

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 6

To: Valley Clean Energy Alliance Board of Directors

From: Mitch Sears, City of Davis Sustainability Manager
Shawn Marshall, LEAN Energy US

Subject: Regulatory & Legislative Update

Date: December 14, 2017

RECOMMENDATION: Receive regulatory and legislative report.

BACKGROUND & DISCUSSION:

Participation in CCA regulatory and legislative affairs is a critical aspect of VCEA's long-term planning, operations, and risk management strategy that will grow in importance as VCEA draws closer to CPUC certification and program launch. At present, LEAN Energy is providing regulatory monitoring and reporting on key regulatory issues affecting emergent CCAs. Cal-CCA, a statewide trade association of which VCEA is now a full member, participates in regulatory proceedings and also provides coordinated legislative support in Sacramento.

Regulatory Proceedings/Priorities: Attached please find LEAN's most recent regulatory report (dated December 7, 2017) which provides a summary overview and several links to supporting documents regarding key regulatory issues currently before the CPUC.

Legislative Report

No legislative activity to report this month but staff anticipates activity in the first quarter of 2018 to pick up as the legislative session begins. In addition, in January staff and the Community Advisory Committee will be bringing forward a recommended VCEA Legislative and Regulatory tracking and response policy for consideration by the Board.

Attachments

1. LEAN Energy US November/December Regulatory Report
2. CalCCA Quaterly Report – October 201



To: LEAN Energy Clients:
Coachella Valley Association of Governments
East Bay Community Energy
Monterey Bay Community Power
Valley Clean Energy Alliance
Western Riverside Council of Governments

From: Shawn Marshall, Executive Director, LEAN Energy US

Date: December 7, 2017

Subject: Regulatory Update #17, November/December 2017

Each month, LEAN focuses on regulatory activities likely to have broad impact on the Community Choice Aggregation (CCA) community and emergent CCA programs. This memo provides an update on key developments at the California Public Utilities Commission (CPUC) and California Energy Commission (CEC) in the past month.¹

CUSTOMER CHOICE WORKSHOP – OCTOBER 31

On October 31, the CPUC held a workshop on customer choice at the State Capitol (see [Notice](#), [Webcast](#), and [Rough Notes](#)). Comments in response to the [Post Workshop Questions](#) were filed by a number of parties, including CalCCA. All updates on this matter, including all comments, will be posted on the [California Customer Choice Project webpage](#).

CPUC REGULATORY CASE DEVELOPMENTS

Power Charge Indifference Adjustment (PCIA) Rulemaking Proceeding And Related Matters

To Do:

LEAN is monitoring developments in the [PCIA Rulemaking Proceeding](#).

Background:

As previously reported, the topics for consideration in the PCIA rulemaking include:

- Improving the transparency of the existing PCIA process;
- Revising the current PCIA methodology to increase stability and certainty;
- Reviewing specific issues related to inputs and calculations for the current PCIA methodology;
- Considering alternatives to the PCIA;

¹ This monthly memo is designed to provide LEAN’s clients with a current snapshot of key regulatory activities related to CCA in order to help them make informed decisions about whether and how to engage in regulatory processes during their program formation and early operations. This monthly report is not a comprehensive inventory of regulatory and statutory requirements impacting operational CCAs. Regulatory and statutory compliance requires a more comprehensive inventory than the subset of activities described herein, and must be tailored to the specific circumstances of each CCA program.

- SB 350 considerations on the treatment of bundled retail customers and departing load customers;
- Status of PCIA exemptions for California Alternate Rate for Energy (CARE) and Medical Baseline (MB) customers.

On September 25, a [Scoping Memo](#) was issued establishing two Tracks of the PCIA Rulemaking proceeding. Track 1 will address exemptions from the PCIA for customers participating in the CARE and MB programs, while Track 2 will consider alternatives to the current PCIA methodology, with initial emphasis placed on how to get proper access to PCIA data through a protective order.

Track 1 – PCIA Exemption Recent Activity:

There are currently ongoing procedural and settlement discussions. The active Track 1 parties have requested that the procedural schedule be extended so that parties may supplement the record prior to briefing. Active Track 1 parties have also initiated settlement discussions.

