**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking To Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements	Rulemaking 13-09-011

OPENING BRIEF OF MARIN CLEAN ENERGY

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OPENING BRIEF OF MARIN CLEAN ENERGY

In accordance with the California Public Utilities Commission ("Commission") Rules of Practice and Procedure and Administrative Law Judge Hymes' July 31, 2014 Ruling Revising Schedule, Marin Clean Energy ("MCE") submits this opening brief addressing Phase Two and Three Issues. MCE's brief addresses the need for updating the Commission's policies for demand response ("DR") program cost recovery, and recommends foundational principles and DR cost recovery guidelines that will ensure fairness and competitive neutrality for community choice aggregation ("CCA") providers and ratepayers.

I. Introduction and Summary of Position

The Commission initiated this rulemaking proceeding "to enhance the role of demand response programs in meeting the state's long-term clean energy goals while maintaining system and local reliability."[1] In developing its "New Vision for Demand Response" the Commission intends to "take advantage of the strengths of different demand response programs" and to:

> [I]ncrease the penetration of demand response programs by doing a close examination of how we frame the programs, how they are offered, procured, and *reduce barriers to entry for new customer participation*.[2]

The Commission likewise has committed to reduce barriers to entry for new DR providers:

[1] Order Instituting Rulemaking To Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements. R.13-09-011 (September 25, 2013) at 2.

[2] Id. at 15 (emphasis added).

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> [T]his rulemaking will address the major policy question on demand response delivery. Historically, the Commission employed a utility-centric model of demand response procurement that allows only a limited role for third party aggregators. With the implementation of Rule 24, it should be possible for third party demand response providers to play a much larger role in the procurement of supply-side demand response. The Commission considers third party demand response providers to be able to provide additional innovation and services to the market, yielding greater demand response potential in California.[3]

MCE wholeheartedly supports the focus of this proceeding and the Commission's specific commitment to increase the breadth and diversity of DR programs by eliminating existing barriers to participation – both for customers and potential providers of DR services. MCE and its customers are well positioned and willing to participate fully in this more inclusive DR market. The challenge is how to accomplish this.

First, the Commission needs to adopt new guidelines for DR cost allocation. These guidelines need to ensure that CCAs and other non-LSE customers do not pay for the costs of IOU DR programs that they are not eligible for and/or that primarily benefit bundled customers. This realignment of cost allocation will eliminate unfair charges on non-LSE customers, and remove an obstacle that is currently preventing CCAs from developing DR programs that are innovative and designed to meet the characteristics and preferences of the CCA's membership. Second, the Commission needs to order that since costs for Advanced Metering Infrastructure ("AMI") metering are allocated to CCA customers and CCAs have a statutory right to AMI data, the IOUs should give CCAs access to their customers' real-time AMI usage data. This will remove another obstacle that is currently preventing CCAs from developing and implementing their own DR programs. Finally, the Commission should ensure that incentives paid through the IOUs' bills are not split between the generation and distribution components of the customer bill.

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[3] Id. at 16.

Splitting incentives deprives a CCA customer of a portion of the incentive they are entitled to, and is fundamentally anticompetitive in its impact on CCAs.

II. Background

MCE is a CCA that has been serving customers within the Pacific Gas and Electric ("PG&E") service territory since May 7, 2010. MCE is the first operational CCA in California and has participated actively in Commission proceedings addressing issues affecting CCAs and CCA ratepayers.[4] MCE currently provides electric service to approximately 125,000 retail customers throughout Marin County and the City of Richmond. MCE is undergoing formal steps to provide service to Napa County and the City of San Pablo in the first quarter of 2015. The cities of Albany, El Cerrito and Benicia are also formally exploring joining MCE's service territory.[5]

MCE was launched with the intention of achieving ambitious greenhouse gas ("GHG") emissions reduction goals, and to provide its customers an opportunity to actively participate in programs that encourage energy efficiency ("EE") and use of renewable energy. MCE offers its customers three electricity products: i) a 50 percent renewable, low GHG, default product called "Light Green," (ii) a 100 percent renewable GHG-free product called "Deep Green," and (iii) a 100 percent new local solar electricity product called "Sol Shares." MCE also offers its customers competitive net energy metering ("NEM") tariffs, a feed-in tariff ("FIT") for local renewable development, and EE programs.[6] MCE's EE programs include a focus on multi-family facilities and small commercial retrofits, as well as a residential behavior-focused

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[4] Sonoma Clean Power ("SCP") is California's second operational CCA, serving the communities within Sonoma County. The City of Lancaster, located in Southern California, is undergoing the preliminary steps to launch a CCA within its community as well.

