**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

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| Order Instituting Rulemaking to Implement Portions of AB 177 Concerning Community Choice Aggregation | Rulemaking 03-10-003 (Filed October 2, 2003) |

# LOCAL POWER COMMENTS ON JOINT UTILITY REPORT ON COMMUNITY CHOICE AGGREGATION INFORMATION ISSUES

## I. INTRODUCTION

These comments are offered in response to the Joint Utility Report on Community Choice Aggregation (CCA)Information Issues submitted by PG&E, SDG&E and SCE following the joint workshop held at PG&E headquarters on January 15, 2003. We are disappointeded by the utilities' apparent unwillingness to cooperate with Community Choice Aggregators in accessing their own ratepayers' information, and believe that the Commission should move immediately to hearings rather than wasting time with further workshops in this matter.

## II. ACCESS TO CUSTOMER DATA

*The 15/15 Rule restricting Direct Access energy suppliers' ability to secure individual ratepayer energy usage data does not apply to Community Choice Aggregators.* Indeed, 15/15 was written for a Direct Access environment in which the ratepayers' energy usage information was appropriately shielded against abuse by the potentially predatory practices of energy suppliers. Confidentiality rules protect ratepayers against suppliers, *but do not protect ratepayers against themselves.*

First, AB117 defines CCAs as customers. Under state law, Community Choice Aggregators are defined not as *energy suppliers*, but as *collections of ratepayers acting through their local governments*. Indeed, Public Utilities Code Section 366.2. (a) (1) says that "*Customers* shall be entitled to aggregate their electric loads as members of their local community with community choice aggregators." (AB117, p.4). Thus, a CCA is an organization of ratepayers, not energy

suppliers. Thus applying Rule 15/15 would inappropriately impose a Direct Access rule to CCAs *as if to protect ratepayers against themselves.*

AB117 says a community choice aggregator may "group retail electricity customers to solicit bids, broker, and contract for electricity and energy services for those customers," may "enter into agreements for services to facilitate the sale and purchase of electricity and other related services." (*Ibid*.) Public Utilities Code Section 366.2 (c) (1) provides further that:

> "Notwithstanding Section 366, a community choice aggregator is hereby authorized to aggregate the electrical load of interested electricity consumers within its boundaries to reduce transaction costs to consumers, provide consumer protections, and leverage the negotiation of contracts. " (*ibid*.).

Under state law, Community Choice Aggregators are defined not merely as a collection of ratepayers, but one *specifically formed* in order to "provider consumer protections" for participating ratepayers. CCAs are ratepayers looking to protect themselves while establishing independence from electric utility procurement. Thus, it is inappropriate, even amusing, that an investor-owned utility would deny ratepayers (CCAs) access to their own energy usage information on the premise that they are *protecting* them or their confidentiality.

Second, the utilities are required by law to "fully cooperate" with CCA requests for data. Section 366.2 ( c ) (9) provides that:

> "All electrical corporations shall cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs. Cooperation shall include providing the entities with appropriate billing and electrical load data, including, but not limited to, data detailing electricity needs and patterns of usage, as determined by the commission, and in accordance with procedures established by the commission." (AB117, p.6).

A specific criterion for the Commission to define what is "appropriate"data is thus "data detailing electricity needs and patterns of usage." This sentence in AB117 is so importance because it refers to data that would be used in order to inform a CCA's efforts to successfully implement Community Choice Aggregation. In determining what is appropriate, the Commission

must ascertain what kinds of CCA implementation are intended by AB117.

AB117 clearly intends for several kinds of CCA implementation to occur. First, it clearly intends for any one municipality to aggregate its customers. Thus, "appropriate" data must include municipally-specific data. Second, AB117 clearly intends for any combination of municipalities and counties to aggregate their customers as a Joint Powers Agency. Thus "appropriate" data must include any specific combination of municipal jurisdictions. Third, AB117 clearly intends for any CCA to manage local energy efficiency programs. Public Utilities Code Section 381.1. (a) provides that:

> No later than July 15, 2003, the commission shall establish policies and procedures by which any party, including, but not limited to, a local entity that establishes a community choice aggregation program, may apply to become administrators for cost-effective energy efficiency and conservation programs established pursuant to Section 381.

