BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Petition of the Marin Energy Authority, Alliance for Retail Energy Markets, City and County of Santa Cruz, Climate Protection Campaign, Constellation NewEnergy, Inc., Direct Access Customer Coalition, Direct Energy, LLC, Energy Users Forum, IGS Energy, Retail Energy Supply Association, Sam's West, Inc., Shell Energy North America (US), L.P., South San Joaquin Irrigation District, Texas Retail Energy, LLC, and Wal-Mart Stores, Inc. to Adopt, Amend, or Repeal a Regulation Pursuant to Pub. Util. Code Section 1708.5	Petition 12-12-010

RESPONSE OF THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION TO PETITION OF THE MARIN ENERGY AUTHORITY ET AL

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OF THE STATE OF CALIFORNIA

Petition of the Marin Energy Authority, Alliance for Retail Energy Markets, City and County of Santa Cruz, Climate Protection Campaign, Constellation NewEnergy, Inc., Direct Access Customer Coalition, Direct Energy, LLC, Energy Users Forum, IGS Energy, Retail Energy Supply Association, Sam's West, Inc., Shell Energy North America (US), L.P., South San Joaquin Irrigation District, Texas Retail Energy, LLC, and Wal-Mart Stores, Inc. to Adopt, Amend, or Repeal a Regulation Pursuant to Pub. Util. Code Section 1708.5	Petition 12-12-010

RESPONSE OF THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION TO PETITION OF THE MARIN ENERGY AUTHORITY ET AL

The California Large Energy Consumers Association (CLECA)[1] submits this response pursuant to Rule 6.3(d) of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure. The Petition of the Marin Energy Authority et al (Petition) asks this Commission to open a rulemaking to address a series of cost allocation issues, allegedly as required by the provisions of SB 790.[2] CLECA has been involved in almost every

1 The California Large Energy Consumers Association is an *ad hoc* organization of large, high load factor industrial electric customers of Southern California Edison Company and Pacific Gas and Electric Company. CLECA members take both bundled and Direct Access service. The member companies are in the cement, steel, industrial gas, pipeline and beverage industries, and share the fact that electricity costs comprise a significant portion of their costs of production. For all of them, the cost of electricity is a very important element in their cost structure and the competitiveness of their products. CLECA has been an active participant in Commission regulatory proceedings since 1987.

2 An act to amend Sections 331.1, 365.1, 366.2, 380, 381.1, and 395.5 of, to add Sections 396.5 and 707 to, and to add Part 5 (commencing with Section 3260) to Division 1 of, the Public Utilities Code, relating to electricity.

Commission proceeding addressing matters of cost allocation for several decades. CLECA has a strong history of interest in these matters and of participation in prior Commission proceedings on cost allocation. Thus, it has a strong interest in the content of this petition.

I. INTRODUCTION

The Petition misrepresents the history of cost allocation by this Commission by suggesting that there is no well-defined Commission process for addressing cost allocation matters. On the contrary, the Commission's long-standing Rate Case Plan establishes General Rate Case (GRC) Phase 2s as the proceedings in which cost allocation is regularly addressed. The Petition also misguidedly asserts that, absent its proposed proceeding, there is a significant risk of cost-shifting that SB 790 seeks to prevent. This "risk" is neither clear nor self-evident. There is, however, a pre-existing process for avoiding such cost-shifting. Furthermore, the Petition proposes a process for allocation that is more subjective than it would appear on the surface and is based on some critical terms that are not defined and at times used inconsistently. Finally, in several places, the Petition makes assumptions that are not supported by facts.

CLECA accordingly opposes the Petition's request for relief on cost-allocation and cross-subsidization through adoption of broad cost allocation principles in a general rulemaking. Furthermore, the Commission should not mandate binding application of any principles adopted in such a generic rulemaking to any specific utility applications. Rather, generic principles should serve as guidelines for parties to consider as they review the interactions and results of specific allocations in the context of holistic bill impact analysis. This way, unintended, deleterious consequences may be avoided.

The one area where the Petition raises issues that do merit consideration in a separate rulemaking is that of non-bypassable charges imposed on departing load. However, here statutory constraints often apply.