[5] Exh.MCE-01 (Waen) at 1.

[6] Id.

program that uses customer usage data to prompt changes in energy use. MCE provides an on-bill repayment program to allow for deeper EE retrofits that yield longer term energy savings for customers. In addition, MCE has offered home area network ("HAN") devices to customers on a pilot basis to allow for real-time usage information and a deeper level of analysis and recommendations to reduce energy use.

MCE wants to complement these offerings with a robust and locally-focused DR program, and to do so as soon as possible. Including DR offerings tailored to the needs and preferences of MCE customers will fit well with MCE's institutional priorities and existing programs. As a CCA, MCE is very well positioned to participate in many aspects of the DR market and to help develop and demonstrate new DR technologies and programs.

CCAs are unique among California LSEs in that they operate at a localized level, serving customers located within the local cities and counties that make up the CCA.[7] As a local government entity run by a board comprised of publicly-appointed representatives elected by the participating communities, a CCA is connected with the energy-related needs, wants and concerns of the communities it serves. In MCE's case its customer base is primarily residential and demographically diverse, making it ideal for piloting new focused DR tariffs and programs. Because MCE is a public agency, the data and lessons learned from MCE DR projects will be publicly available for analysis. MCE envisions specifically focusing on lower cost metering and telemetry solutions for DR programs, aggregating DR participation across multiple sub-load aggregation points, and offering automated DR to a broader population of residential ratepayers.

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[7] See Cal. Public Ut. Code §366.2(a)(1) (CCA customers entitled to aggregate their electric loads as members of their local CCA); Cal. Public Ut. Code §366.2(c) (CCA authorized to aggregate the electrical load of interested electricity consumers within its boundaries to reduce transaction costs to consumers, provide consumer protections, and leverage the negotiation of contracts…CCA may "group retail electricity customers to solicit bids, broker, and contract for electricity *and energy services* for those customers"….CCA may "enter into agreements for services to facilitate the sale and purchase of electricity *and other related services*.") (emphasis added)

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In short, there are many ways that a CCA-run DR program will create added benefit to all California ratepayers.

Unfortunately, the potential for innovative, locally-tailored CCA DR programs is currently unrealized. The majority of MCE customers only have access to DR programs offered to them by PG&E. MCE has begun taking steps to undertake DR pilots and programs. However, MCE cannot begin to develop meaningful DR potential until existing obstacles, the most significant of which is the existing cost allocation structure, are addressed.

III. The Commission Must Update DR Policies to Reflect and Enable Full Participation by CCAs and CCA Customers

In light of the Commission's overall objective of expanding the scope and diversity of demand response programs in California, MCE encourages the Commission to take steps to ensure DR is accessible and fair to CCAs.

The Commission's decision in Phase 1 to bifurcate DR programs into Supply Resources (including DRAM) and Load Modifying Resources has been helpful in defining program attributes, participants and benefits. Adopting and implementing the Phase 3 Settlement will further enable the Commission to move forward in a deliberate manner to address and solve a number of difficult valuation, integration, process and cost questions. However, in order for the Commission's "New Vision" of DR to be fully functional, and to optimize participation by all potential DR providers and customers, the Commission must also address fundamental questions of cost allocation.

As discussed in detail in the testimony of both MCE and DACC/AReM, the current approach to DR cost allocation, which assigns most costs to distribution rates regardless of the nature of the costs and without considering the impact on non-utility LSEs and their customers,

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is unfair and anti-competitive.[8] First, existing DR cost allocation frequently does not reflect the nature of the resource, as programs designed to provide primarily generation-related benefits are funded through distribution charges. Second, non-bundled customers pay for IOU DR programs that they cannot participate in and/or that provide disproportionate benefits to bundled customers. Third, as a direct result of the misallocation of costs, CCAs are unable to develop and implement new, locally-focused DR programs, because doing so would essentially result in CCA customers paying twice for DR programs. Fourth, while costs for AMI metering is entirely allocated to all IOU customers through distribution rates, CCAs currently do not have access to AMI real-time data that is needed in order to implement CCA DR programs, and so CCA customers do not receive the same benefits from their investment in AMI that bundled customers receive.

