SENATE COMMITTEE ON ENERGY, UTILITIES AND COMMUNICATIONS
Senator Ben Hueso, Chair
2019 - 2020 Regular

Bill No:	AB 1362	**Hearing Date:**	7/2/2019
Author:	O'Donnell		
Version:	6/24/2019 As Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Nidia Bautista		

SUBJECT: Electricity: load-serving entities: rate and program information

DIGEST: This bill would require the California Public Utilities Commission (CPUC) to establish a centralized clearinghouse of residential electric rate tariffs and programs of electrical corporations, electric service providers, and community choice aggregators to enable customers and local governments to compare rates, services, environmental attributes, and other offerings.

ANALYSIS:

Existing law:

1) Establishes the CPUC has regulatory authority over public utilities, including electrical corporations. (Public Utilities Code §451)

2) Authorizes a community choice aggregator (CCA) to aggregate the electrical load of electricity consumers within its boundaries and within the service territory of an electrical corporation. Requires an electrical corporation to cooperate fully with any CCA that investigates, pursues, or implements community choice aggregation programs, including providing appropriate billing and electrical load data, which includes electrical consumption data, as defined. (Public Utilities Code §366.2)

3) Requires the CPUC to adopt a code of conduct, associated rules, and enforcement procedures to govern the conduct of an electrical corporation relative to the consideration, formation, and implementation of a CCA program. (Public Utilities Code §707)

This bill:

1) Requires the CPUC to establish a centralized clearinghouse of residential electric rate tariffs and programs of electrical corporations, electric service

providers (ESP), and CCAs to enable customers and local governments to compare rates, services, environmental attributes, and other offerings.

2) Requires this information to be available and easily accessible on the CPUC's and those electricity providers' internet websites. This bill would require each of those electricity providers to make available to the CPUC all information about its residential electric rate tariffs and programs.

3) States that dissemination of publicly available and factual information pursuant to the requirements of this bill by a load-serving entity (LSE) to a customer shall not constitute a violation of the code of conduct.

4) Imposes a state-mandated local program because by requiring new reporting and posting requirements on CCAs.

Background

CCA growth. State law allows for the creation of CCAs which were authorized by AB 117 (Migden, Chapter 838, Statutes of 2002) and describes essential CCA program elements, requires the state's investor-owned utilities (IOUs) to provide certain services, and establishes methods to protect existing utility customers from liabilities that they might otherwise incur when a portion of the IOU's customers transfer their energy services to a CCA. Under the CCA law, a local government, or a collection of local governments, may choose to form a CCA to procure electricity to meet the demand of residences, business and municipal facilities within the CCA's jurisdiction. This procurement of electricity by the CCA takes the place of such procurement by the incumbent IOU, such as Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE) or San Diego Gas and Electric (SDG&E). State law prohibits formation of a CCA in an area for which a municipal utility provides electric service. A customer within the CCA territory is automatically "opted in," meaning the CCA procures electricity on behalf of the customer unless the customer takes affirmative action to receive electric service from the IOU or the CCA implementation delays or prevents enrollment of certain customers. The CCA procures electricity on behalf of its customers, while the IOU continues to transmit and distribute that electricity via its system of poles, wires and substations, and provides metering, billing and customer service. Until recently, growth of CCAs had been modest. The first CCA—Marin Clean Energy (MCE) —was formed in 2010 within the service territory of PG&E. Today, according to the California Community Choice Association (CalCCA), there are 19 CCAs in operation serving more than 10 million customers in California, and dozens of communities are either engaged in or currently considering forming or joining a CCA. CCAs range in size, from

Solana Energy Alliance that serves 7,300 customer accounts to Clean Power Alliance serving 972,500 customer accounts in Los Angeles and Ventura Counties. The City of San Diego has also declared it intends to create a new CCA with the intent of including the surrounding county. As such, all three IOUs are likely to experience migration of a significant share of their existing load to CCAs.

Direct Access (DA). Similar to a CCA, DA service is retail electric service where customers purchase electricity directly from a competitive provider called an ESP, instead of from a regulated electric utility or a CCA. An ESP is a non-utility entity that offers electric service to customers through bilateral contracts directly with the customer. As with CCA customers, ESP customers also receive distribution, transmission, and billing services from the IOU. The majority of DA customer accounts are commercial customer accounts (about 17,223) with load between 20 and 500 kilowatts (kW) per month. However, industrial customers with load over 500 kW per month are the largest DA customers in terms of kW hours provided (about 35.5 percent of total load served by ESPs). At the time of the 2001 energy crisis, enrollment was statutorily capped in the DA program due to concerns about reliability and also concerns regarding distributing sunk costs stemming from the energy crisis. If large electricity customers bypass purchasing electricity through an IOU, then more of the sunk costs fall on the remaining customers (also known as the bundled-customer). In 2010, the DA cap was revisited by the Legislature and expanded to approximately 13 percent of retail electric load with 41,975 enrolled customers comprising 0.3 percent of customer accounts in the state according to the CPUC. Since the cap on DA was expanded and re-opened in 2011, demand for DA service has remained high with requests for DA service outpacing availability. Last year, the Legislature passed and the governor signed SB 237 (Hertzberg, Chapter 600, Statutes of 2018) which modestly increased the limit of the DA program by 4,000 gigawatt hours for non-residential customers. The bill also directs the CPUC to provide recommendations to the Legislature by June 2020 on the adoption and implementation of a second DA program reopening. The opening of the DA cap creates some additional competition, as well as, uncertainty for the incumbent utility and the CCAs serving energy load that might migrate to an ESP.

