if the Commission stays on the current schedule.

Because utilities set yearly revenue allocations, they could anticipate when a CCA would be leaving, and zero out these funds (and goals) at that point.

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[2] The first full CCA program in California launched this 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." D0704007 in R0301033.

[3] A CCA might choose to apply for EE funds and launch energy efficiency programs prior to developing supply-side programs. The very first CCA in the nation, Cape Light Compact, founded in 1997 in Massachusetts, prioritized energy efficiency since its inception.

[4] 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."

At what point could a CCA apply for its funds?

A separate issue was raised 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?" Further research was needed.

WEM note (after the workshop): D0307034 was issued at a time when there were neither certified nor registered CCAs; the first decisions in the CCA proceeding would not come until December 2004 and December 2005. Yet, the decision urged "cities, counties, and CCAs" to apply for EE funding immediately. D0307034, p. 13 (see quote, Appendix B). Conclusion of Law 1 stated: "…no preconditions exist in the bill before a CCA may apply for energy efficiency funding authorized in Section 381."

The decision elaborated on that point as follows:

> 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. D0307034, p. 6.

The deadline for proposals for 2004-05 had already closed when this decision was issued on July 10, 2003, and D0501055 changed the rules for the next solicitation, providing only for utilities to apply to administer EE programs.

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.*

A solution that would provide for CCA diversity, and still maintain "consistency" along with other criteria mentioned in the AB117, would be for CCAs to be able to allocate some of their funds to various programs currently being offered by utilities, third parties and others. As noted above, CCAs would receive their full slice of the pie, and could then contract with utilities or other third parties for other programs, as desired.

What should be included in a CCA's application?

Parties felt that this question would need further exploration, pending decisions on other matters. There was a brief discussion of what is currently involved in submitting an EE application: how the process works and what needs to be included. (Energy Division has provided a template to help IOU applicants make sure their applications are complete.)

Review and approval of CCA applications

Most parties agreed that CPUC, not utilities, should be responsible for reviewing and approving CCAs' EE applications — in a manner similar to their review of CCAs' Implementation Plans. A party pointed out that there were actually *three* options for who would approve the CCAs application: the CPUC, the utility, *or the CCA itself.*

D0307034 suggests that it is more or less up to the CCA to decide to administer EE programs — in much the same way that local governments decide for themselves whether to move forward with CCA itself:

> 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 where they demonstrate that their programs meet with statewide objectives and will be well-managed. D0307034, p. 13.

WEM note (after the workshop): D0307034 quoted the statute's guidance on the criteria the Commission should consider in reviewing CCA applications, and found them similar to criteria the Commission used at that time (2003):

> 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. D0307034, p. 8.

Utilities expressed a desire to review the applications; parties felt that they could do so because the documents would be public (having already been reviewed by local public agencies). However, there would be no role for utilities in the decision-making process.

What is the extent of CPUC authority over CCAs?

In general, the Commission has very limited authority over CCAs. ***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.***[5] In this respect, a CCA is similar to a Publicly Owned Utility (POU). Parties noted that CCAs' oversight roles are carried out in full view of the public, pursuant to open meetings laws.[6]

The CPUC certifies CCA Implementation Plans for completeness with legal requirements; determines exit fees; and has taken steps to assure resource adequacy throughout the transmission grid that is owned by the IOUs and managed by CAISO.[7]

The Commission does not approve CCA procurement plans. For example, while CCAs are subject to the state's Renewable Portfolio Standard, the Commission has no role in reviewing or approving CCAs' procurement plans.

CCAs at the workshop asserted their right to develop *Integrated Resource Plans* that include both supply and demand resources at whatever level they choose, subject only to requirements imposed by the state. CCAs are subject to the state's "loading order" for procurement, with Energy Efficiency first, Demand Response second, etc.

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[5] CCSF noted that no fewer than eleven public agencies would review its CCA's EE plans.

[6] WEM notes that we were only allowed to video and audiotape this workshop during the first 45 minutes, when the Commissioner's advisor was present. After he left, we were required to shut off both devices.

[7] The Commission's responsibilities in relation to CCAs primarily involve protecting bundled customers, for example from stranded costs, or from damages in the event of a default by the CCA's Electricity Services Provider (ESP) that could cause a return of customers to bundled service. The Commission has attempted to regulate the utility's side of the relationship, for example, by enforcing the requirement for utilities to provide distribution and other non-generation services, and to "cooperate" with CCAs.