Track 2 – PCIA Methodology Recent Activity (currently reviewing data access issues):

On October 23, a [Joint Report](#) was submitted describing the areas of consensus and remaining open issues resulting from the meet and confer process (which addressed availability of procurement data).

On October 24, the CPUC held Workshop 1 “Review of Current Methodology.” (See [Workshop Notice](#) and [Presentation](#).)

On November 6, CalCCA had an *ex parte* meeting with assigned Commissioner Peterman’s advisor regarding confidential data access. (See [Notice](#) and [slide deck](#)).

On November 22, a [ruling](#) was issued that resolved various data access disputes between CalCCA and the IOUs, largely favoring CalCCA’s request that the IOUs provide greater access to procurement data. The ruling also directed that the parties engage in further meet-and-confer sessions and provided additional guidance regarding procurement data availability.

Next Steps:

- December 1: Initial Track 1 Settlement Teleconference
- December 5/December 6: Continuation of “PCIA Workshop 1” in Irwindale and San Diego (See [Email Notice](#))
- [January 15]: Requested date for Opening brief on PCIA exemptions for CARE and MB programs
- [February 16]: Requested date for Reply briefs on PCIA exemptions for CARE and MB programs

Integrated Resource Planning (IRP)

To Do:

LEAN is monitoring [this proceeding](#) and considering forming a working group to address CCA IRP issues.

Background:

This rulemaking proceeding is addressing the new IRP requirements associated with SB 350, as well as long-term procurement planning (LTPP) policies.

On May 16, the Energy Division issued [their proposal](#) on the IRP planning process. As previously reported, it appears that the Energy Division is proposing a prescriptive approach with respect to the IRP process, with significant requirements on Community Choice Aggregators serving 700 GWh or more per year in electric load. Community Choice Aggregators serving less than 700 GWh per year will likely be subjected to far fewer requirements. The following are summaries of parties’ [opening comments](#), submitted on June 28, and [reply comments](#), submitted on July 12.

On September 19, a [Ruling](#) was issued distributing a proposed Reference System Plan (RSP) (See [Summary of Ruling](#)). On September 25-26, a workshop took place providing preliminary feedback on the Proposed Reference System Plan of the IRP process (See [Agenda/Presentation](#), and [Summary](#).)

Recent Activity:

On October 26, parties submitted opening comments on the the Proposed RSP ([CalCCA comments](#), [General Summary](#) and [Question Summary](#)).

On November 2, there was an All-Party meeting on the proposed IRP process and RSP (See [Presentation](#) and [Summary](#)).

On November 9, parties submitted reply comments on the Proposed RSP ([CalCCA Reply Comments](#) and [Summary of all Reply Comments](#).)

Next Steps:

- End of 2017: Proposed Decision on RSP and IRP filing guidance for LSEs
- Second Quarter 2018: IRP filings by individual LSEs

CCA Bond Requirements

To Do:

LEAN will continue to monitor [this proceeding](#).

Background:

This rulemaking proceeding was originally opened in 2003 to implement the CCA enabling statute (Assembly Bill (AB) 117). However, this rulemaking proceeding is now simply focused on the methodology for setting the CCA Bond, which is intended to cover the costs of involuntary re-entry fees of CCA customers to bundled IOU service. Opening testimony was submitted on July 28. (See [CalCCA Testimony](#) and [CalCCA Appendices to Testimony](#); [Marin Clean Energy \(MCE\) Opening Testimony](#) and [MCE Appendices](#); [Joint Utilities Testimony](#)).

The Joint IOUs served [rebuttal testimony](#) on August 25. CalCCA also served [rebuttal testimony](#) on August 25. On September 18, [CalCCA](#) and [Joint IOUs](#) provided comments noting that evidentiary hearings are necessary.

Recent Activity:

On November 6, parties filed opening briefs ([Joint IOUs](#) and [CalCCA](#)). On November 20, parties filed reply briefs ([Joint IOUs](#) and [CalCCA](#)).

Next Steps:

- Issuance of a Proposed Decision (PD) is expected in first quarter 2018.