II. THE PETITION IGNORES SUBSTANTIAL, FOUNDATIONAL COMMISSION PRECEDENT IN ADDRESSING COST ALLOCATION

The Petition completely ignores decades of Commission precedent in which the allocation of a utility's revenue requirement is regularly undertaken in Phase 2 of its GRC.[3] The Petition inexplicably excludes[4] the numerous GRC Phase 2s resolving cost allocation issues and a Rate Design Window Application from the list of dockets required by Rule 6.3(b); the required list is supposed to show <u>every</u> docket or proceeding known to the petitioner where issues raised in the petition have been previously addressed before the Commission. At a

[3] Petition, at 18-21 (listing R.11-10-003 and D.12-05-037 on the Electric Procurement Investment Charge; A.11-11-017 on the still-pending PG&E Smart Grid Pilot; A.11-03-001, -002 and -003 and D.12-04-045 on Demand Response; R.12-03-014 on proposed changes to the statutory Cost Allocation Mechanism that were rejected by a pending proposed decision; A.08-11-001, et al, and D.10-12-035 on the QF CHP Program). Notably, D.12-04-045, on the 2012-2014 demand response programs, maintained existing distribution allocation of demand response costs and deferred the question of future allocations. D.12-04-045 expressly noted the need for more information and data studies prior to restructuring rates, in addition to the need for a more developed demand response market structure; this is why the Commission held, "Changing current cost recovery and rate design process for DR is not ripe for discussion." Further, D.12-05-037, on the Electric Program Investment Charge, does not bar the use of a distribution allocator for functionally distribution projects.

[4] CLECA expresses surprise that these GRC Phase 2 dockets are excluded because of the active participation in at least five of these dockets and settlement agreements by some of the petitioners (e.g., DACC and EUF).

minimum, the following decisions and dockets should have been included in the Petition's incomplete list[5]:

→ D.05-03-022 in A.02-05-004 (adopting settlement agreements in SCE's 2003 GRC Phase 2, addressing marginal cost, revenue allocation, and rate design);

→ D.06-06-067, in A.05-05-023 (adopting settlement agreements in SCE's 2006 GRC Phase 2, addressing marginal cost, revenue allocation, and rate design);

→ D.09-08-028, in A.08-03-002/A.07-12-020 (adopting settlement agreements in SCE's 2009 GRC Phase 2, addressing marginal cost, revenue allocation, and rate design);

→ The pending Marginal Cost and Revenue Allocation Settlement Agreement in A.11-06-007, in SCE's 2012 GRC Phase 2;

→ D.05-11-005, in A.04-06-024 (adopting settlement agreements in PG&E's 2003 GRC Phase 2, addressing marginal cost, revenue allocation, and rate design);

→ D.07-09-004, in A.06-03-005 (adopting settlement agreements in PG&E's 2007 GRC Phase 2, addressing marginal cost, revenue allocation, and rate design);

→ D.10-02-032, in A.09-02-022 (deferring any change in cost allocation for the Peak Day Pricing program to PG&E's next GRC Phase 2 because that is where "the allocation of all costs are
→ considered");

→ D.11-12-053, in A.10-03-014 (adopting settlement agreements in PG&E's 2011 GRC Phase 2, addressing marginal cost, revenue allocation, and rate design).

Indeed, GRC Phase 2s are devoted to marginal costs, revenue allocation (i.e., cost allocation), and rate design as part of the Commission's long-standing Rate Case Plan.[6] The Rate Case Plan has been in place since 1989 and was most

5 This list does not include San Diego Gas & Electric Company GRC Phase 2 proceedings.

6 *See, generally*, D.07-07-004 (conforming filing requirements for Rate Case Plan initially adopted in 1989 to revised Rules of Practice and Procedure).

recently confirmed in 2007. GRC Phase 2s are held regularly every three years. These are the proceedings where representatives of all sizes and types of end-use customers expect to participate and do participate to address cost allocation issues, in the context of a triennial review of marginal costs.[7] These proceedings involve extensive testimony on marginal costs, revenue allocation, and rate design. Most parties appreciate the fact that, given their limited resources, these matters come together in one proceeding.

The Petition's request for an OIR to address the allocation of certain costs on a generic basis would have the effect of restricting the allocation of such costs in a GRC Phase 2. This would not facilitate the resolution of such proceedings. Indeed, quite the contrary.