What is the extent of CPUC authority over CCA EE programs?

Other than approving CCA program plans, opinions at the workshop differed regarding the extent of CPUC authority over CCAs EE programs. (See also, the section on goals, below.) The statute only envisions an application process, auditing, and reporting requirements.

> FOF 4 of D0307034 stated:
>
> 4. Existing procedures, schedules, selection criteria and EM&V requirements should apply to CCAs that seek energy efficiency program funding authorized under Section 381.

This only addressed the criteria for reviewing program applications, not ongoing oversight. (Note that these "existing" procedures, schedules, and selection criteria and no longer exist.)

Other than those things mentioned in the statute, it is unclear whether or to what extent CCAs would be subject to criteria IOUs are expected to meet, such as BBEES, statewide consistency, contracting rules around third party programs, or how many CFLs they can promote. It might be useful for CCAs to go through such a checklist when developing their programs and writing applications, but for the most part their own regulatory bodies should be able to decide what is included in their plans.

Several decisions indicated that in the future, when CCAs actually show up and ask for EE funds, CCAs might have even more discretion:

> While we may ultimately find that CCAs are appropriately independent agencies that should have considerable deference to use Section 381 funds, we leave the issue of CCA's role and discretion to our broader rulemaking. D0307034, p. 10.

> …[W]e 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. Stated another way, we may revisit the question of whether CCA customers should be relieved of their responsibility for energy efficiency PGC and procurement surcharges if the CCA elects to take over these functions. Nothing in this decision prevents us from modifying the process for allocating PGC funds to CCAs in the future. D0501055, p. 87.

Applicability of goals set by CPUC

Its unclear whether CPUC would feel obliged to create goals for CCAs, in view of the limited regulatory powers of CPUC vis-v-vis CCAs. Goals for each utility were set in 2004 and adjusted (downward) in several decisions since then. CPUC determines utility goals based on potential studies.

AB117 mentioned that CPUC should determine if a CCA program "is consistent with the goals of the existing programs established pursuant to Section 381." D0307034 p. 2, quoting PU Code §381.1. Other than this, the decision is silent in regard to goals. For a CCA to provide "consistency" does not necessarily mean that CCAs are under the authority of CPUC in regard to goals.

Regardless of whether or not they are held to CPUC goals for IOUs, CCAs would still have a responsibility to provide robust savings; state law requires POUs to meet EE goals set by the CEC, and these goals would likely be applied to CCAs, in addition to the targets set by their public agencies.

Parties noted that a consequence for a CCA that missed its EE targets could be a need to procure more energy supplies, and this would be a strong incentive to meet goals.

CCAs would also be able to participate in specific initiatives, like the CPUC's EE Strategic Plan. The Commission has authority to regulate the participation of investor-owned utilities in the Strategic Plan, while other entities, including POUs, participate on a voluntary basis. CCAs would be in the latter category.[8]

Some parties asserted that CCAs would be responsible for meeting a portion of the IOUs' goals, and should design programs to meet those goals, utilizing the amount of PPP determined by the IOU.

However, in view of the limitations of CPUC authority over CCAs, many parties felt that CPUC goals for IOUs would not apply to CCAs that administer their own

[8] WEM note (after the workshop): CCAs' participation in *EnergyUpgradeCA* would be governed by the CEC, and would be subject to CPUC oversight to the extent that the two agencies are collaborating in implementing AB758.

[9] CCSF pointed out that its integrated resource plan calls for higher goals that those CPUC set for

programs;[9] they would only apply in the event that a CCA is NOT the administrator of EE programs in its territory.

All agreed that some amount would be subtracted from the utility's budgets, and its goals would also be reduced, when a CCA was the administrator of its own EE portfolio.

WEM note (after the workshop): The Commission would have to determine what proportion of the IOU's budget and the goals would have been allocated to the CCA territory, in order to determine what to subtract from utilities.[10] The simplest way to determine the reductions would be to (1) determine what proportion of the total surcharges were being provided by the CCA customers in a given territory, (2) reduce the IOUs budgets by that amount, and (3) reduce the IOU's goals in the same proportion.