PG&E 2018 Energy Resource Recovery Account (ERRA) Proceeding / SCE 2018 ERRA Proceeding

To Do:

LEAN will continue to monitor the [PG&E ERRA Proceeding](#) and the [SCE ERRA Proceeding](#).

Background:

In the [Consolidated ERRA Proceeding](#), the CPUC is considering whether to end the PCIA for pre-2009 vintage customers and how to dispose of PG&E's negative PCIA balance. CCA interests are seeking to ensure that any positive treatment for pre-2009 vintages also applies to CCA-related vintages.

PG&E ERRA

- On June 1, PG&E submitted its [ERRA Testimony](#) for approval of its forecast 2018 ERRA revenue requirement. On August 4, a [Scoping Memo and Ruling](#) stated that the PCIA rulemaking, not ERRA proceedings, is the proper forum to discuss policy issues, such as changing existing methods of calculation that are applicable to all IOUs.

SCE ERRA

- On May 1, SCE submitted its [Testimony](#) for approval of its forecast 2018 ERRA revenue requirement. The California Choice Energy Authority (Cal Choice) is actively participating in this proceeding on behalf of Lancaster and other southern California cities. On August 24, the active parties in the proceeding, including Cal Choice, filed a [Stipulation](#) on issues to be addressed in the proceeding regarding SCE's proposed PCIA, with particular focus on the lack of meaningful oversight of SCE's PCIA calculation (and resulting errors that can occur).

Recent Activity:**PG&E**

- On November 2, PG&E submitted its updated testimony ("[November Update](#)"); a [Motion to Seal the Evidentiary Record](#) and a [Motion to Offer the November Update into Evidence](#)
- On November 6, SCP submitted [comments](#) on the November Update
- On November 17, SCP submitted an [Opposition](#) to the Motion to Admit November Update Testimony
- On November 17, MCE, Peninsula Clean Energy (PCE) and Silicon Valley Clean Energy (SVCE) submitted a [Joint Response](#) to the Motion to Offer the November Update into Evidence and Admit the November Update into the Record

SCE

- On November 13, SCE submitted its updated testimony ("[November Update](#)")
- On November 16, Cal Choice submitted [comments](#) on the November Update

Next Steps:**PG&E**

- A PD is expected in early-December

SCE

- A PD is expected no later than December 4
- Comments on the PD are due December 8

Renewables Portfolio Standard (RPS)-Procurement Plans**To Do:**

LEAN will continue to monitor [this proceeding](#).

Background:

This rulemaking proceeding addresses ongoing oversight of the RPS program, including review of procurement plans and reporting on RPS progress. The following CCA-related RPS Procurement Plans were submitted July 21:

- [Apple Valley Choice Energy](#)
- [Lancaster Choice Energy “LCE”](#)
- [SVCE](#)
- [MCE](#)
- [PCE](#)
- [Pico Rivera Innovative Municipal Energy](#)
- [Redwood Coast Energy Authority](#)
- [SCP](#)

Comments on the RPS Procurement Plans were filed on August 18, with certain parties arguing that CCA programs are not investing in new, long-term renewable projects. (See [Summary of Comments](#).) On September 22, [Apple Valley Choice Energy](#), [Pico Rivera Innovative Municipal Energy](#), [SVCE](#) and [LCE](#) submitted Updated 2017 RPS Procurement Plans. On November 1, several CCAs submitted supplemental compliance documents.

Recent Activity:

November 14: [Proposed Decision](#) issued. Of particular note, the PD approves all of the submitted CCA RPS procurement plans. The PD also adopts other positive elements.

Next Steps:

- December 4: Opening Comments on PD
- December 11: Reply Comments on PD

PG&E’s Diablo Canyon Power Plant Closure

To Do:

LEAN will continue to monitor [this proceeding](#).

Background:

On June 20, 2016, PG&E and other parties distributed a [Joint Proposal](#) governing the closure of Diablo Canyon and replacement of Diablo Canyon with a greenhouse gas (GHG) free portfolio of energy efficiency, renewables, and energy storage that includes a 55 percent RPS commitment by 2031.

