BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.	Rulemaking 12-06-013 (Filed June 21, 2012)

OPENING COMMENTS OF MARIN ENERGY AUTHORITY ON MATTERS OF SCOPE FOR THE RESIDENTIAL RATEMAKING PROCEEDING

Jeremy Waen
Regulatory Analyst
MARIN ENERGY AUTHORITY
781 Lincoln Avenue, Suite 320
San Rafael, CA 94901
Telephone: (415) 464-6027
Facsimile: (415) 459-8095
E-Mail: jwaen@marinenergy.com

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I. Introduction

Pursuant to the instructions set forth in *Assigned Commissioner and Administrative Law Judges' Joint Ruling Inviting Comments and Scheduling Prehearing Conference* ("Ruling") issued on September 20, 2012 relating to the *Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations* ("OIR") issued on June 21, 2012 within Rulemaking R.12-06-013, Marin Energy Authority ("MEA") respectfully submits the following opening comments on matters of scope for the Residential Ratemaking Proceeding. MEA specifically provides comments on how the scope of this rulemaking must – due to statutory language established by Senate Bill 790 of 2011 ("SB 790") – include the prevention of "shifting of costs"[1] between: (i) "bundled" ratepayers who receive their generation services from an Investor Owned Utility ("IOU"); and

[1] California Public Utilities Code Section 366.2 (a) (4). *All subsequent references herein are in reference to the California Public Utilities Code.*

(ii) "unbundled" ratepayers who receive their generation services from a Community Choice Aggregator ("CCA").

MEA is the only operational CCA within California. MEA currently serves customers in Marin County, and will soon begin serving customers in the City of Richmond. MEA's Marin Clean Energy ("MCE") program provides residential ratepayers within its service territory with the opportunity to consume low-carbon, electricity that is up to 100% renewably generated. The MCE program in its 2 years of operation has pushed far ahead of IOUs in meeting state Renewable Portfolio Standards. MEA is also starting to administer Energy Efficiency ("EE") programs within its service territory (per proceedings R.09-11-014 and A.12-07-001 *et al.*). MEA continually demonstrates how CCAs are able to innovate and lead the way towards rapidly achieving the Commission and State policies to: "1) enable conservation and efficiency on the customer side and 2) increase the reliance on non-fossil base generation to reduce overall Greenhouse Gas Emissions." (OIR at 6.)

MEA's opening comments are organized in two sections: The first section addresses changes to what the Ruling refers to as "Coordination Questions." The second section provides recommendations on the "Rate Design Evaluation Questions" and their related goals. MEA's opening comments will follow the order and structure of the questions presented in the Ruling.

II. Coordination Questions

A. Harmonizing with Legislation: SB 790

MEA reminds the Commission that the statutory modifications provided by the recent approval of SB 790 must be considered within the scope of this residential ratemaking proceeding. Per the discussion in the Ruling, the "Coordination Questions are the *immediate questions that must be answered so that this proceeding is harmonized with legislation* and other

Commission proceedings and programs." (Ruling at 5. *Emphasis added.*) SB 790 enacted numerous modifications to the California Public Utilities Code ("PUC") that are directly relevant to the scope of this residential ratemaking proceeding, including:

(i) prohibition of 'shifting of costs' between bundled and unbundled customers;[2]

(ii) protection of CCA control over its own generation services and procurement;[3]

(iii) collection non-bypassable charges ("NBCs") and administration of these funds;[4] and

(iv) allocation of 'unavoidable electricity costs' to CCA customers.[5]

These statutory requirements – enacted by law to "facilitate the consideration, development, and implementation of community choice aggregation programs, to *foster fair competition*, and to *protect against cross-subsidization* by ratepayers" (SB 790 at Section 2 (h). *Emphasis added.*) – must be considered within the scope of this proceeding. Specifically, these requirements must be highlighted through either modifying or adding to the proposed questions and goals. Detailed changes are explored further in the following section.

III. Rate Design Evaluation Questions

The Ruling asks for parties' comments on the Rate Design Evaluation related goals and questions that will be used to review parties' residential rate design proposals. These questions and goals should include "specific goals and equity concerns." (Ruling at 5.) The statutory language throughout SB 790 – highlighted prior – was introduced by the legislature to address CCA specific *goals* and *equity concerns*. MEA suggests the following modifications to existing goals, proposals for additional goals, and amendments to questions for rate proposals within the

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[2] Section 366.2 (a) (4).
[3] Sections 366.2 (a) (5), 380 (b) (4), and 380 (h) (5).
[4] Sections 366.2 (k) (1)-(2).
[5] Section 366.2 (g).

Rate Design Evaluation section of this proceeding's scope. These proposed changes will account for the specific statutory provisions regarding CCAs and their customers per SB 790.