GRC Phase 2 proceedings are contentious, with widely varying positions among the parties. For decades, final Commission decisions in these proceedings have been based on allocation settlement agreements reached by the parties. In these settlements, the parties weigh and balance their own positions on marginal costs and cost allocation and the positions of others in the context of the resulting bill impacts on all classes of customers. Regardless of

[7] *See, e.g.*, D.11-12-053, adopting Marginal Cost and Revenue Allocation Settlement Agreement in PG&E's GRC Phase 2, at Appendix A, at 6 ("The Settling Parties agree that this Settlement Agreement addresses **all** marginal cost and revenue allocation issues except the specific marginal costs to be used solely for the purpose of establishing unit costs where needed for customer specific contract rate floors for customer retention and attraction.") Notably, DACC and EUF were actively engaged in this Phase 2 and are listed as settling parties. *See also* pending Marginal Cost and Revenue Allocation Settlement Agreement, submitted July 27, 2012 in A.11-06-007, at 7-8 ("The Settling Parties have evaluated the impacts of the various proposals in this proceeding and desire to resolve **all issues** related to marginal costs and the allocation of SCE's authorized revenue requirement beginning with the implementation of a CPUC decision approving this Agreement, and have reached agreement as indicated in Paragraph 4 of this Agreement.") with DACC and EUF as settling parties and Wal-Mart Stores, Inc. & Sam's West, Inc. expressly not opposing the settlement agreement); *see also id*, at 8 ("Unless specifically stated otherwise herein, this Agreement and its terms are intended to remain in effect until a decision is implemented in Phase 2 of SCE's next GRC.")

intent, the Petition's proposal for a generic rulemaking would bring significant risk to this GRC Phase 2 process. The risk is that certain parties would subsequently use any principles adopted in such a rulemaking to greatly restrict the ability of parties to reach a Phase 2 settlement on the allocation of the entire array of revenue requirements. The Commission, however, has traditionally fostered and encouraged Phase 2 settlements to resolve the intertwined, complex and contentious marginal cost and cost allocation issues.

These intricate settlement processes often involve capping the cost allocations for distribution and generation-related costs in order to mitigate bill impacts. This capping process does *not* at all mean that generation costs in such a settlement are allocated to unbundled distribution customers. However, having more flexibility in the allocation process helps to achieve a successful settlement allocation by increasing the degrees of freedom. Making it harder to settle cases without undue bill impacts will lead to more litigation without necessarily leading to results that move all classes, be they bundled, DA or CCA, further toward cost-of-service based allocations and rates.

The Petition says that CPUC ignores cost allocation implications of proceedings.[8] This is exactly right and proper; the Commission *should not* address cost allocation in subject matter proceedings. That would be inefficient and undermine the holistic analysis of bill impacts undertaken in GRC Phase 2s. In no other proceeding is this comprehensive assessment performed, nor should it be, given the level of effort involved. Also, decisions in GRC Phase 2

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[8] Petition, at 14.

proceedings historically adopt a three-year agreement on how revenue requirement changes between GRCs should be allocated for different types of revenues.[9] This established practice efficiently avoids a need for continuous debates over cost allocation.

It is true that there have been a few proceedings where new categories of revenue requirements have been introduced whose allocation had not been addressed in a previous Phase 2 proceeding. However, even in such rare instances, in the past, allocation issues have been deferred to GRC Phase 2 proceedings. As the Commission has clearly explained, this is where they belong:

> We will continue to allocate distribution related capital costs and related O&M costs by distribution level EPMC-related allocators. The rate change for 2010 will apply to all distribution customers, including DA customers. We believe this is consistent with (1) how distribution costs are generally allocated, and (2) the marginal cost and revenue allocation settlement agreement adopted in D.07-09-004, with respect to rate changes between GRCs.
>
> Parties can recommend different revenue allocation methodologies in PG&E's 2011 GRC Phase 2 proceeding, when the allocation of all costs are (sic) considered. It is a more appropriate proceeding for considering new or different revenue methodologies and for evaluating the need to exempt certain customer classes from specific cost responsibilities. Whether parties settle or the Commission decides, a more proper balance of parties' interests and a fairer outcome can be achieved when taking all of this into consideration with all other issues and factors in that GRC Phase 2 proceeding.[10]

The Commission must remember that it is in GRC Phase 2 proceedings where all customer groups focus their limited resources and can be represented

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9 *See generally*, bullet list of Decisions adopting Phase 2 Settlement Agreements, infra at 3-4.

10 *See* D. 10-02-032 at 141 (addressed the appropriateness of leaving allocation of the costs of implementing dynamic pricing to Phase 2 decisions, while retaining an interim allocation based on past Phase 2 decisions).

and participate in the allocation process. There is no reason why the cost allocation issues raised in the Petition cannot be deferred to the next GRC Phase 2 proceeding for each utility.

