

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



March 22, 2011

Brian Cherry  
Vice President, Regulatory Relations  
Pacific Gas and Electric Company  
77 Beale Street  
San Francisco, CA 94105

Re: Treatment of new CCA customers

Dear Mr. Cherry:

As you know, as part of the 2010-11 Budget Act, the Commission is required to prepare and submit quarterly reports to the Legislature regarding its activities related to implementation of the Community Choice Aggregation (CCA) statute. As part of this reporting requirement, we have compiled a list of issues that MCE, PG&E and the CPUC staff are trying to resolve. PG&E staff have been participating in activities that support this reporting requirement, and I appreciate their assistance.

With this letter, I want to draw your attention to the issue Marin titled as "New customers being opted out by PG&E" (Marin's description of the issue, and PG&E's response, are attached to this letter).

The issue in question was submitted to PG&E and the Commission's Energy Division on December 14, 2010. Marin alleges that "new customers moving into MCE addresses are being opted out by PG&E in violation of the directive from the CPUC Energy Division."

In its December 28, 2010 response, PG&E affirms that "PG&E's new customer start process defaults to CCA unless the customer explicitly chooses to selected full bundled service with PG&E." (emphasis added).

As explained below, CPUC staff believe the approach described by PG&E violates Commission Decision 05-12-041 and the spirit, if not the letter, of Resolution E-4250. In the 2005 decision, the Commission clearly ruled that "New customers must be automatically assigned to CCAs and pay for each CCASR, if it is necessary."

**ATTACHMENT A of D.05-12-041, "SUMMARY OF ADOPTED TARIFF ELEMENTS".**

Section	Utilities' Proposal	CCAs' Proposal	Adopted
<b>X. 1. Treatment of New Customers</b>	The Utility must generate a CCASR for all customers, otherwise these customers will be assigned to the Utility's bundled service.	New customers should automatically be enrolled as CCA customers and not be subject to CCASR costs.	New customers must be automatically assigned to CCAs and pay for each CCASR, if it is necessary.

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While the language cited by PG&E in Resolution E-4250 does add further ambiguity when it requires that staff host an informal meeting with PG&E and MCE on the exact procedure for new customers, I believe D.05-12-041 cited above addresses how this matter should be handled in the meantime.

Energy Division's interpretation of the existing 2005 Commission decision is that new CCA-eligible customers located within a CCA service area, such as Marin Clean Energy's service area, shall be enrolled into CCA service at the time they initiate distribution utility service with PG&E.

Resolution E-4250 is also quite clear that the ability for a customer to opt out of CCA service must follow provision of information to the customer about CCA service, to be provided by the CCA. PG&E may inform new customers of their right to opt out within 60 days, but I do not believe that PG&E has the unilateral authority to enroll the customer in PG&E bundled service immediately upon commencement of new (or re-located) service.

If you disagree with this interpretation of the Commission's directives in either D.05-12-041 or Resolution E-4250, please let me know and I will have Energy Division staff prepare a resolution for the Commission's consideration to clarify this point. Alternatively, PG&E could a petition to modify or clarify either previous order. In the meantime, PG&E should enroll new customers in CCA service at the time they initiate distribution service from PG&E and transmit the customer's information in a timely manner to the CCA.

In addition, because this matter appears to have been under dispute for some time, within ten (10) business days of this letter, I request that you provide to Energy Division and MCE a list of each and every "new" (including relocations) customer account that has initiated service in Marin Clean Energy territory since May 7, 2010 and indicate which customer accounts were enrolled in full bundled service with PG&E at the time they initiated service.

I appreciate your cooperation in resolving various outstanding issues related to MCE service. If you have any questions or concerns, please contact me or Gurbux Kahlon at (415) 703-1775.

Sincerely,



Julie A. Fitch, Director  
Energy Division

cc: Redacted  
Erik Jacobson  
Gurbux Kahlon  
Carlos Velasquez

Attachments

Marin’s description of the issue, and PG&E’s response, are attached to this letter

Part (a): Process for existing and prospective CCAs to obtain timely utility compliance with paragraph (9) of subdivision (c) of Public Utilities Code Section 366.2, which requires the utility to “cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs.”

PART 1 (to be completed by CCA)

Submitted by:

Name	Jordis Weaver
Title	Administrative Associate
Phone	415.464.6021
e-mail	jweaver@marinenergyauthority.org

Please identify the specific matter on which the utility is not considered to be cooperating fully (add lines or pages as needed):

New customers moving into MCE addresses are being opted out by PG&E in violation of the directive from the CPUC Energy Division.