The current construct for DR cost allocation is in large part an artifact of the utility-centric approach to DR. It was implemented long before MCE began providing CCA services in 2010, and was never designed to reflect or accommodate the needs of non-utility LSEs or their customers.[9] As such, it is a serious obstacle to creating the expansive, inclusive, and innovative DR market envisioned by the Commission in setting the goals for this proceeding.

In addition to adopting the Settlement, which is focused on IOU-administered DR programs, the Commission should update and reform the current approach DR cost allocation by:

- **Adopting cost allocation guidelines for IOU Supply Resource and Load Modifying Resource DR programs to more fairly reflect the character of the resource, who benefits from the program, and who has access to the program.** MCE recommends guiding principles below that would align cost allocation with benefits, prohibit allocation of costs to non-bundled customers for any DR program they are not allowed to participate in, preclude allocation of costs to CCA customers for IOU programs that are

[8] *See* Exh. MCE-01at 4-6; Exh. DAC-01 (Mara) at 4-17.

[9] See, e.g. Exh. PGE-03 (Haertle) at 6-7 (Describing PG&E's "functional organization" of DR programs, which dates back to the 1980s-90s, prior to the existence of CCAs).

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substantially similar to CCA programs; prohibit use of the CAM mechanism for allocating DR costs, and require IOUs to consult and coordinate with CCAs in developing and implementing DR programs.

- **Establishing a process for enabling CCAs access to real time AMI meter data.** CCAs have a right to access real-time AMI data pursuant to Public Utilities Code Section 366.2(c)(9), which expressly requires IOUs to provide CCAs with electrical load data, including electric consumption data. This is a cost allocation issue because CCA customers pay for AMI meters, but CCAs currently have no access to the real time data from those meters that is necessary for the administration of DR programs; and

- **Ensuring that the incentive structure of DR programs is consistent with fundamental principles of fairness and competitive neutrality.** The Commission must revisit the current practice of splitting incentive payments between the generation and distribution components of customers' bills, a practice that is anti-competitive and discriminates against non-bundled customers.

The benefits of addressing these issues now -- at the same time that the Commission is addressing other structural and programmatic issues -- are clear. MCE has been operating for almost five years, and is already offering its customers a strong, community-focused array of tariffed and contract-based services including energy, capacity, resource adequacy, renewable generation, energy efficiency, and feed-in tariffs.[10] MCE wants to develop new targeted DR programs, and is ideally situated to do so. Other CCAs have recently formed or may emerge in the near future. All should have the opportunity to participate in a DR structure that is fair and competitively neutral, and that does not undermine the CCA's autonomy in planning for the procurement of energy and RA resources to meet the needs of its customers.

[10] For a description of MCE programs, *see:* http://marincleanenergy.org/.

IV. The Commission Should Update Cost Allocation Policies and Adopt New Guidelines that Enable Participation of CCAs as DR Program Administrators and Service Providers, and ensure CCA Customers can participate in Both IOU and CCA DR Programs

The Commission has determined that DR cost allocation issues "should be considered in a consistent manner across all three utilities and thus are best handled in one proceeding."[11] MCE supports this approach. MCE also encourages the Commission to focus specifically on addressing the situation of CCAs, which have a unique interest and statutory mandate to provide services, including DR, to local customers.

As the community-based provider of electricity and energy services to participating local customers, CCAs have the statutory authority to perform the full range of supply-related utility functions, including the administration of DR programs. CCAs have been granted sole responsibility for all generation procurement activities on behalf of the community, and authorized by the Legislature to "contract for electricity *and energy services* for those [CCA] customers."[12] That clear statutory mandate is undermined when a CCA is effectively blocked from creating and funding its own DR programs because its customers are already paying through distribution charges for IOU DR programs that do not meet local needs or that, in the case of several programs, are not even available to CCA customers.