Recent Activity:

- November 8: [Proposed Decision](#) issued. The PD approves retirement and \$190.4 million in certain rate recovery for costs, but otherwise denies PG&E’s various requests (including authorization to procure additional energy efficiency and renewable resources, and authorization to provide community and other benefits).
 - Certain CCAs joined with other intervenors in supporting the PD. (See [Notice](#) and [Slides](#).)
- November 28: Final Oral Arguments
- November 29: Opening Comments on PD (See [Joint Intervenors Comments](#) and [PG&E Comments](#))
- December 4: Reply Comments on PD due

Next Steps:

- December 14: Expected Adoption of Final Decision

SDG&E's Request to Establish a Marketing Affiliate (Advice Letter 2822-E) (CCA Code of Conduct)

To Do:

No change since last month. LEAN will continue to monitor activity related to this matter.

Background:

On January 27, SDG&E filed a revised compliance plan, [Advice Letter 3035](#), for its Independent Marketing Division (IMD). On February 16th, LEAN joined with other parties in [protesting](#) this latest advice letter. On April 6, the Energy Division issued a [Disposition Letter](#) approving AL 3035. On April 17, the CalCCA sent a [letter](#) to the Commission requesting full Commission review of the Disposition Letter, and reiterating an earlier request for an Order to Show Cause regarding lobbying activity that SDG&E/Sempra conducted before the Advice Letter was approved. CalCCA's request, however, does not suspend the effectiveness of the Energy Division's approval. CPUC staff indicated in a teleconference on July 24 that no formal action will be taken on the Order to Show Cause.

On a matter related to the CCA Code of Conduct, Cal Choice submitted a [Letter](#) to assigned Commissioners on September 25. The letter expressed concern for SCE's conduct in forming a coalition related to the PCIA. On September 28, SCE submitted a [Response](#).

Next Steps:

- The CPUC's Energy Division will prepare a draft resolution addressing CalCCA's request for full Commission review of the disposition letter
- Separately, the CPUC's Legal Division is preparing a decision responding to SDG&E's application for rehearing of Resolution E-4874, which determined that SDG&E's IMD is also subject to the CPUC's affiliate transaction rules

Tree Mortality Nonbypassable Charge (NBC)

To Do:

LEAN will continue monitoring [this proceeding](#).

Background:

On November 14, 2016, the IOUs filed their proposal to establish a Tree Mortality NBC ([Testimony](#).) CalCCA filed a [Protest](#). On July 14, 2017 CalCCA filed a [motion](#) arguing that parties should be allowed to argue for different cost recovery treatment for costs that have been statutorily authorized, on the one hand, versus costs that have simply been authorized by the Commission.

Next Steps:

- December 12: Informal Workshop on BioRAM NBC Mechanism IOU/CCA proposals (See [Email Notice](#))
- A Scoping Memo will be issued defining the scope of issues and procedural schedule

Proposed CCA Fee Reductions - PG&E General Rate Case (GRC) Phase 2

To Do:

LEAN has been monitoring [this proceeding](#) as related to CCA service fees. Now that this issue has been resolved (see below), LEAN will no longer be monitoring this proceeding.

Background:

PG&E's Phase 2 Application is used to, among other things, consider new rate proposals. PG&E has proposed significant reductions on CCA fees: Meter Data Management Fee (going from \$7.67 to \$0.14 per meter/month charge) and the Billing Service Fee (going from either \$0.44 or \$1.14, depending on whether it is bill-ready or rate-ready, to \$0.21 per service agreement/billing cycle). On October 9, PG&E filed a [Motion](#) for adoption of a settlement agreement on reduced CCA service fees. On October 17, a telephonic PHC was held (See [Email Ruling](#) with summary).

SCE has also proposed significant reductions in its CCA service fees. (See SCE [Testimony](#) on CCA Service Fees). On September 14, a [Decision](#) adopting the Lancaster/SCE settlement was issued. Reduced CCA fees became effective in mid-October.

Default Time of Use ("TOU") and Marketing Education and Outreach ("ME&O") Residential Rate Rulemaking

To Do:

LEAN will continue to monitor developments in [this proceeding](#).