Please provide a detailed description of the issue (add lines or pages as needed):

In May, 2010 the CPUC Energy Division directed PG&E to terminate the processing of opt outs for MCE’s CCA customers and turned the opt out process over to MCE. Despite this clear directive, since MEA began service to customers it has come to MCE’s attention that PG&E has not been enrolling new customers at MCE addresses in the MCE program to allow the MCE noticing process to occur. This protocol is important because it allows for the new customer to receive the terms and conditions of service from MCE and then make an informed decision on the generation provider.

Instead of following the statutory opt out process when a new customer calls to have new service turned on PG&E representatives are asking the customer if they want to opt out of MCE service before even being enrolled or receiving the terms and conditions. This activity is in clear violation of the CPUC directive to not interfere with the opt out process.

The CPUC directive followed months of abuses by the utility which tampered with the integrity of the opt out process. This ranged from a marketing campaign filled with mis-information about MCE, outbound calls aggressively pushing customers to opt out under false pretenses and prior to receiving any terms and conditions from MCE, and encouraging customers to opt out under methods not approved by the statutory process. Given these recent actions by PG&E it is clear that their involvement in the opt out process would interfere with and threaten the integrity of the process.

MCE has requested that new customer move-ins be submitted to MCE for enrollment and noticing. It is unclear how many customers this has impacted but there are 538 customers shown as 'turned off' where there has not been a re-enrollment at the address. It is not possible for MCE to ascertain how many of these locations are vacant and how many have had a new turn-on and have been proactively opted out by PG&E in violation of the statutory opt out process.

Currently PG&E is acting in violation of the clear directive from the CPUC Energy Division in May, 2010 requiring that they not process opt outs for MCE's CCA customers.

Please describe the lack of full cooperation (add lines or pages as needed):

MCE has raised this issue with PG&E representatives and has not received a clear response. PG&E representatives confirmed that they are offering to opt the customer out of MCE service at the time the customer calls in to have service initiated. PG&E representatives have also stated that they have some confusion about whether or not they have the authority to initiate opt outs at this time.

To MCEs knowledge, PG&E representatives have not agreed to stop processing opt outs.

Please list the personnel at the utility with whom the community choice aggregator is working:

Name	Title	Phone Number	e-mail
Redacted			
Eric Jacobson	Regulatory Relations	415-973-4464	EBJ1@pge.com

**PART 2 (to be completed by Utility, 5 business days after notification by Energy Division)**

Submitted by:

	Redacted
Name	
Title	
Phone	
e-mail	

*“The utility shall be required to respond in writing by providing a specific solution to the matter raised by the prospective or existing community choice aggregator, including a date-specific timeline for accomplishing the solution, and the names of personnel responsible for providing the solution.”*

Please describe the specific solution to the matter raised by the prospective or existing Community Choice Aggregator (add lines or pages as needed):

PG&E’s new customer start process defaults to CCA unless the customer explicitly chooses to selected full bundled service with PG&E. MCE’s claim that this activity “is in clear violation of the CPUC directive to not interfere with the opt out process” is incorrect because the CPUC has reserved the issue for mutual resolution. CPUC Resolution E-4250, Ordering Paragraph 6, stated the CPUC’s intent regarding a process for resolving this issue as follows:

“Staff shall convene an informal meeting of interested parties to see if consensus can be reached on the tariff language needed to specify how the opt-out process for new or relocated customers in a CCA service area will work. This tariff language shall ensure that customers who are unaware of the terms and conditions of the CCA service will be informed of those terms and conditions before being given the opportunity to opt out. If consensus cannot be reached, and if the issue is not resolved in the resolution of the CCSF Petition To Modify D.05-12-041 in R.03-10-003, staff should prepare a resolution for our consideration.”

PG&E is open to meeting and addressing this issue with MCE and Energy Division per the guidance provided in E-4250.

Please provide the date-specific timeline that the IOU will follow in order to accomplish the solution (add lines or pages as needed):

Resolution of this issue can be immediate based on mutual informal discussions among PG&E, MCE and the CPUC Energy Division per the CPUC’s direction in Resolution E-4250.

Names of utility personnel responsible for providing [and implementing] the solution

Name	Title	Phone Number	e-mail
Redacted			