III. THE PETITION ALLEGES MANY TYPES OF REVENUE REQUIREMENT REPRESENT PROCUREMENT WITHOUT ANY SUPPORT

There are no proposed definitions of procurement costs or supply costs in the Petition, nor in SB 790. Yet, the Petition alleges that several categories of revenue requirement are procurement- or supply-related and should be presumed to be so and thus subject to its proposal that they be allocated only to bundled customers. For example, the Petition lists several types of costs addressed in Commission proceedings and asserts that they are "supply" or "supply-related" or procurement-related.[11] Thus the Petition argues they should be presumed to be generation-related and allocated only to bundled service customers.

For example, the Petition states that filings for demand response (DR) programs of IOUs are IOU procurement applications.[12] We beg to differ. DA and CCA customers participate in these programs. CCAs and ESPs get RA credit for these DR programs. The Commission has indicated that it may in the future consider a different model for DR programs, but it has not yet done so. It is an inappropriate reach to allege that IOU DR programs are procurement programs with the implication that they serve only bundled customers. Furthermore, this is

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11 Petition, at 15-16.

12 Petition, at 15.

rehashing a matter addressed in the last DR proceeding at the Commission in an inappropriate forum.

The Petition presumes that activities like PG&E Smart Grid Deployment are procurement-related.[13] Yet, in that proceeding, which is still pending, there were differences of opinion as to whether certain costs, such as those related to voltage support, were procurement-related. Repeated allegations that such costs are procurement-related do not make them so.

IV. COST ALLOCATION REQUIRES AN ASSESSMENT OF THE FUNDAMENTAL UNDERLYING NATURE OF AN EXPENDITURE PLUS AN UNDERSTANDING OF THE BILL IMPACTS OF THE ALLOCATION OF THE COSTS EMBEDDED IN THE OVERALL REVENUE REQUIREMENT

In truth, the proposal underlying the Petition, i.e. that many changes in revenue requirements be deemed generation-related and allocated as generation to just bundled customers, is just too simplistic. Cost allocation must begin with a true functional cost analysis. The Commission must look to the underlying nature of the elements of a proposed revenue requirement to determine its function and appropriately inform cost allocation; moreover, additional factors, such as bill mitigation and gradualism, may also require consideration in the cost allocation process. One cannot simply assume changes in revenue requirements are for procurement unless proven otherwise. Asking for a rebuttable presumption that the costs of all IOU supply or supply-related applications will be allocated to bundled customers presumes an agreement on the definition of supply/procurement and the nature of the underlying expenditure. This

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13 Petition, at 15.

presumption is simply not supported by the Petition, and, in fact, it is belied by past experience.

Only once, does the Petition mention a functional basis for allocation, referring to costs that are functionally transmission or distribution.[14] Yet the functional nature of the expenditure is a critical aspect of cost-of-service ratemaking and has been used for close to a century. Functionalization is far more concrete than either a rebuttable presumption that an investment is "procurement"-related or that it does or does not provide "benefits" to certain groups of customers. The slippery "benefits" issue is addressed in greater detail below.

Furthermore, as discussed earlier, it is the combined effect of the allocation of all of the parts of the revenue requirement that causes bill impacts, at least for bundled customers. Historically, the Commission has been very sensitive to such bill impacts and has taken them into account when making allocation decisions. The Commission has not chosen to adopt a unique allocation methodology for different types of costs regardless of what the combined impact of the allocation of such costs has been on customers. Rather, the Commission knows that different cost allocation approaches[15] have different impacts on the costs allocated to various groups of customers, whether bundled, DA, or CCA; accordingly the Commission has consistently recognized the need

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[14] Petition, at 16.

[15] Some allocations are set by statute, e.g., allocation of the CARE revenue requirement.

for holistic, thorough bill-impact analysis.[16] A holistic examination of cumulative impacts of different marginal cost and cost allocation approaches would be very difficult, if not impossible, in a generic, "policy" rulemaking, particularly one focusing only on "supply"- or "procurement"-related costs. The Commission should be wary of changing its long-standing process now.

The only area where the Petition has a possible colorable argument is proceedings related to new categories of cost that have not been addressed in a GRC Phase 2 allocation decision. Even in such cases, the Commission has historically deferred allocation issues to Phase 2 proceedings as discussed above. There is nothing in SB 790 that mandates unwinding this long-standing Commission practice.

