

**Rulemaking 09-11-014**  
**Joint Workshop Report – CCA Access to Energy Efficiency Programs**  
**(10-15-10 DRAFT for Participant Review)**

This Joint Workshop Report responds to the direction given to parties in the proceeding in the Assigned Commissioner Ruling and Scoping Memo, Phase II issued September 22, 2010.

This workshop report has been prepared by the participants in the September 27, 2010 workshop regarding procedures for CCAs to apply to administer energy efficiency and conservation programs. To the extent possible, this report reflects consensus of the parties, and in instances where consensus was not reached, the report clarifies party positions. Parties also have the opportunity to file separate comments to the report on October 29, 2010, and reply comments on November 4, 2010.

The following parties who participated in the workshop decline to take a position on report:

[list parties if any]

This report is broken into three general sections:

Part 1 - Brief Summary of Workshop Discussion

Part 2 – Response to Question Addressed to Parties

- General Principles associated with EE funds collected in CCA jurisdictions
- General Principles associated with specific options
- Option A - 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 (CCA Joint Proposal)
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- Option B- CCA applies for EE funding through the IOU portfolio third-party program (IOU Joint Proposal)
- Option C - Option A is adequate; however, if CPUC wants to consider further options, PG&E proposes that CCAs could apply for EE funding through local coordinated model (PG&E Alternate Proposal)

Part 3 - Appendices

- Appendix A – Detailed summary of workshop prepared by WEM
- Appendix B – List of workshop participants
- Appendix C – Energy Division presentation
- Appendix D – Excerpts from Statute and CPUC Decisions

**WEM COMMENT: PUT VARIOUS QUOTES RE THE MEANING OF ADMINISTRATOR WITH OTHER EXCERPTS FROM DECISIONS (INCLUDING DISSENTS) IN THE APPENDIX**

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

##### **1- Brief Summary of Workshop Discussion**

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.

WEM COMMENT – THERE WAS NO SUCH AGREEMENT AT THE WORKSHOP. In fact, CCAs requested both electric & gas.

The electric “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 gas portion is recovered through gas PPP surcharges. WEM COMMENT: THIS IS AN OPINION THAT BELONGS IN COMMENTS – THERE WAS NO AGREEMENT ON THIS.

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 that are currently utilized by and for IOU administrators. A mechanisms to collect EE procurement surcharges for CCAs would be similar to those currently used for collecting IOU EE procurement surcharges, however the amount would vary depending on the CCA’s EE budget.

Parties noted that the CPUC currently uses the term “statewide” to refer to programs that the IOUs are expected to administer in a similar manner throughout their territories. These are not in fact “statewide” as they do not include programs in POU territories.

Parties also noted that if IOUs so-called “statewide programs” and other local programs that may be part of the IOU EE portfolios were to be accessed by a CCA customer, that the mechanism adopted by the Commission would need to take this into account. The simplest way to take this into account would be for the CCA to receive 100% of its requested finds and to contract out to the IOUs for any program or program elements that the CCA chooses to incorporate in its portfolio.

The workshop participants, led by Steve Roscow of the Energy Division, reviewed the history of stated policies regarding how a CCA could request

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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 administered EE programs.

For the application process in 2001-2 (for program years 2002-03), and applications in 2003 (for program years 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. CPUC arranged for third parties to sign contracts with IOUs, who were ordered to provide the funding CPUC had approved and conduct very limited administrative oversight. (In the late 1990s IOUs challenged then-existing statutory authority for non-utility administration, therefore, in 2001 when CPUC established this administrative structure it chose to distribute administrative responsibilities in this particular way in order to avoid court challenges and get independent programs started quickly so they could show what they could do.)

Since program years 2006-08, the IOUs administered EE programs (pursuant to D0501055); third party program implementers and Local Government Partners apply to the IOUs through a competitive bid process, the selection criteria is developed by IOUs with input from Energy Division and PRG; selection made by IOUs with ED and PRG review; third parties contract through IOUs.

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**WEM COMMENT – THIS SECTION BELONGS IN AN APPENDIX – AND SHOULD BE MORE COMPLETE – NOT JUST THE SECTIONS THE IOUS WANT TO INCLUDE. (NOTE – SOME OF THE SECTIONS WEM INCLUDED IN OUR APPENDIX WERE DROPPED IN THIS IOU DRAFT). Part 2 – Relevant State Statute/CPUC Policy Decisions**

For purposes of implementing Section 381.1, an “administrator” is any party that receives funding for and implements EE programs pursuant to Section 381. (D.03-07-034, Attachment A, p.1)

“[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. CCA shall refer to Commission orders and its energy efficiency policy manual in making requests for Section 381 funding.” (D.03-07-034, p.10)

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

(a) No later than July 15, 2003, the commission will establish policies and procedures for 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.
- (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 Commission 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.