The current practice of funding virtually all IOU DR programs through distribution charges and reflecting the presumptive benefit through adjustment to CCA RA requirements also undermines a CCA's ability to autonomously plan for procurement of generation and RA resources. In this respect, DR cost allocation is clearly not designed to help "*maximize* the

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[11] D.12-04-045 at 204.

[12] *See* Cal. Pub. Ut. Code §366.2(a) (emphasis added).

ability of community choice aggregators to determine the generation resources used to serve their customers" as required by statute.[13]

For these reasons, MCE proposes the following cost allocation guidelines, which are designed to address the specific concerns of CCAs – as potential providers of DR tariffed products, as potential administrators of DR programs tailored to the needs of the local community, and as the representatives of customers that are entitled to participate in both IOU and CCA DR programs without being discriminated against or unfairly overcharged. We suggest language for each guideline and provide more detailed suggestions for its implementation, recognizing that some additional procedural steps will likely be required to fully implement the proposed Guidelines.

A. Proposed Guidelines

i. Guideline 1: Cost allocation must be aligned with customer benefits

Before allowing an IOU to collect costs for a DR program through distribution rates, the Commission should first require a threshold determination as to whether a particular IOU DR program or category of programs provides meaningful benefits only to bundled customers or to all IOU customers. As the record in this proceeding illustrates, there is debate over which (if any) IOU DR programs provide distribution-related (as opposed to generation-related) benefits to ratepayers. MCE believes that, at a minimum, the current policy of automatically assigning virtually all DR incentive and administrative costs to distribution has to be re-examined and updated, since many DR programs are clearly designed to enable the IOU to avoid or displace procurement of energy and capacity, and provide little if any direct distribution-side benefits.

[13] *See* Cal. Pub. Ut. Code §380. (emphasis added)

The costs of any IOU DR tariff or program that results in benefits that are exclusive to the IOU or that primarily benefit IOU customers should only be recovered from bundled customers. The primary rationale for this requirement is simple fairness. CCA customers should not be forced to pay for something they do not receive. It is MCE's understanding that currently most IOU-run DR programs that are determined to provide capacity value also pass-through reduction in RA obligations to all LSEs within the IOU's service territory. However, if any DR program results in benefits that exclusively or primarily accrue only to the IOU's bundled customers, then the DR program should be funded exclusively from funds collected through the IOU's generation rate.

Second, in order to allocate program costs to CCA customers, an IOU must ensure that CCA customers receive all associated benefits. MCE does not oppose *per se* retaining the practice of reflecting benefits through a credit to RA obligations of non-bundled customers. However, once the Commission determines that a program or category of programs provides primarily distribution-related benefits that directly accrue to both bundled and unbundled IOU customers, the related benefits need to be distributed fully and fairly to all customers.

In determining how to reflect or transfer the benefits from IOU DR programs funded by non-bundled customers, MCE encourages the Commission to consider authorizing transfer of funds collected by the IOUs to CCAs and other non-IOU LSEs for the purpose of funding DR programs. This approach would be similar to the process in which CCAs are currently allowed to apply for EE program funds, and become the administrator of EE programs. As discussed in MCE's testimony, funds collected through distribution charges could be made available to all LSEs through an application process, in which individual DR programs could be vetted and

funded on a case by case basis.[14] MCE is pleased that CLECA has conceptually supported this proposal in its testimony:

> This proposal may have some merit. If CCAs can propose DR programs for their own customers, and these have value, the Commission should consider whether they should receive some DR funding, paid for by customers of all LSEs, to run such programs.[15]

CLECA conditions this with the caveat that "LSEs should not deny their customers the ability to participate in IOU DR programs, if the latter work for their customers."[16] Speaking from the perspective of a CCA, MCE completely agrees. MCE wants its customers to continue having opportunities to participate in the IOU DR programs *that work for CCA customers*. However, MCE *also* wants to design its own DR programs, which can only happen after the Commission updates DR cost allocation policies to eliminate double charging and perverse incentives.

ii. Guideline 2: IOUs may not recover costs from CCA customers for DR tariffs or programs that are *not* available to CCA customers.