Thus, "appropriate" data must include, but not be limited to, data detailing electricity needs and patterns of usage that would be needed for cost-effectively designing local energy efficiency programs.

Third, AB117 specifically orders utilities to report any and all utility usage data to CCAs. Indeed, AB117 requires that utilities install metering devices at a CCA's request anywhere in a CCA's political boundaries, and to report the resulting data from the meter to the CCA. Public Utilities Code Section 366.2 ( c )(18) provides that:

> "At the request and expense of any community choice aggregator, electrical corporations shall install, maintain and calibrate metering devices at mutually agreeable locations within or adjacent to the community aggregator's political boundaries. The electrical corporation shall read the metering devices and provide the data collected to the community aggregator at the aggregator's expense. To the extent that the community aggregator requests a metering location that would require alteration or modification of a circuit, the electrical corporation shall only be required to alter or modify a circuit if such alteration or modification does not compromise the safety, reliability or operational flexibility of the electrical corporation's facilities. All costs incurred to modify circuits pursuant to this paragraph, shall be born by the community aggregator."

Thus, AB117 already provides that the electric utility must report usage data to a CCA. It would be disingenuous to claim that usage data from existing meters is confidential, while admitting that reporting customer usage data to the CCA from newly installed metering devices is not only allowed but specifically required by AB117.

One must conclude from these facts that (1) the utilities must tool up to provide municipally-specific, intermunicipally-specdific, aggregate, and customers specific data to CCAs in order to facilitate successful CCA implementations by its customers. Anything short of this is a violation of statutory requirement that utilities "fully cooperate" with CCAs.

Fourth, AB117 clearly anticipates that the utilities will need to upgrade their equipment in order to accommodate CCAs in this manner. Public Utilities Code Section 366.2 ( c ) (17) provides that:

> "An electrical corporation shall recover from the community choice aggregator any costs reasonably attributable to the community choice aggregator, as determined by the commission, of implementing this section, including, but not limited to, all business and information system changes, except for transaction-based costs as described in this paragraph. Any costs not reasonably attributable to a community choice aggregator shall be recovered from ratepayers, as determined by the commission. All reasonable transaction-based costs of notices, billing, metering, collections, and customer communications or other services provided to an aggregator or its customers shall be recovered from the aggregator or its customers on terms and at rates to be approved by the commission." (AB117, p. 8).

Fifth, it is critical that each utility provide the same kinds of data.

Sixth, but not least important, it is critical that each utlity be required to divulge the names of each data field in their data bases. Given that each utility has several separate databases, it is pointless to proceed with this discussion in a vacuum without even knowing what forms of data could be available depending on the Commission's interpretation of "appropriate."

In conclusion, the Commission must distinguish between providing CCAs with customer usage data about themselves in the manner described above, and providing Electric Service Providers

(ESPs) with such information.

## III. CONCLUSION

In conclusion, it is critical that the Commission define as "appropriate" all data, including aggregate or interval meter data, as well individual customer usage data, to CCAs, while restricting ESP access to customer-specific data.

Dated: February 13, 2004

Respectfully submitted,

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# CERTIFICATE OF SERVICE

I, the undersigned, hereby declare:

1. I am a citizen of the United States of America over the age of eighteen years. My business address is 4281 Piedmont Avenue, Oakland CA 94611.

2. On February 13, 2004, I caused service of
:

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to be made by EMAIL upon the parties or their attorneys of record for R.03-10-003.
I declare under penalty of perjury that the foregoing is true and correct. Dated in Oakland, California, this 13th day of February, 2004.

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**Copies Served:**
1. President Peevey
2. Commissioner Wood
3. Commissioner Kennedy
4. Commissioner Brown
5. Commissioner Lynch
6. Administrative Law Judge Malcolm

# EMAIL SERVICE LIST
# R.03-10-003
# February 11, 2004

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