

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 10

To: Valley Clean Energy Alliance Board of Directors

From: Mitch Sears, Interim General Manager
Shawn Marshall, LEAN Energy US

Subject: Regulatory & Legislative Update

Date: September 20, 2017

RECOMMENDATION: Receive regulatory and legislative updates and provide feedback/direction as desired.

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, the newly formed statewide trade association in which VCEA is an affiliate member, participates in regulatory proceedings and also provides coordinated legislative support in Sacramento. Legislative threats and activity in Sacramento at the end of this 2017 legislative session have dominated the scene. Thankfully, there is good news to share below.

Regulatory Proceedings/Priorities: Attached please find LEAN's most recent regulatory report (dated September 14, 2017) which provides a summary overview and several links to supporting documents regarding key regulatory issues currently before the CPUC, including but not limited to:

- 1) PCIA/Exit Fee Reform Rulemaking Proceeding
- 2) Environmental Justice and Disadvantaged Communities Issues (new)
- 3) Integrated Resource Planning (IRP)
- 4) CCA Bond Requirements
- 5) Renewable Portfolio Standard Procurement Plans
- 6) PG&E's 2018 Energy Resource Recovery Account (ERRA) Proceeding
- 7) PG&E Diablo Canyon Plant Closure
- 8) Default Time of Use Residential Rate Rulemaking

Legislative Report/End of 2017 Session

In the waning weeks of the 2017 Legislative Session, there were rumors that language would be introduced into a bill that would effectively put a freeze on the development of new CCAs in California, potentially threatening VCEA's ability to move forward. When this first became known, many surmised that it was the result of a legislative workshop held in mid-August about

the future of the grid and independent system operator, retail energy services and the impact of alternative providers, including CCA. In addition, the idea that the CPUC and related Parties needed time to get through a complex proceeding regarding PCIA reform was also discussed. Things evolved rapidly after Labor Day and the issues morphed into a “package of bills” that involved accelerated procurement in advance of the 2020 expiration of the investment tax credit and grid regionalization, an issue that has many implications beyond CCA concerns.

In the last week, three bills – AB 726 and AB 813 (which are virtually the same) and SB 100 became the focus of Cal-CCA and allied organizations’ efforts. Harmful language that was added at the last minute to SB 100 was amended so that Cal-CCA now stands in support of the bill, which is still in play as of this writing. The more egregious bills, AB 726/813, failed to move forward, and on September 13 were placed into the two-year bill cycle. The statement from the bill’s Author Chris Holden, Chair of the Committee on Utilities and Energy, is below.

“Assembly Bills 726 and 813 will not move forward this year. After several months of questions and reviews of the ISO studies, including an informational hearing of the Assembly Committee on Utilities & Energy, there has been constructive dialogue on the process that the ISO should utilize in further consideration of regionalization. It’s important to recognize that these bills did not authorize regionalization of the grid. The bills established the next steps for the ISO to follow. But there is still more to discuss starting with the role of the Legislature in review of any proposed governance structure of a new ISO. We will continue our work on the issues over the fall and likely revisit it in the second half of this two-year session.”

Attachments: LEAN Energy US August/Sept Regulatory Report



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

From: Shawn Marshall, Executive Director, LEAN Energy US

Date: September 14, 2017

Subject: Regulatory Update #14, August/September, 2017

Each month, LEAN focuses on the key 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) over the past month.¹

CPUC/CEC – KEY DEVELOPMENT

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

To Do:

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

Issues:

Senate Bill (SB) 350 requires the CPUC to help improve air quality and economic conditions in communities identified as “disadvantaged.” Additionally, 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 areas and could be improved. As reported last month, 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](#).) Marin Clean Energy (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.

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 all the regulatory and statutory requirements impacting operational CCAs. Regulatory and statutory compliance requires a much more comprehensive inventory than the subset of activities described herein, and must be tailored to the specific circumstances of each CCA program.

Next Steps:

- The CPUC/CEC will use stakeholder feedback to draft a DACAG charter and application

KEY REGULATORY CASE DEVELOPMENTS

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

To Do:

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

Issues:

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;
- 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 July 31, twenty-four parties, including [CalCCA](#), filed opening comments on the PCIA OIR. (See [summary](#).) On August 11, a [ruling](#) set a prehearing conference for August 31, and requested prehearing conference statements. On August 24, California Choice Energy Authority, a joint powers authority that provides support services to CCA programs in Southern California (Cal Choice), submitted a [prehearing conference statement](#), which focuses on: i) Southern California Edison Company's (SCE) proposal to eliminate the PCIA exemption for CARE customers and ii) Cal Choice's concerns about improper cost allocation, namely, concerns that SCE is applying artificially lower costs to SCE's generation function. Other parties submitted prehearing conference statements. (See [summary](#).)