MCE customers currently fund all but a small portion of PG&E's DR programs, yet MCE customers are not eligible for many of PG&E's DR offerings, including the residential and commercial SmartRate programs, Scheduled Load Reduction program, and Peak Day Pricing program.[17] This practice results in a direct subsidization by CCA customers of programs that are not designed for them and that they do not have access to. If a CCA customer does not have

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[14] Exh. MCE-01(Waen) at 4.

[15] Exh. CLE-02 (Barkovich) at 10.

[16] Id. at 10-11.

[17] Exh. MCE-01 (Waen) at 6, citing http://www.pge.com/myhome/customerservice/energychoice/communitychoiceaggregation/faq/index.shtml. See also Exh.PGE-03 (Haertle) at 4-4.

access to an IOU DR tariff or program, the cost of that tariff or program should not be allocated to the CCA customer. This is a simple question of fairness.

The Commission applied this principle in Decision 12-12-004, concluding that with respect to SDG&E's dynamic pricing program:

> We are persuaded by the arguments of the Direct Access Parties that requiring the customers of CCAs and ESPs, who cannot enroll in SDG&E's dynamic pricing tariffs, to pay the costs of implementing those tariffs, is not consistent with cost causation principles, and would not be reasonable. … charging customers of other LSEs to implement these tariffs, or even charging them for the incremental costs of implementing or maintaining tools supporting these tariffs (such as Web sites or additional customer service), would be charging them for costs that they do not incur and that do not significantly benefit them.[18]

The Commission should follow its own reasoning and adopt as a general policy the principle that IOUs may not recover costs from non-bundled customers for DR programs that are not available to those customers.

It is important to note that, in addition to fairness, this policy will eliminate a very significant obstacle to participation by CCAs in dynamic pricing and other supply-related programs. MCE wants to develop tariff offerings and programs that are similar to (or an improvement on) the programs identified above, but obviously cannot justify doing so at ratepayer expense while CCA customers are already being charged for the IOU programs designed only for IOU customers. A straightforward rule that costs associated with IOU programs available only to bundled customers cannot be collected from non-bundled customers will address this issue.

PG&E summarily dismisses concerns voiced by non-IOU LSEs regarding this issue by referring to historical practice, and maintaining that cost recovery for dynamic pricing DR

[18] D.12-12-004**Error! Bookmark not defined.** at 52-53.

programs should not even be considered in this proceeding.[19] The latter argument is contrary to the Scoping Memo and should be disregarded. The former argument is no justification at all. The fact that the IOUs have traditionally been permitted to allocate the costs of their DR programs through distribution rates, regardless of any consideration of benefit and the impact on non-bundled customers does not justify continuing this practice. In the early era of DR program development, there were no DA and CCA programs and so no basis for concern about anti-competitive and unfair impacts on unbundled customers. In 2014, these concerns are significant, and the impact of continuing the existing practice of allocating costs for DR programs to unbundled customers that are not eligible to participate in and benefit from those programs is undermining the Commission's interest in expanding and eliminating barriers to participation in DR.

CLECA offers a different defense of the IOUs' charging CCA customers for programs they are not eligible for. First, CLECA maintains that "If CCAs want to have their own dynamic pricing programs, there is no reason why they cannot do so," and suggests that the cost of the IOU "billing system" used for dynamic pricing should be allocated to CCA customers regardless.[20] This reasoning misses the point. There *is* a reason that CCAs can't (and have no incentive to) offer their own dynamic rate (and other) DR programs. That reason is that CCA customers are *already* paying for the costs associated with the IOU's program(s) and thus would be understandably reluctant to pay for the development of a similar CCA program as well.

CLECA's second argument is that "even if CCA customers do not have dynamic pricing, they would benefit from any changes to the system load shape resulting from dynamic pricing by IOUs or other LSEs; a smoother load shape resulting from dynamic pricing would reduce the

[19] *See* Exh. PG&E-03 (Haertle) at 4-4 through 4-7.