V. MEA'S PETITION MAKES NUMEROUS ASSERTIONS BASED ON INCONSISTENT USE OF UNDEFINED TERMS

As noted above, certain terms that feature prominently in the Petition, such as procurement, supply, and cost-shifting are not defined. Another term, "benefit" can be added to the list. The Commission should be very careful about the Petition's request that the IOUs demonstrate significant benefits for all ratepayers beyond normal system and local reliability benefits in order to allocate

[16] The combined impacts of different categories of utility costs must be assessed to be sure that they do not result in undue bill impacts on any group of customers. This critical examination and mitigation of potential rate shock are too significant to risk by moving certain types of cost allocation out of GRC Phase 2 proceedings. From the perspective of all customers, this bill impact analysis in ratesetting cannot and should not take second place to a conceptual policy discussion in a generic rulemaking.

costs to CCA and DA customers.[17] How should such a "benefit" be defined and determined?

The Petition cites PU Code Section 366.2(k)(1) for using benefits as a basis for cost allocation. Benefits are in the eye of the beholder and a very subjective basis for allocating costs. Historically the Commission has used other, more quantitative, demonstrable factors for the purpose of allocation, namely cost drivers and functionalization. To reduce allocation to a subjective battle over benefits will undermine the cost-of-service basis of an allocation and lead to long debates over alleged benefits, both direct and indirect. For example, the benefits alleged to be offered by competitive third parties are potentially highly subjective. The functional nature of the underlying expenditure and the nature of the usage that causes the cost to be incurred are far more precise, empirical bases for allocation than "benefits". Indeed, neither SB 790 nor the Petition makes an attempt to define "benefits."

Further, the thorny issue of a definition of "benefit" aside, this proposal in the Petition presumes that all procurement costs incurred by an IOU are only for the benefit of its bundled customers unless proven otherwise. Such an assertion runs directly counter to statute and Commission decisions. The plain language of P.U. Code §365.1(c)(2)(B) states, "the Commission shall allocate the costs of those generation resources in a manner that is fair and equitable to all

[17] Petition, at 15-16.

customers."[18] P. U. Code Section 380(g) addresses procurement to meet resource adequacy requirements, stating:

> An electrical corporation's costs of meeting resource adequacy requirements, including, but not limited to, the costs associated with system reliability and local area reliability, that are determined to be reasonable by the commission, or are otherwise recoverable under a procurement plan approved by the commission pursuant to section 454.5, **shall be fully recoverable from those customers on whose behalf the costs are incurred**, as determined by the commission, at the time the commitment to incur the cost is made on a fully nonbypassable basis, as determined by the commission. The commission shall exclude any amounts authorized to be recovered pursuant to Section 366.2 when authorizing the amount of costs to be recovered from customers of a community choice aggregator of from customers that purchase electricity through a direct transaction pursuant to this subdivision.[19]

This statutory section does not presume reliability costs are incurred only for and to be collected only from bundled customers; rather, its broader basis is procurement for and allocation to "those on whose behalf the costs are incurred."[20] Accordingly, the Commission has held that all parties should bear their fair share of the utility procurement cost burden, and the Commission has repeatedly determined that this includes CCA and DA customers.[21] This "fair share" concept has been and should remain a guiding principle. While SB 790

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18 P.U. Code § 365.1(c)(2)(B).

19 P.U. Code § 380(g)(emphasis added). P.U. Code § 366.2 authorizes recovery of from CCA customers the following: DWR Bond Charges, "net unavoidable" DWR electricity purchase contract costs, unrecovered past undercollections for the IOU's electricity purchases, and "estimated net electricity purchase contract costs". P.U. Code § 366.2(d)-(g).

20 *See also* D.07-11-051, at 10-11 (denying rehearing of D.06-07-029 as modified because the allocation of costs is based on who caused the costs to be incurred, not a new benefits test, and explaining that the term "benefitting customers" is "definitional" to define the groups of customers causing the costs.)

21 *See* D.08-09-012, at 10-11.

introduces the term benefits when referring to allocation,[22] the Commission should take care in using this subjective concept without equal consideration of the "fair share" guiding principle.

VI. REPEATED ASSERTIONS THAT DA OR CCA PROCUREMENT IS EQUIVALENT TO UTILITY PROCUREMENT DOES NOT MAKE IT SO

A central thread of the Petition's assertions is that CCA (and indeed ESP) procurement is equivalent to IOU procurement. Thus, it continues, there are no IOU procurement-related costs, except those called out by statute like the CAM, that should be recovered from CCA and DA customers. Otherwise, the Petition asserts that improper cost-shifting will occur. Notably, cost-shifting is one of the most contentious terms in ratemaking. The lack of definition of cost-shifting aside, this argument is based on the unsupported allegation that all CCA (or ESP) procurement is equivalent to IOU procurement.