P.U. Code 381.1 (c)

If a CCA is not the administrator of energy efficiency and conservation programs for which its customers are eligible, the CPUC shall require the administrator of cost effective energy efficiency and conservation programs to direct a proportional share of its approved EE program activities for which the CCA’s customers are eligible, to the CCA’s territory without regard to customer class.

[add others as relevant]

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**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 associated with all Options Presented in this Report**

**WEM comment – this section should be eliminated unless IOUs agree to CCA changes. Otherwise CCAs would be CONCEDED TO IOUS - PARTICULARLY on third & final bullets in this list. Third one is most problematic – because it forces CCAs to allow IOUs to administer programs for CCA customers (rather than making that an option for each CCA to decide).**

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

**Parties supporting: [add]**

- 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.
- EE programs should be customer-focused, support effective use of EE public funds, and be well-integrated with statewide and other broad-reaching existing programs.
- Customers should have access to all EE program rebates and services provided in their service territory that are funded by the CCA. [wem comment – “non-bypassable charges” would include IOU charges – but CCAs PROGRAMS WILL NOT INCLUDE IOU CHARGES. CCA programs will only include IOU programs to the extent that the CCA contracts with the IOU for those programs, using CCA ratepayer funds.]
- Program Administrators are accountable to relevant governing agency for specified results (e.g. meeting savings goals)
- 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.
- Commission and Energy Division should review and approve a CCA’s request for EE program funding., unless and until such time as California has a statewide non-utility general administrator. xxxWEM comment: current wording leaves the door open for someone OTHER than CPUC to

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review & approve – e.g. IOUs. This language more closely resembles the process for approving Implementation Plan.

The following are principles for which consensus cannot be reached, along with identification of the party that supports that position.

#### **General Principles associated with Option A – CCA Submits Request to Administer EE Programs Using IOU-Collected EE funds to CPUC, independent of the IOU Portfolio**

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

The following general principles should guide CPUC policy and procedures regarding Option C where the CCA submits a request to administer EE programs using IOU-collected energy efficiency funds to the CPUC, independent of the IOU portfolio with certain IOU-collected EE funds passed through to CCA:

- **CPUC should be the authorizing entity.** Incumbent IOU should not be part of the approval path – but as per usual CPUC process, could provide comments.
- **CCA's may submit first request to CPUC at any time, and ongoing administration should require CCA filings on same cycle CPUC-regulated administrator.** 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 its planning and CPUC-approval processes.

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WEM comment: IOU PROPOSAL SHOULD BE OPTION B - NOT OPTION A –  
MOVE THIS WHOLE SECTION.

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

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

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.

WEM COMMENT: MOVE ALL QUOTES FROM DECISIONS & STATUTE TO THE APPENDIX – THEY DON'T BELONG UP FRONT. THESE ARE IOU SELECTIONS THAT THEY WANT TO USE TO SUPPORT THEIR POSITION

WEM NOTE: THE FOLLOWING SECTION IS VERY CONFUSING – IT APPEARS TO BE GENERAL GUIDELINES BUT IT IS INCLUDED AS PART OF THE IOU OPTION -???

**Guidelines for Funding EE Applications under this agreement.**

**WEM COMMENT – THIS AGREEMENT SHOULD ACKNOWLEDGE THE NEED TO FULLY IMPLEMENT THE CCA LAW – WHICH WOULD PROVIDE FOR FULLY INDEPENDENT STATEWIDE NON-UTILITY ADMINISTRATION –**

- Nothing in this agreement should be seen as prejudicial to the provisions of AB117 that provide for “any party” to apply to administer energy efficiency programs.
- Any CCA or local government in the process of forming a CCA 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 that was in effect when the CCA law passed (i.e. The Policy Manual attached to D0111066 - 11/29/01. Program review should take into account the elements described in AB117, namely:

“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 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.”

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- CCAs are able to apply for energy efficiency program funding consistent with the timing of Commission authorized solicitations for energy efficiency proposals.
- WEM COMMENT: NO-NO-NO TO THE FOLLOWING TWO BULLETS POINTS – THEY ARE PART OF THE STATUTE THAT ADDRESSES WHAT THE COMMISSION WILL DO WHEN THE CCA IS *NOT* THE ADMINISTRATOR. *When the CCA IS the administrator, these things will be handled by the CCA governing body – not the CPUC.*

**WEM COMMENT – LET THE IOUS PUT THESE “BENEFITS” IN THEIR COMMENTS – NOT IN THIS REPORT**

WEM COMMENT –In fact, two out of three parties in PG&E’s Peer Review Group (PRG) (i.e. TURN & DRA) say the third party process has been unfair, particularly to local governments. Nothing was “proven” because there have never been any hearings in EE proceedings to review what’s going on.