California State Senate

COMMITTEE ON ENERGY, UTILITIES AND COMMUNICATIONS

BEN HUESO
CHAIRMAN

STAFF
CHIEF CONSULTANT
NIDIA BAUTISTA
CONSULTANT
SARAH E. SMITH
COMMITTEE ASSISTANT
MELANIE CAIN
STATE CAPITOL, ROOM 4035
SACRAMENTO, CA 95814
TEL (916) 651-4107
FAX (916) 642-8979

INFORMATIONAL HEARING

The Changing Electricity Landscape:

The Need for a New Regulatory Approach?

State Capitol, Room 3191
March 19, 2019
9:00 a.m.

I. Welcome

- Senator Ben Hueso, Chairman
  Senate Energy, Utilities and Communications Committee

II. California Public Utilities Commission on Customer Choice

- Michael Picker, President
  California Public Utilities Commission
- Edward Randolph, Deputy Director
  California Public Utilities Commission

III. Stakeholder Perspectives

- Fong Wan, Senior Vice President, Energy Policy and Procurement
  Pacific Gas & Electric (PG&E)
- Matthew Freedman, Staff Attorney
  The Utility Reform Network (TURN)

- Dawn Weisz, President, Board of Directors and CEO, MCE Clean Energy
  California Community Choice Association (CalCCA)

- Kendall Helm, Vice President of Energy Supply
  San Diego Gas & Electric (SDG&E)

- Ron Perry, President & CEO
  Commercial Energy

- Colin Cushnie, Vice President of Energy Procurement and Management
  Southern California Edison (SCE)

IV. Public Comments

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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. This informational hearing is intended to provide members of the committee and the public the opportunity to better understand the current energy landscape, the California Public Utilities Commission's (CPUC's) efforts to address these changes, and a sense of the varied perspectives from stakeholders about proposals to adjust the regulatory framework. While today's hearing will be limited on time, the objective of the committee is that the hearing will help committee members gain a greater understanding of the existing electricity landscape and help further the discussions about these changes in order to inform the need for future near-term and long-term policy decisions.

A Changing Electricity Landscape. Technological changes in the electricity sector, especially the deployment of renewable energy resources (both utility scale and customer-sided distributed energy resources) are transforming the electricity landscape providing customers (both residential and commercial) the opportunity to generate their own electricity, and in some cases sell excess renewable back into the market. Beyond the technological changes, the electricity landscape is also undergoing an immense transformation with a growing number of load-serving entities who procure electricity. Traditionally, a vertically integrated utility that owns generation and operates the transmission and distribution system (as many municipal utilities still do) serves energy load. Currently, non-utility entities are increasingly procuring energy load for customers within the service territory of the state's three largest investor-owned utilities (IOUs), namely Pacific Gas & Electric

(PG&E), San Diego Gas & Electric (SDG&E), and Southern California Edison (SCE). These procurement entities include Community Choice Aggregators (CCAs) and direct access providers (DA), also known as electric service providers (ESPs). However, while the procurement entity may change, the utility continues to provide distribution and transmission services and handles the customer billing and collections.

CCA Growth. In August 2017, roughly a year and a half ago, this committee held a similar informational hearing with a specific focus on the growth of one type of energy load-serving entity, CCAs. Local cities and/or counties form CCAs, commonly through a joint powers agreement (JPA), to procure electricity for their community. Local governments who have formed CCAs—and those who are considering doing so—cite a number of common reasons for forming a CCA. Among those reasons: greater use of renewable energy, rate-setting authority, local economic development and lower rates.). CCAs were increasing in numbers from when the first CCA, Marin Clean Energy (MCE), was formed in 2010. At the time of the hearing in August 2017, there were eight CCAs operating or preparing to operate in the state to procure electricity for just over one million customers. Most of those CCAs were predominantly in the service territory of PG&E, and some in SCE's territory. As was noted at that hearing, CCA growth was originally modest. However, in recent years CCA growth has been occurring rapidly. Per statute, customers are automatically defaulted into CCA's service in areas where CCAs launch or expand (opt-in), resulting in a significant volume of electric load shifting from investor-owned utilities to CCAs. As noted above, customers continue to receive and pay their bill to the IOU. As such, they may not be aware that the CCA is buying electricity for them, although CCAs generally attempt to provide outreach and marketing to inform customers about this change.

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 utility. 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 for reliability and also concerns regarding distributing sunk costs stemming from the

energy crisis. If large electricity customers bypass purchasing electricity through a utility, then more of the sunk costs fall on the remaining customers (also known as the bundled-customer). In 2010, the 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.

Summary of Recent Changes. The combined procurement between CCA and DA service is anticipated to represent the majority (potentially 85 percent) of the customer load served in the IOU service territory in the coming decade or so. Since the August 2017 informational hearing of this committee, the landscape has continued to evolve and the CPUC, the Legislature, and governor have taken a number of relevant actions that may affect the need for additional changes. These actions are summarized below and further underscore the importance of delving into whether and how to adjust our regulatory approaches to the new landscape to ensure reliability, affordability, and the ability to meet the state's greenhouse gas emissions goals. Specifically:

- *Continued CCA Growth.* 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 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 Expanded.* Last year, the Legislature passed and the governor signed SB 237 (Hertzberg, Chapter 600, Statutes of 2018) which 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.

