

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 7

To: Valley Clean Energy Alliance Board of Directors

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

Subject: Regulatory & Legislative Update

Date: November 16, 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, 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 November 7, 2017) which provides a summary overview and several links to supporting documents regarding key regulatory issues currently before the CPUC.

Of particular note this past month was a CPUC-sponsored workshop on California Customer Choice held on October 31 at the State Capitol. The workshop was informal (meaning no action was taken) and is part of the Commission's focus on CA's evolving regulatory framework and electric market choice models from around the US and world. VCEA interim General Manager, Mitch Sears, attended the meeting and provided public comment. VCEA Community Advisory Committee Chair A link to workshop notes is included in the LEAN regulatory report.

Legislative Report

No legislative activity to report this month.

The Community Advisory Committee has formed a subcommittee to monitor legislative and regulatory activity. Staff is beginning to work with the subcommittee to identify how it can provide the greatest value to VCEA.

Attachment

1. LEAN Energy US Oct/November Regulatory Report



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

From: Shawn Marshall, Executive Director, LEAN Energy US

Date: November 7, 2017

Subject: Regulatory Update #16, October/November 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 May 19, the CPUC and CEC jointly held an en banc hearing on retail competition issues (see [Rough Notes](#)), with post-hearing comments being filed by a number of parties, including [CalCCA](#) (See all [Comments](#).)

On October 31, the CPUC held another workshop on customer choice, this time at the State Capitol ([Notice](#).) (See [Rough Notes](#).)

Next Steps:

- November 13: Comments due in response to October 31 [Post Workshop Questions](#).

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:

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.

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 31, the CPUC held a prehearing conference (PHC). (See [PHC Statements Summary](#); [PCIA PHC Transcript](#).) 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.

Related Activity:

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

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.

Recent Activity:

On October 18, PG&E sent a [letter](#) recommending pausing the implementation of new CCA programs pending the replacement or reformation of the PCIA. SCE sent a similar letter on September 19. (See [SCE Letter](#).)

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).

- See [Slide Deck](#), which provides an overview of the Joint Utilities proposal on PCIA data access
- See [Proposal](#) of CalCCA on data availability issues and [proposed changes](#) to nondisclosure agreement

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

Next Steps:

- November 6: CalCCA's ex parte meeting with assigned Commissioner Peterman's advisor. (See [Notice](#))
- November 21: Joint Motion of Track 1 Parties regarding prior testimony (See [Email Ruling](#))
- December 1: Status report from parties on next steps and evidentiary hearings
- December 8: Opening brief on PCIA exemptions for CARE and MB programs (Reply briefs: January 12)

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 (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 and Presentation](#), and [Summary](#).)

Recent Activity:

On October 10, a [Ruling](#) granted motions of CCA parties for official notice of future load growth among operational CCA programs. The Ruling takes notice that certain government actions have occurred regarding state's offshore wind resources, but does not take notice for purposes of reliance on any underlying facts associated with those actions. On October 26, parties submitted opening comments on the the Proposed Reference System Plan ([CalCCA comments](#)).

Next Steps:

- As confirmed in September 19 Ruling:
 - November 2: All-party Meeting with Commissioners (See [Agenda](#).) (See [Presentation Material](#).)
 - November 9: Reply Comments on Proposed Reference System Plan
 - End of 2017: Proposed Decision on Reference System Plan 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:

Evidentiary hearings took place October 11-12. ([October 11 Transcript](#)) ([October 12 Transcript](#)).

Next Steps:

- November 6: Post-hearing Opening Brief
- November 20: Post-hearing Reply Brief

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:

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

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.
- On August 28, Sonoma Clean Power (SCP) submitted [Testimony](#) arguing for a reduction in PG&E's PCIA for various reasons. On September 18, SCP agreed to withdraw portions of its Testimony that were the subject of a Motion to Strike from PG&E, and PG&E, in return, agreed to withdraw Chapter 3 of its rebuttal testimony. (See SCP [Revised Testimony](#) and [PG&E Revised Rebuttal Testimony](#).) Evidentiary hearings took place on September 20.