The Petition states that all LSEs manage load variations and procure supply to meet their load, but does not demonstrate that they provide the same value to the system in so doing. While admitting that statute supports allocation of costs of capacity needed for new system or local reliability to all load-serving entities (LSEs), the Petition attempts to obfuscate this point. The Petition tries to blur this required allocation of capacity costs by emphasizing other aspects of statute that provide that CCAs may procure their own preferred generation mixes, *subject to such other statutory requirements*. The fact is, however, that

[22] P.U. Code § 366.2(k)(1).

not all LSEs engage in procurement that supports new generation through long-term contracts. This responsibility has fallen to the IOUs.[23]

Section 380(h)(2) of the PU Code states that the Commission must determine the most efficient and equitable means of assuring investment in new generating capacity. If the Commission finds a need for new generating capacity, and if CCAs and ESPs do not engage in procurement that supports such new generating capacity, then it is within the Commission's statutory authority to allocate some of the costs of new generation capacity to CCA and ESP customers. Under such circumstances, there is indeed statutory support for this requirement and thus there is no overriding provision to allow the CCA to fully choose its customers' supply mix.

Indeed, there is no requirement for CCAs or ESPs to specify their procurement portfolios or how they contribute to support for new generation or even the retention of existing generation, so it is impossible to conclude that all provisions of Section 366(2)(a)(5)[24] and 380(h)[25] have been met. The Petition's

[23] *See, generally,* D.06-07-029, as modified on rehearing by D.07-11-051, (giving the IOUs responsibility for obtaining the long-term contracts for new generation because they have the resources to ensure grid stability for the entire state).

[24] P.U. Code § 366(2)(a)(5): A community choice aggregator shall be solely responsible for all generation procurement activities on behalf of the community choice aggregator's customers, except where other generation procurement arrangements are expressly authorized by statute.

[25] P.U. Code § 380(h): The commission shall determine and authorize the most efficient and equitable means for achieving all of the following:
(1) Meeting the objectives of this section.
(2) Ensuring that investment is made in new generating capacity.
(3) Ensuring that existing generating capacity that is economic is retained.
(4) Ensuring that the cost of generating capacity is allocated equitably.
(5) Ensuring that community choice aggregators can determine the generation resources used to serve their customers.

assertion that CCAs and ESPs are responsible for the development of new generation is wholly unsubstantiated.[26]

VII. NON-BYPASSABL E DEPARTING LOAD CHARGES

The Petition questions an array of non-bypassable charges (NBC) that are imposed on departing retail choice customers such as DA and CCA customers and calls for a review of such charges.[27] CLECA agrees that the continuation of some of these charges should be subject to review. However, several important points must be considered.

The need for a review of non-bypassable charges should not just apply to CCA and DA customers, but also customer-generation departing load (CGDL). In the case of CTC, it may apply to bundled customers as well. The Petition appears to focus only on retail choice customer DL and completely ignore all other DL, including CGDL, yet provides no support for doing so.[28] Several points here warrant attention. First, DA, CCA and CGDL are all departing load. Second, the fact is that a CGDL customer has made a significant investment in achieving its departure – likely in a preferred distributed generation resource. Third, this investment of significant private capital by the customer installing the customer generation makes it less likely that the CGDL customer will return to bundled service once it leaves than a retail choice customer.

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26 Petition, at 15.

27 Petition, at 17-18.

28 Petition, at 9.

The Petition singles out the Competition Transition Charge (CTC) and the Power Cost Indifference Adjustment (PCIA). CLECA would support a review of the appropriateness of the CTC, since the divestiture of utility generation assets is indeed long past. Unfortunately, Section 367 for CTC is still in statute. We submit that the relevance of CTC should be reconsidered for all customers, not just CCA customers. Furthermore, it is likely that the right solution is to phase out stranded costs in general (which are different from new generation costs), not debate to whom the benefits of stranded costs accrue.

The Petition also asserts that retail choice customers who pay the PCIA are allocated no ongoing benefits.[29] We note that this matter has been addressed and rejected by the Commission, on the grounds that the PCIA payment is designed to maintain bundled customer indifference and not for the purpose of procuring resources.

VIII. CONCLUSION

For all of the foregoing reasons, CLECA recommends rejection of the Petition.

Respectfully submitted,

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29 Petition, at 17-18.