A. Existing Goals

MEA defers to the Commission in deciding whether to modify or add to the current ten goals included within scope by the Ruling; however, it is clear that the current goals do not properly account for either CCA residential customers or the statutory language enacted by SB 790. While Goals 6 and 7 potentially overlap with CCA specific matters, MEA believes this overlap is not explicitly stated within scope. The Commission should either modify the language of these two goals to explicitly include CCA related concerns, or the Commission should adopt additional goals that specifically address CCA equity concerns. MEA expounds on both options as follows:

6. Rates should provide stability, simplicity and customer choice;

MEA understands firsthand how important 'stability' and 'simplicity' are for residential rate design because MEA is continually competing with the incumbent IOU over provision of generation service . MEA witnesses how fluctuations and complexities in current residential rates impact the viability of CCAs on a daily basis. These unpredictable complexities within the rate structure frustrate and confuse ratepayers, often causing them to elect to continue receiving generation services from the IOU, which is perceived as the 'safe option' due to its significant brand recognition and market power, rather than exercising their right to *choose* to participate in a CCA, which is a relatively new concept. The notion of *customer choice* for retail energy providers is still very unfamiliar to the vast majority California residential customers, since

currently only one county in California is participating in a CCA.[6] MEA recommends that the Commission add language to Goal 6 clarifying that "customer choice" applies not only to rate options, but also to retail energy providers.

7. Rates should avoid cross-subsidies, unless the cross-subsidies appropriately support explicit state policy goals;

MEA agrees that cross-subsidies between customer groups should be largely avoided, though in certain contexts they are necessary and beneficial to society, such as with Net Energy Metering ("NEM"), Low Income Assistance, and Medical Baseline programs. However, for CCA customers, cross-subsidies – referenced in statute as "shifting of costs" – between unbundled and bundled ratepayers are *prohibited* by statute, rather than simply discouraged. PUC Section 366.2 (a) (4) reads as follows:

> (4) The implementation of a community choice aggregation program *shall not result in a shifting of costs* between the customers of the community choice aggregator and the bundled service customers of an electrical corporation. (*Emphasis added.*)

MEA proposes that the Commission add language to this goal stating that cross-subsidies between bundled and unbundled customers are prohibited by statute.

B. Proposed Goals

If the Commission decides against modifying the language in Goals 6 and 7 as described above, then the Commission should introduce the additional goals – presented below as Goals 11

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[6] While MEA's MCE program is currently only offered to Marin County, the public's exposure to CCA programs is increasing rapidly. Starting next year the MCE program will be expanded to the City of Richmond. Additionally, the City and County of San Francisco's CleanPowerSF CCA program is approaching its initial implementation phase.

and 12 – worded specifically to comply with the legislative intent behind SB 790 – to "facilitate the consideration, development, and implementation of community choice aggregation programs, to *foster fair competition*, and to *protect against cross-subsidization* by ratepayers" (SB 790 at Section 2 (h). *Emphasis added.*)

11. Proposed Goal: [Rates should not inhibit the consideration, development, and implementation of community choice aggregation programs.];

12. Proposed Goal: [Rates should foster fair competition between retail electricity service providers and protect against cross-subsidization between unbundled and bundled ratepayers];

C. Questions for Proposals

2. Explain how your proposed rate design meets each goal and compare the performance of your rate design in meeting each goal to current rate design. Please discuss any cross-subsidies potentially resulting from the proposed rate design, including cross-subsidies due to geographic location (such as among climate zones), income, and load profile. Are any such cross-subsidies appropriate based on policy goals? Where trade-offs were made among the goals, explain how you prioritized the goals.

The Commission should also include language that explores potential conflicts with statute due to parties' proposed cross-subsidies. MEA suggests adding the following question to the paragraph above:

- "Are any cross-subsidies potentially in violation of statute (such as California Public Utilities Code Section 366.2 (a) (4))?"

3. How would your proposed rate design affect the value of net energy metered facilities for participants and non-participants compared to current rates?

Due to the current, overly complex, residential rate structure, MEA has dealt with and continues to deal with instances where unbundled NEM ratepayers are put at a disadvantage relative to their bundled NEM counterparts, where both are enrolled in equivalent rate schedules.

Due to these instances, the MEA prompts the Commission to include an additional question – inspired by these issues – as follows:

- "Would your proposed rate design affect the value of net energy metered facilities differently for bundled and unbundled participants?"

IV. Conclusion

MEA thanks Assigned Commissioner Peevey and Assigned Administrative Law Judges McKinney and Sullivan for the opportunity to provide the above opening comments on the scope for this forward-looking Residential Ratemaking Proceeding.

Respectfully submitted,

Jeremy Waen
Regulatory Analyst

By: /s/ Jeremy Waen
JEREMY WAEN

For:

MARIN ENERGY AUTHORITY
781 Lincoln Avenue, Suite 320
San Rafael, CA 94901
Telephone: (415) 464-6027
Facsimile: (415) 459-8095
E-Mail: jwaen@marinenergy.com

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