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).
- On September 22, Cal Choice filed its [Opening Brief](#) and SCE filed its [Opening Brief](#).

Recent Activity:

PG&E

- On October 2, the Joint CCAs submitted an [Opening Brief](#), which noted the lack of evidentiary support, the improper inclusion of fuel costs that benefit bundled customers, and the reliance on stale data in PG&E's application. PG&E submitted a [Reply Brief](#), requesting rejection of the CCA recommendations.
- Also on October 2, PG&E submitted its [Opening Brief](#) requesting Commission approval of its forecasted revenue requirements, 2018 electric sales and peak load forecasts, GHG-related cost recovery and allowance revenue return proposals, and 2018 rate proposals. The Joint CCAs submitted a [Reply Brief](#), which cites PG&E's failure to follow Commission directives when calculating the PCIA.

SCE

- On October 13, Cal Choice filed its [Reply Brief](#) and SCE filed its [Reply Brief](#).

Next Steps:

PG&E

- November 2: PG&E Updated Testimony
 - November 6: Comments on PG&E November Update
- A Proposed Decision is expected in early-mid November

SCE

- November 10: SCE Updated Testimony
 - November 16: Comments on SCE's November Updates

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 on July 21:

- [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](#).) On September 22, [Apple Choice Energy](#), [Pico Rivera Innovative Municipal Energy](#), [SVCE](#) and [Lancaster Choice Energy](#) submitted Updated 2017 RPS Procurements Plans.

Recent Activity:

On November 1, several CCAs submitted supplemental compliance documents.

Next Steps:

- The ALJ is expected to release a Proposed Decision on RPS Procurement Plans in Q4 2017

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. On January 1, Joint Intervenors submitted [Joint Opening Testimony](#). 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 31, PG&E submitted an [Ex Parte Notice](#) on August 31, describing withdrawal of its Tranche 2 and 3 proposals, but continuing to seek approval of energy efficiency proposals (Tranche 1) and other key elements, including employee retention and Community Impact Mitigation Program settlement.

Recent Activity:

None.

Next Steps:

- November 8: Joint Opponents Ex Parte Meeting with Commissioner Guzman Aceves' office
- November 28: Final Oral Arguments (See [ALJ Ruling](#))
- TBD: Issuance of Proposed 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](#).

Recent Activity:

- September 29: California Energy Markets published an [article](#) regarding the IOU coalitions for CCA messaging
- October 4: an informal renewal of request for Commission resolution was submitted

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.

Recent Activity:

The CPUC Energy Division is working to schedule a workshop in December to consider alternative cost recovery approaches to be presented by CalCCA.

Next Steps:

- December: Energy Division workshop on possible alternative cost recovery approaches.
- 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 is continuing to monitor [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).

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 will be effective in mid-October.

Recent Activity:

- October 9: PG&E filed a [Motion](#) for adoption of a settlement agreement on reduced CCA service fees.

- October 17: a telephonic PHC was held (See [Email Ruling](#) with summary).

Next Steps:

- November 8: Comments are due on PG&E motion for adoption of CCA service fee modifications

Default TOU and 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.

Recent Activity:

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. The Draft Resolution is scheduled to be addressed at the November 9 CPUC Voting Meeting.

Next Steps:

- The IOUs are required to file applications for default TOU programs by January 1, 2018, 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](#).

Recent Activity: None.

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

Background:

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. 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. Feedback on the proposal was accepted until August 15. The CPUC and the Energy Commission will now consider public input, draft a charter for the Advisory Group, and begin to prepare the application for public distribution.

Recent Activity:

On November 1, the CPUC released a [Draft Resolution](#) and a [Solicitation Letter](#) proposing to establish and charter for the DACAG. LEAN is still reviewing this material and will provide additional information in the next report.

Next Steps:

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