(One potential complication is that utilities do not allocate any particular amount of EE funds or goals to any particular part of their territories; one utility asserted that they allocate EE funds "where there is interest." The utility may want the different levels of interest in different areas to be reflected in the goals reductions, and may also want the different EE potential in different climate zones to be considered.)

EM&V

Several parties 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 depends 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.

IOUs. It also stated that if CPUC goals are found to apply to CCAs, the city would insist on its share of shareholders incentives for meeting the goals.

[10] WEM has asked CPUC to address goals in terms of local jurisdictions, in order to accommodate CCAs; we also asked for tracking of where IOUs spend EE money. The Commission has not responded to these requests. Currently, the only tracking occurs when CCAs are not the administrators. In these cases case funds are only required to be "proportional" *per capita,* in CCA territories — rather than the amount of the PPP actually collected from CCA ratepayers.

Relation between Local Government Partnerships and CCAs

The process will be seamless 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. It's essentially an accounting problem to determine which account funds the work with different customers. Currently, local governments are already working with multiple accounts and varied program designs because stimulus funds and other local financing are being rolled in with ratepayer funding.

Appendix A 9-27-10 CCA/EE Workshop Participants

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Appendix B Relevant Statutes and Commission Decisions Links and Quotes

D0307034:
http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/27974.htm

Criteria for review and approval of CCA EE administrators

Specifically, AB 117 enacted new Section 381.1, which outlines how the Commission will determine funding for certain energy efficiency programs and directs the Commission to establish certain related policies and procedures:

> 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 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.

Section 381.1 also provides that in cases where a CCA does not administer energy efficiency programs in its territory, the administrator must direct a "proportional share" of its energy efficiency program activities to the CCA's territory unless the Commission adjusts the share of energy efficiency program activities directed to a CCA's territory to promote equity and cost-effectiveness. Section 381.1 directs the Commission to maintain energy efficiency programs targeted to specific locations where needed to avoid or defer transmission or distribution system upgrades irrespective of whether the loads in that location are served by the CCA or an electrical corporation. The Commission may require program administrators to share information on program impacts with the CCA and to accommodate any unique community program needs by shifting emphasis of approved programs, provided that the shift in emphasis does not reduce the effectiveness of overall statewide or regional programs. D0307034, pp. 2-3.

Commission compliance with review criteria for CCAs

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."

Significantly, by directing the Commission to establish procedures for non-utilities to apply for energy efficiency program funding, AB 117 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.

Entities are encouraged to apply

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 where they demonstrate that their programs meet with statewide objectives and will be well-managed. Ibid, p. 13.

D0501055
http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/43628.htm

> In their comments, the CCSF and WEM argue that an administrative structure that places the IOUs in the role of Program Choice and Portfolio Management is inconsistent with the statutory requirements of AB 117....
> AB 117 contained provisions, codified at Section 381.1(a) that required the Commission to establish procedures by which anybody, including CCAs, can apply to become administrators of energy efficiency programs established pursuant to Section 381. **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, as the procedures for allowing CCAs to begin serving customers evolve, we may need to revisit the issue.**[11] ...
>
> WEM construes the requirement that any party be allowed to apply to become an administrator of energy efficiency programs as meaning that such entities must be allowed to assume the responsibility for portfolio selection and management.[12] The City of Berkeley expresses similar concerns. ...
>
> We reiterate our interpretation of "administrator" for purposes of AB 117 as meaning "any entity implementing an energy efficiency program that is the subject of Section 382, which authorizes the expenditure of certain funds on energy efficiency programs."[13] We believe this is consistent with the competing interests articulated in Section 381.1 as well as the requirements for handling ratepayer money, as discussed above.
> **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.**
>
> 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] 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. **Stated another way, we may revisit the question of whether CCA customers should be relieved of their responsibility for energy efficiency PGC and procurement surcharges if the CCA elects to take over these functions. Nothing in this decision prevents us from modifying the process for allocating PGC funds to CCAs in the future.** D0501055, pp. 85-86 (emphasis added).

[11] D.03-07-034, *mimeo.*, p. 10; D.03-08-067; D.04-01-032.
[12] WEM Opening Comments, pp. 14, 17.

[13] D.03-07-034, *mimeo.*, p. 7, fn. 2.
[14] See R.03-10-003, Order Instituting Rulemaking to Implement Portions of AB 117 Concerning CCA.