- *CPUC Proposes Changes to Resource Adequacy (RA) program.* In response to the experience during the 2001 energy crisis where some DA providers failed to provide power to their customers, the Legislature mandated that the IOUs maintain enough resource adequacy for current customers and those customers that could return to IOU service. The RA rules had largely worked in a landscape that was designed to have the three large IOUs procure the RA. However, the recent migration of energy load to non-IOU entities has posed challenges to the existing RA framework. Specifically, CCAs have launched or expanded at times of the year that do not necessarily correspond with the year-ahead RA process. Without CCA's participation in the year-ahead process, it was assumed that the departing load would continue to be served by IOUs, and associated RA requirements were assigned to those utilities, who then had to procure for that load. For example, by the end of 2017, the CPUC had approved 11 CCA implementation plans for launch or expansion in 2018, corresponding to over 3,100 megawatts (MW), but none of this load migration was captured in the year-ahead RA process. In response to these and other challenges, the CPUC has proposed new rules for RA, including a multi-year local RA requirement to ensure that resources needed for reliability are procured and a central buyer, namely the IOU, to procure the local RA. However, in a recent decision, the CPUC has delayed adopting the central buyer framework, opting for continued workshops and a final decision in the fourth quarter of 2019.

- *CPUC Adopts Resolution on CCA Launch Timeline.* Just over a year ago, the CPUC, in a controversial process, adopted a resolution (E-4907) to provide for an orderly launch of new or expanded CCAs to align with the year-ahead RA process. While the final resolution adopted included a transitional option for CCAs in 2018, the resolution requires CCAs seeking to launch or expand to make their intentions known a year in advance of the actual launch, by January 1st of the preceding year.

- *CPUC Adopts Cost-Allocation Methodology.* Another challenge of the load migration is adequately allocating costs between bundled IOU customers and non-IOU customers, including those served by CCAs and ESPs. In a long-awaited and hotly debated decision, late last summer the CPUC adopted a new methodology in an attempt to more equitably account for these costs through exit fees, also known as the Public Charge Indifference Adjustment (PCIA). The methodology is a largely complex formula that includes inputs such as legacy utility-owned generation, a formula to value

power in the market, and others. The PCIA decision was largely viewed as favorable to IOU-bundled customers with several CCAs expressing concerns. However, it may not be completely clear at this juncture exactly how the PCIA will affect customers – both utility and non-utility. As some of the CCAs are assessing how the exit fee methodology will be applied in related proceedings for their respective IOU. It is notable that immediately following the adoption of the PCIA by the CPUC, the City of San Diego decided to pursue creating a CCA Nonetheless, it is possible the cost-allocation methodology may continue to be hotly debated among LSEs.

- *SB 350 Integrated Resources Planning (IRP).* SB 350 (De León, Chapter 547, Statutes of 2015) establishes new targets to increase retail sales of renewable electricity to 50 percent by 2030. SB 350 also required each load-serving entity (LSE) to file an IRP which the CPUC would combine with all other LSEs' IRPs to ensure the state was on its path to meet the SB 350 goals. The CPUC is currently finalizing the first two-year IRP cycle which should provide some sense of how LSEs are participating in the process and what potential adjustments may be needed to ensure the state remains on track. CPUC has limited authority over CCAs relative to its authority over IOUs. However, IOUs generally remain long in their renewable energy requirements and have no immediate need for additional procurement to meet their goals, particularly when much of their load is departing.

- *SB 100.* SB 100 (De Leon, Chapter 312, Statutes of 2018) increases the Renewables Portfolio Standard (RPS) requirement from 50 percent by 2030 to 60 percent, and creates the policy of planning to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045, for a total of 100 percent clean energy. The SB 100 requirements apply across all IOUs, CCAs, and ESPs.

- *The California Customer Choice Project.* Over the past year and a half, 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 stated that California must consider how to shape this new environment in a way that continues to ensure reliable, clean, and affordable electricity for customers and equitable treatment for all market participants. The CPUC warns that the state does not currently have a plan to address these issues. *California Customer Choice: An Evaluation of Regulatory Framework Options for an Evolving Electricity Market* was

issued in August 2018. The report is designed to initiate a policy conversation among a wide range of stakeholders and interests about the future of California's electricity market, rather than make specific recommendations. 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.

- *PG&E Files for Chapter 11 Bankruptcy Protection.* Lastly, it is important to note that PG&E Corporation, the holding company of the state's largest utility, decision to voluntarily file for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code can not be ignored in this discussion. However, this hearing will also not resolve the issues at play in the bankruptcy case.

This informational hearing is intended to provide members of the committee and the public the opportunity to better understand the current energy landscape, the CPUC's efforts to address these changes, and a sense of the varied perspectives from stakeholders about proposals to adjust the regulatory framework. The committee does not expect the informational hearing to resolve these issues. Rather, the goal of this informational hearing is to serve as a venue for further understanding of the issues of concerns and the varied perspectives in advance of hearing specific bill proposals. Fundamentally, committee members will want to know what regulatory and statutory changes may be needed to better address any gaps in the current regulatory framework to address reliability, affordability, and decarbonization?