On a related note, several CCAs, along with the IOUs, filed a [Petition for Modification](#) of D.06-07-030 on April 5, 2017 to direct the IOUs to include a common PCIA calculation workpaper template in ERRA Forecast applications. On August 24, 2017, the CPUC approved the [decision](#) granting the petition.

Next Steps:

- The CPUC will issue a Scoping Ruling setting the schedule and scope for the PCIA rulemaking proceeding.

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](#).

Issues:

The annual ERRA proceeding is the proceeding in which the PCIA is generally addressed.

In each of the IOU's 2017 ERRA proceedings, parties disputed termination of the PCIA and retirement of the negative indifference amount for pre-2009 direct access (DA) customers. The Commission deferred the issues to a consolidated second phase for 2017. (See [Consolidated ERRA Proceedings](#).) On August 17, SCE submitted [testimony](#) regarding its proposed methodology in calculating PCIA for its pre-2009 vintages. A second prehearing conference will occur on September 25, 2017, with the expectation that parties may agree on an expedited schedule to resolve outstanding issues on whether the PCIA should apply to pre-2009 vintages.

On June 1, PG&E filed its [ERRA Application](#) and [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. On August 28, 2017, Sonoma Clean Power (SCP) submitted [Testimony](#) arguing for a reduction in PG&E's PCIA for various reasons.

A [Scoping Memo](#) was issued in SCE's ERRA proceeding. 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).

Next Steps:

PG&E

- Rebuttal Testimony Due September 9
- Evidentiary Hearings September 20-22
- Opening Briefs Due October 2
 - Reply Briefs Due October 16

SCE

- Opening Briefs Due September 22
 - Reply Briefs Due October 13

Integrated Resource Planning (IRP)

To Do:

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

Issues:

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. Also on May 16, a [ruling](#) was issued seeking comments on and responses to questions regarding this proposal. 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 are subjected to far fewer requirements under the Energy Division proposal. The following are summaries of parties' [opening comments](#), submitted on June 28, and [reply comments](#), submitted on July 12.

At a August 23 legislative hearing concerning CCA programs, CPUC President Picker made several comments regarding IRP and LTPP matters. President Picker noted that there was an argument that CCAs are not building additional renewables, and instead they are taking away from what might otherwise be IOU long-term

procurement. President Picker stated that, in order for the CCAs to increase the amount they procure, the CCAs appear to be asking the CPUC to break existing contracts with large renewable generators, so that there is more space for them to acquire contracts that they control. Sonoma Clean Power (SCP) provided an open letter responding to this misunderstanding. (See [SCP Letter](#).) CPUC President Picker cautioned that the CPUC is going to have to be careful, thoughtful and broad about this discussion. He stated the IRP process would be the place to have this discussion, and that a workshop in IRP might be helpful.

Next Steps:

- As reflected in the June 13, 2017 CPUC ruling ([Formal Ruling Modifying Schedule and Clarifying Questions](#)):
 - September 12, 2017: Release of Proposed Reference System Plan
 - October 26, 2017/November 9, 2017: Opening/Reply Comments on Proposed Reference System Plan
 - November 2, 2017: All-party Meeting with Commissioners
 - End of 2017: Proposed Decision on Reference System Plan and IRP filing guidance for CCAs and others
 - Second Quarter 2018: IRP filings by individual CCAs and others

CCA Bond Requirements

To Do:

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

Issues:

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, 2017. CalCCA also served [rebuttal testimony](#) on August 25, 2017.