[20] Exh.CLE-02 (Barkovich) at 9.

overall costs of serving load…improve the system efficiency and reduce costs to serve all load, not just bundled load."[21] The Commission should reject this argument. Leaving aside the questionable assumption that CCA customers receive any meaningful benefit from PG&E's dynamic pricing and scheduled load reduction programs, there is a separate and independent justification for *not* allowing the IOU to pass through the costs of such programs to CCA customers. CCAs will never have a fair opportunity to develop *their own* dynamic pricing and/or other DR programs as long as CCA customers are burdened with the cost of supporting IOU programs that are designed for and exclusively available to bundled IOU customers.

iii. Guideline 3: IOUs may not recover costs from CCA customers for DR tariffs or programs if the CCA offers a substantially similar tariff or program.

As discussed above, IOUs currently dominate the DR market. That domination has been facilitated by imposing the costs for IOU DR programs on non-bundled customers, which acts as a barrier to entry for non-IOU LSEs. To help reduce this barrier to entry, the Commission should adopt a rule prohibiting an IOU from recovering costs from CCA customers for any DR program that is substantially similar to a CCA's DR program. If the IOU program is in existence before the CCA program is implemented this obligation should take effect one year after the CCA begins offering its DR program. This one-year lag will provide the IOU time to adjust its cost allocation as required. This rule should apply regardless of whether the costs would otherwise be allocated to CCA customers under the other principles discussed above. The purpose is to enable CCAs to develop and fund a DR program for local customers with the assurance that those customers are not also financing the IOU's program.

[21] Id.

iv. Guideline 4: IOUs may not recover DR costs through the Cost Allocation Mechanism (CAM).

To date the Commission has not authorized any IOU to recover DR costs through the cost allocation mechanism ("CAM"). However, MCE is concerned about recent proposals seeking prospective authorization for CAM treatment of as-yet unidentified stranded costs from all IOU customers in programs that are exclusively beneficial to IOU customers.

In order to avoid any ambiguity or confusion on this score, MCE requests that in establishing DR cost allocation guidelines the Commission clarify specifically that the CAM will not be used as a cost recovery mechanism for DR program costs. Application of the CAM for recovery of any DR program costs would have a direct, counterproductive impact on CCAs by undermining the CCA's ability to efficiently procure capacity resources for meeting the CCA's RA obligations. It is important to emphasize that by requesting this clarification, MCE is not suggesting that there is any basis for considering CAM treatment of DR costs.[22] Rather, MCE is interested in obtaining a clear statement now to avoid any future ambiguity.

V. The Commission should coordinate AMI data access with the DR program policy development overseen through this proceeding.

A separate, but very important cost allocation-related issue is the question of CCA access to AMI data. This issue should be addressed in this proceeding in order to address a fundamental fairness issue, and enable CCAs to provide DR services to CCA customers using AMI.

Every CCA customer pays for the development and deployment of AMI "smart meters" through distribution charges. However, CCA customers' ability to optimize the benefits available through use of the AMI meters they have paid for is limited because CCAs currently do

[22] MCE notes with some concern that SDG&E's witness appears to have misinterpreted MCE's request for an across-the-board prohibition of CAM treatment for DR as suggesting that a "CAM-like mechanism" may be an available "approach" to DR cost recovery. See SDG&E Reply Testimony (Fang) at GK-5. SDG&E's testimony is a good example of why clarification that the CAM does not apply to DR is needed.

not have access to real time usage data for CCA customers.[23] As described in MCE's Comments on DR Pilot Program Proposals During the 2015-2016 Bridge Funding Period, access to AMI data is a longstanding issue, and an obstacle that prevented MCE from proposing a new DR pilot project for implementation during the 2015-2016 bridge funding period.[24]

CCAs' right to access AMI data is indisputable. Under Section 366.2(c)(9) of the California Public Utilities Code, IOUs have a statutory obligation to provide CCAs with:

> appropriate…electrical load data, including, but not limited to, electrical consumption data as defined in Section 8380 and other data detailing electricity needs and patterns of usage, as determined by the commission, and in accordance with procedures established by the commission.

Section 8380(a) defines "electrical consumption data" as "data about a customer's electrical…usage that is made available as part of an advanced metering infrastructure…." Thus, the Legislature has explicitly provided that the kind of real-time AMI usage data that an IOU collects and uses for its own DR programs should likewise be available to MCE. Without access to real time usage data and two way communications with AMI, MCE's ability to offer DR services to its customers is limited.