Background:

On April 14, SCE filed an [Application and Testimony](#) to approve its *Default* TOU rates for residential customers. Under SCE's proposal, a limited number of customers would be put on TOU rates starting in the fourth quarter of 2018. On August 24, the CPUC issued a [Decision](#) dismissing SCE's application and directing that SCE refile its proposal consistent with the timeline for the other IOUs (by January 1, 2018). SCE indicated that it will likely request in the new application to defer default of all customers until 2021 (after the fourth quarter of 2020), in order to allow for implementation of SCE's billing system changes.

On June 28, a [Draft Resolution](#) was issued on PG&E's *Pilot* Residential Rate TOU program. MCE and SCPA are the only CCAs participating in PG&E's Pilot TOU program; all other CCAs are excluded from participation. On July 31, MCE and SCPA submitted [comments](#) on the Draft Resolution, expressing concern about PG&E's lack of progress in providing a comparable bill-calculator for CCA customers. On August 10, a [Final Resolution](#) approved PG&E's Pilot Residential Rate TOU program. The resolution clarified that PG&E may recover costs necessary to provide CCA customers with rate comparisons for the default pilot entirely through distribution rates. However, the resolution declined to provide any direction regarding the appropriate method or cost recovery for creating a long term rate comparison tool solution for CCA customers.

On September 26, the CPUC submitted [Draft Resolution E-4882](#) addressing PG&E's ME&O on Residential Default TOU Rates. On October 30, [CCA parties](#) (MCE, SCP and SVCE) submitted a response to the Draft Resolution, arguing that CCA representatives should be involved in marketing material.

Recent Activity:

- [Proposed Decision](#) on statewide ME&O, which expands the existing Energy Upgrade California campaign and allows utilities to switch customers to TOU rates in waves.

Next Steps:

- December 4: Comments on ME&O PD due
- December 4: Annual Residential Electric Rate Summit providing status on 2017 rate changes, ME&O and TOU (See [Email Notice](#))
- December 11-12: Rate Design forum encouraging integration of renewable energy, and more efficient use of storage (See [Email Notice](#))
- December 14: Expected decision on Draft Resolution E-4882 (PG&E's ME&O plan)
- January 1: IOUs required to file applications for *default* TOU programs by, for implementation in 2019

CEC REGULATORY CASE DEVELOPMENTS

Implementation of AB 1110 – Power Source Disclosure

To Do:

LEAN is monitoring developments in this [CEC Proceeding](#). (See [OIR](#).)

Background:

This proceeding considers modifications to the Power Source Disclosure Program. Retail sellers, which includes CCAs, will be required to disclose both GHG emissions intensity of their respective electricity portfolios offered to customers and the CEC's calculation of GHG emissions intensity associated with all statewide sales. Retail sellers will also annually report other information to verify procurement claims and environmental claims made for the previous year. The CEC is required to adopt program guidelines by January 1, 2018. On June 27, CEC staff issued the [AB 1110 Implementation Proposal](#). Numerous parties have submitted comments on the proposal. On September 18, PCE submitted a fairly detailed set of [Comments](#).

Next Steps:

- Development of revised implementation proposal

CPUC/CEC – JOINT ACTIVITY

Environmental Justice (EJ) and Disadvantaged Communities (DAC) Issues

To Do:

LEAN will monitor any developments that result from the *En Banc* hearing and the current DAC Advisory Group Proposal.

Background:

Senate Bill (SB) 350 requires that the CPUC and the CEC create a DAC Advisory Group (DACAG), which will assist the two Commissions in understanding how energy programs impact these communities. The CPUC held an *en banc* hearing on July 6. Notes from the *en banc* are available [here](#). On July 31, the CPUC and the CEC provided notice of their [proposal](#) to establish the DACAG. (See [summary](#).) MCE filed [comments](#) on this proposal, arguing that CCAs and their representatives are uniquely positioned to communicate with and represent the DACs they serve, and therefore, that the DACAG should have at least one CCA community representative. On November 1, the CPUC released a [Draft Resolution](#) and a [Solicitation Letter](#) proposing to establish a charter for the DACAG.

Next Steps:

- December 14: Possible CPUC approval of Resolution on DACAG charter.