

Rulemaking 09-11-014 – Phase II

Joint Workshop Report

September 27, 2010 Workshop on Energy Efficiency and Community Choice

October 22, 2010

(10-22-10 Final Edits)

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

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.

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 representatives from the City and County of San Francisco (CCSF), Marin Energy Authority (MEA), San Joaquin Valley Power Authority (SJVPA), Pacific Gas and Electric Company (PG&E) and Southern California Edison (SCE) with input from Women Energy Matters (WEM), and Natural Resources Defense Council (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 three general sections:

Part 1 - Brief Summary of Workshop Discussion

Part 2 – Response to Question Addressed to Parties

- General Principles
- CCA Option - CCA submits request to CPUC to administer EE programs using IOU-collected EE funds, independent of the IOU portfolio
- 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 3 - Appendices

- Appendix A – Detailed Summary of Workshop Discussion
- Appendix B – List of workshop participants
- Appendix C – Energy Division Workshop Handout
- Appendix D - Relevant State Statute/CPUC Policy Decisions

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The term administrator is used throughout this Report to generally refer to any party that receives funding for and/or implements EE programs and is not meant to limit parties interpretation of the term in subsequent comments.

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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.

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.

At the workshop there was general agreement that only the electric portion of the IOU-collected Energy Efficiency funds should be considered in the discussion, as the gas portion is not relevant to CCA service.¹

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 overall administrator of 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 the 2006-2008 EE program cycles, 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 the Peer Review Group (PRG); selection is made by IOUs with Energy Division and PRG review; third parties contract through IOUs. The local government partnership (LGP) solicitation and selection process has similar Energy Division and PRG review.

¹ WEM believes that gas EE funds should also be considered.

Part 2: 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.
- 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.
- 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.) should be consistent with statute.
- EE Programs should forward the CPUC goals of statewide program coordination and stakeholder collaboration
- Energy Division should provide oversight in review of the CCA's request for EE program funding; and the Commission is the final authorizing entity.
- Customers should have access to all EE program rebates and services provided in their service territory that are funded by non-bypassable PPP charges paid by CCA-eligible customers (with controls in place to avoid double dipping where a customer would receive more than one electric rebate check for the same installed measure or service, or to avoid funding overlaps or excessive funding for one area that would be inefficient or misuse of public funds).

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

Parties supporting: CCSF, SJVPA, MEA

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. This procedure is optimal because it ensures the following:

Benefits of CCA Model:

- CCA administration does not require shareholder incentives thereby reducing costs and administrative burdens regarding CPUC oversight of IOU shareholder incentives.
- 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 CCAs or other local governments.
- Leverages community-based local government oversight.

Further General Principles

- 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 as 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.

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.

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- 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.)

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.

- Description of the CCA program
- 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 a CCA program.
 - Discussion of how the CCA programs fits within the CPUC’s strategic plan and are designed to achieve long term energy efficiency results.
- Discussion of how the 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 the 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, including CCA-run programs, IOU programs in which the CCA participates, joint CCA-third party programs and other approved programs.
- 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

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 currently in place, subject to Commission oversight, and available to the CCAs. It has proven to be an effective means of making EE funding available to third-party applicants. This existing procedure is optimal because it ensures the following:

Benefits of Third Party Model:

- Compliance with statutory requirement that CPUC's procedure is available to any party, including CCA.
- 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.

Further General Principles

- 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.

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

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.

Further General Principles

- 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.

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 another local governmental entity with overlapping service area apply to implement programs, 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.

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.

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Criteria for CCA/Local Partner-Implemented Programs²

- 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 IOU is not the final decision-maker determining whether CCA program proposal is adopted.
- 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

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.

Part 3 – Appendices

Appendix A

Summary of Workshop Discussion

**SUMMARY OF THE 9-27-10 WORKSHOP ON
ENERGY EFFICIENCY AND COMMUNITY CHOICE**

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, and noted that the workshop was intended to be "off-the-record" to foster open and frank communication and sharing of ideas. 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 statute 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 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.

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 clearly stated their position that they are entitled to all electric all EE charges collected from their customers by the IOUs. WEM stated that gas funds should also be available to CCAs. Whether the CCAs' 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.

- The CCAs seek a simple transfer of the EE charges collected from CCA customers by the IOUs 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.

The IOUs explained that there is not a fixed amount of funding available to program administrators and no percentage of such an amount to which a CCA is entitled to. 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. Third party applicants follow the same procedure when applying to administer EE programs.

- **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;

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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 publically owned utilities (POUs) to meet EE goals set by the California Energy

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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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.

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.

- **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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Appendix B – List of workshop participants and additions per parties’ requests

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Appendix C – Energy Division Workshop Handout

Appendix D

Relevant State Statute/CPUC Policy Decisions

The following provides context for the Report but is not inclusive of all relevant decisions or code sections that parties may also find relevant and may discuss in their filed comments to the Report.

Statutes

Full Text of AB 117

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. 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 electric 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 broad statewide or regional programs. If the community choice aggregator proposes energy efficiency programs, other than programs already approved for implementing 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.

CPUC Decisions

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Decision 01-11-066 – Interim Opinion Adopting Energy Efficiency Policy Rules

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 – 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 05-01-055 – Interim Opinion on Administrative Structure for Energy Efficiency (R.01-08-028)

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