Next Steps:

EVENT	DATE
Evidentiary Hearings	October 11-12, 2017
Post-hearing Briefs	TBD after hearings
Post-hearing reply Briefs	TBD after hearings

Renewables Portfolio Standard (RPS)-Procurement Plans

To Do:

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

Issues:

This rulemaking proceeding addresses ongoing oversight of the RPS program, including review of procurement plans, tools for analysis of and reporting on progress of retail sellers, assessment of compliance, legislative mandates

and administrative requirements. As reported last month, RPS Procurement Plans were submitted on July 21, including (but not limited to) the following CCAs:

- [Apple Valley Choice Energy](#)
- [Lancaster Choice Energy](#)
- [Silicon Valley Clean Energy \(“SVCE”\)](#)
- [MCE](#)
- [Peninsula Clean Energy \(“PCE”\)](#)
- [Pico Rivera Innovative Municipal Energy](#)
- [Redwood Coast Energy Authority](#)
- [Sonoma Clean Power Authority \(“SCPA”\)](#)

Comments on the RPS Procurement Plans were filed on August 18. The following is a summary of the comments, with certain parties arguing that CCA programs are not investing in new, long-term renewable projects. (See [Summary of Comments](#).)

Next Steps:

- Reply comments on the RPS Procurement Plans are due September 1
- Motions for evidentiary hearings are due September 1
- Motions to update RPS Procurement Plans are due September 22

PG&E’s Diablo Canyon Power Plant Closure

To Do:

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

Issues:

With the filing of reply briefs on June 16 ([Joint Opponents, PG&E](#), and [City and County of San Francisco](#)), this proceeding is now submitted for the issuance of a proposed decision.

On August 18, PG&E, Friends of the Earth, Natural Resources Defense Counsel, the Coalition of California Utility Employees and the International Brotherhood of Electrical Workers Local 1245 submitted a [Joint Letter](#) requesting that the CPUC adopt a binding decision that Diablo Canyon output be replaced with greenhouse gas (GHG)-free resources as part of the IRP proceeding, and that the CPUC mandate a procurement program for all load serving entities to ensure that GHG-free resources are available to replace Diablo Canyon output.

Next Steps:

- An additional public participation hearing will take place in San Luis Obsipo on September 14.
- A proposed decision is expected in September.

SDG&E’s Request to Establish a Marketing Affiliate (Advice Letter 2822-E)

To Do:

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

Issues:

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.

Next Steps:

- September 2017: 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

To Do:

LEAN is monitoring [this proceeding](#).

Issues:

The IOUs filed their proposal to establish a Tree Mortality Nonbypassable Charge in A.16-11-005. On July 14, 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. On July 28, the Alliance for Retail Energy Markets (AREM) and Direct Access Customer Coalition (DACC) filed a [response in support](#), as did [Shell Energy](#), whereas the Joint IOUs [opposed the CalCCA motion](#).

On July 18, the IOUs filed a [motion regarding the procedural schedule](#).

Next Steps:

- A Scoping Memo will be issued defining the scope of issues and procedural schedule

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

To Do:

LEAN is continuing to monitor [this proceeding](#).

Issues:

PG&E's Phase 2 Application is used to determine where the revenue requirement will be allocated among all customer classes and where new rate designs will be considered. On August 25, PG&E filed the [Seventh Settlement Status Report](#). A settlement in principle has been reached on revenue allocation and on DA/CCA service fees, with efforts aimed at finalizing settlement agreements for these areas.

The earliest that rates are expected to change from this proceeding is 2018. However, several parties are pursuing early implementation of CCA service fee reductions. The Status Report indicates that while parties intend to file individual settlement agreements as they are finalized, they expect one proposed decision would then encompass the entire group of settlements. This is problematic for CCA interests that may want the CCA fee settlement to proceed ahead of other settlements. PG&E has proposed significant reductions in the 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).

SCE is also considering significant reductions in its CCA service fees as part of a pending request in SCE's GRC1 to approve a [settlement agreement](#) with the city of Lancaster. On August 15, a [Proposed Decision](#) adopting this settlement was issued. The proposed decision is expected to be considered at the Commission's September 14, 2017 Business Meeting.

Next Steps:

- Settlement discussions continue, with the hope of introducing a proposed reduction in certain CCA fees sooner than January 1, 2018.

Default TOU and ME&O-Residential Rate Rulemaking

To Do:

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

Issues:

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, 2017, 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, 2017, a [Draft Resolution](#) was issued on PG&E's Pilot Residential Rate TOU program. The Draft Resolution did not address key issues, such as cost-recovery for PG&E's development of a rate comparison feature for CCAs (comparing rates under the pilot vs. standard rates). 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 (among other issues) 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.

Next Steps:

- The IOUs are required to file applications for full/default TOU programs by January 1, 2018, for implementation in 2019.