Comments

Changing electricity landscape. The California electricity landscape is in the midst of immense changes that raise questions about whether and how the existing regulatory framework should be adjusted to better address reliability, affordability, safety, and the state's decarbonization goals. These issues have been the topic of a nearly two years effort by the CPUC, the *Customer Choice Project*, and the subject of two informational hearings by this committee (including a hearing earlier this

year). As part of the *Customer Choice Project*, the CPUC has reviewed the history of competition and choice in California, including the California Energy Crisis, evaluated the current regulatory construct, and analyzed selected markets to provide lessons learned for California. The CPUC has noted the potential for benefits to result from a more competitive electric service market. However, the CPUC has also expressed concerns about reliability, affordability, consumer protections, and the state's ability to meet its decarbonization policy goals. Among the recommendations of the CPUC's efforts is the desire for greater transparency and customer protection associated with the increased choices.

Increased transparency. The CPUC's *Customer Choice Project: Draft Gap Analysis and Action Plan* issued in October 2018 noted the desire for price disclosure and understanding of load-serving entities (LSE's) procurement portfolio. As it relates to each LSE's procurement portfolio, the CPUC noted the California Energy Commission's (CEC) efforts implementing AB 1110 (Ting, Chapter 656, Statutes of 2016) required power content disclosure and the greenhouse gas emissions associated with the LSE's energy procurement. The CEC is in the midst of finalizing these updated requirements to the power content labels to require the new reporting in 2020 for the 2019 procurement. As it relates to price disclosures and program offerings by CCAs, the CPUC suggested building an online platform with information that will cover rates and programs for residential customers. The CPUC referenced similar efforts in states that have largely deregulated energy markets, including Texas and Illinois, which have created websites to provide this information in a single place for customers.

Need for clearinghouse? Unlike Texas and Illinois which have largely deregulated and allow for numerous electricity providers, most Californians today may have at most two options for energy procurement service as these options are largely hinged on geography. About a quarter of the state's residents and businesses, are served by local publicly owned utilities many which remain vertically integrated owning transmission, distribution, and generation (such as Los Angeles Department of Water and Power (LADWP), Sacramento Municipal Utility District (SMUD), etc.). The majority of California residents and businesses reside in an area served by an IOU (such as PG&E, SCE, or SDG&E). Within the IOU service territory, if a local community has established a CCA, then a customer might have the option to have their energy procured by either the IOU or the CCA. In the case of a large commercial business they might be served by an ESP under the DA program, although the program continues to be capped so current enrollment continues to be limited. As such, the limited procurement providers, generally one, and possibly two, for most Californians, does not seem to warrant the need for a clearinghouse that may take over a million dollars to establish and months, if not years, to get up and running with continued staffing resources to maintain.

Additionally, a cursory review of the clearinghouse in Texas demonstrates the challenges with competing third-party clearinghouses to direct customers away from the government site and each suggesting the others do not have reliable information. At this juncture, it seems more practical to forgo a clearinghouse and instead opt for the CPUC posting this information on their website. Although, generally, most electric utility customers are not searching for this information on the CPUC's website. Nonetheless, it would seem to be beneficial to have this information in a consolidated area on the CPUC's website, along with the requirement in this bill that it is made available on the LSE's website. In the case of CCA rate disclosures, these disclosures are made in concert with the corresponding IOU with annual updates. It seems this information can be readily collected by the CPUC, perhaps with the added language proposed in this bill to require CCAs to provide this information to the CPUC, which can then be posted onto the CPUC's website. In the case of ESPs, the CPUC noted the need for additional analysis about how best this information could be presented since their service is currently limited to a smaller set of non-residential customers through bi-lateral contracts. However, the posting of their rates and programs on the CPUC website can also provide additional transparency. *In light of the lack of necessity for a clearinghouse, the author and committee may wish amend this bill to remove the reference to the clearinghouse and instead require the CPUC to post this information on their website.*

Prior/Related Legislation

AB 1110 (Ting, Chapter 656, Statutes of 2016) required every retail supplier of electricity in California annually to report to its customers the greenhouse gases emissions intensity of the supplier's electricity sources.

SB 790 (Leno, Chapter 599, Statutes of 2011) required the CPUC to establish a code of conduct, associated rules, and enforcement procedures to govern the conduct of an IOU relative to the consideration, formation, and implementation of a CCA program.

AB 117 (Migden, Chapter 838, Statutes of 2002) established a local government's right to implement a CCA program that allows communities to pool, or aggregate, the electrical load of their residents, businesses, and other institutions in order to procure and generate electricity on their behalf.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT:

Coalition of California Utility Employees

OPPOSITION:

Muni-Fed Energy
Sustainable Novato
11 Individuals

ARGUMENTS IN SUPPORT: According to the author:

> In order to facilitate a robust competitive market, customers need pricing information that is readily available and in an easy-to-understand format. AB 1362 requires the CPUC to build an online platform with information that will cover rates, services, and environmental attributes of all load-serving entities. This will enable residential customers and local governments to critically evaluate and compare prices and offerings of all load-serving entities in order to mitigate the risk of unanticipated costs and outcomes.

ARGUMENTS IN OPPOSITION: Those opposed to this bill largely cite concerns with language that was previously in this bill, and generally raise concerns about maintaining CCA decision-making autonomy and support for local control.

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