This is a cost allocation issue that can and should be resolved in this proceeding because both bundled and CCA customers are paying the full cost of AMI devices and related services, but only the bundled customer has access to the full range of DR programs that can be provided by its LSE using that AMI infrastructure. In order to develop and administer its own Supply Resource and Load-Modifying Resource programs, MCE must have access to real-time AMI

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[23] Exh. MCE-01 at 2; *See also* Comments of MCE on Demand Response Pilot Program Proposals During the 2015-2016 Bridge Funding Period (March 3, 2014) at 3.

[24] Comments of MCE on Demand Response Pilot Program Proposals During the 2015-2016 Bridge Funding Period (March 3, 2014) at 4.

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data. In particular, any Supply Resource programs that MCE aspires to offer to its customers will depend upon real-time usage data via the AMI backbone.

MCE's lack of access to real-time AMI data through PG&E meters is also an obstacle to the full implementation of MCE's EE programs. The issue of access to real-time AMI data and other PG&E customer data has been raised, but not yet resolved in Rulemaking 13-11-005 and in Phase 2 of Rulemaking 08-12-009. MCE has worked diligently with PG&E and has made some progress in this area, but access to real-time AMI data is not part of the current CDA roll-out. There is currently no Commission order requiring PG&E to provide MCE access to real-time CCA customer usage data for the purpose of effectuating MCE's EE program plans, and no timeline for addressing this issue definitively.

In order to enable CCA customers to take full and fair advantage of the DR benefits enabled through the EMI devices that every IOU customer pays for, *and* in light of the clear directive in Public Utilities Code Section 366.2(c)(9), the Commission needs to develop and implement rules enabling CCAs access to real-time AMI data for the purpose of providing DR products and services. MCE urges the Commission to prioritize this issue. In order to develop a DR program and determine what DR products to offer its customers, MCE needs to know when and under what conditions it will have access to AMI real time data. MCE cannot complete its plans for developing and funding DR programs, and can only have rudimentary discussions with third party service providers until there is a Commission order mandating real-time AMI data access and a process and schedule for implementing that order.

VI. The Commission should revise the manner in which participation incentives for DR programs are applied to bundled and/or unbundled customers' bills so the methodology is no longer anticompetitive by design

Ratepayer incentives for participation in DR programs are generally passed on to customers through on-bill credits. Bundled customers participating in DR programs receive these

incentives as credits to both their generation and delivery charges. Since a CCA does not manage the delivery portion of its customers' service, a CCA cannot capture and monetize the delivery-related benefits in the way the IOUs can. The CCA needs to have access to the DR funds collected from customers (on the delivery side of the bill) to provide equal incentives on the generation portion of the bill. At this time the only incentive available to the CCA for generation-related benefits, is the relatively small RA credit provided for DR activity.

This split incentive structure effectively forces ratepayers within the CCA's service territory that wish to participate in DR with the anti-competitive choice between either (i) a partial (generation-only) incentive for participating in DR programs as a CCA or unbundled customer, or (ii) a full (generation and delivery) incentive for participating in DR programs as a bundled customer. DR program design allowing the splitting of incentives should not be permitted, since it forces ratepayers to choose between participating in a CCA or participating in DR. This problem may be partially mitigated to the extent that the Commission updates DR cost allocation to move generation-related costs to the generation side of the bill. However, it is also a program design issue that can only be addressed by a rule that expressly precludes an IOU from splitting an incentive through on-bill credits to both generation and distribution charges.

VII. Conclusion

Under the current DR cost allocation framework most IOU DR program costs are currently collected through distribution rates. The justification for this approach is apparently rooted in historical practice, a preference for simplicity, and an overly-broad presumption that DR programs provide a distribution-side benefit to all customers of the IOU. It is patently unfair to non-bundled customers who are forced to subsidize IOU programs that they are not eligible for and that do not benefit them. And it is antithetical to the statutes granting CCAs autonomy in providing energy services to their community members. In order to achieve the Commission's

goal of eliminating barriers to the expansion of DR and providing additional innovation and services to the market, the Commission should adopt MCE's recommended guidelines for a more rational and fair approach to cost allocation.

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