

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement
Portions of AB 117 Concerning Community
Choice Aggregation.

Rulemaking 03-10-003
(Filed October 2, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING BIFURCATING PROCEEDING,
AND SCHEDULING WORKSHOP AND EVIDENTIARY HEARINGS**

The Commission opened this rulemaking to implement those provisions of Assembly Bill (AB) 117 that would permit local governments to purchase energy on behalf of local customers as "community choice aggregators" or CCAs. The Commission recently held a Prehearing Conference (PHC) and informational workshop to hear from interested parties, address procedural matters and provide background on topics related to this rulemaking.

This ruling summarizes the prehearing conference, and bifurcates this proceeding so that the Commission will first consider threshold issues related to utility costs and associated charges to CCAs and their customers. This ruling also schedules a second workshop and hearings on cost issues.

Summary of Prehearing Conference

The Commission held a PHC and workshop on October 29, 2003 to explore ways to manage this proceeding. The PHC was useful in defining issues of immediate interest to parties and developing procedural options for resolving outstanding issues.

At the PHC, the parties generally agreed that the most immediate issues for resolution in this proceeding concern costs and related charges. A key issue in the discussion was the level of the cost responsibility surcharge (CRS), which

would permit the utilities to recover the costs of certain energy contract commitments. Utilities are concerned that the CRS be set so that they recover related costs. Utilities also want assurance that they are able to recover other discretionary costs incurred to implement and facilitate the CCA program. Entities that might become CCAs state that the level of the CRS and other utility charges will determine the viability of CCAs. Some state that the existing CRS exemption for baseline residential customers should also be applied to CCA customers.

Several parties also suggested that CCA information requirements should be addressed sooner rather than later. Parties generally agreed that modifying Rule 22 and Rule 25 to govern transactions and operations of CCAs and utilities is an exercise that should follow resolution of cost issues.

No party objected to the suggestion that hearings are likely to be necessary in order to set the CRS. Parties who spoke generally agreed that additional workshops might be useful in defining issues, areas of agreement and contention, and establishing procedures and schedules.

Several parties raised concerns that this proceeding not impose unnecessary demands on the parties' time and effort in recognition that cities and counties are currently facing severe budget constraints.

On the basis of the PHC, and following consultation with the assigned Commissioner, this ruling schedules a second workshop, directs the utilities to submit testimony on certain costing issues, and invites testimony from other parties.

Proceeding Bifurcation

As the parties suggest, the Commission will bifurcate this proceeding into two phases.

Phase I will address the following issues:

1. The cost responsibility surcharge – cost elements that should be included in this surcharge in fulfillment of AB 117; allocation of responsibility for the costs and whether they are nonbypassable;
2. CRS exemption for baseline residential customers – whether the utilities should pass along these subsidies to CCA customers and, if so, how to accomplish that;
3. Utility transition and transaction costs – keeping utilities and their customers indifferent to the costs of implementing the CCA portions of AB 117;
4. Meter, billing and distribution costs;
5. Utility customer information – information CCAs and prospective CCAs need to determine viability of CCA service and promote good customer service and reliability costs.

Phase 2 in this proceeding will address the following issues:

1. Customer notices required of utilities and CCAs;
2. Customer protections and switching protocols;
3. Operational protocols and load balancing;
4. Billing, metering and distribution services;
5. Reentry fees and switching fees;
6. CARE – discounts to low income customers;
7. Other unresolved issues.

I intend to convene a second prehearing conference on matters relating to Phase II issues at a later date.

Phase 1 Procedures

The Commission will explore Phase 1 issues expeditiously. The Commission will conduct a workshop on January 9, 2004 in Phase 1 of this proceeding. The goals of the workshop will be to define issues, explore areas of

controversy, and work toward common understandings or agreement where possible. The workshop will focus on cost issues, identified above.

The Commission will also schedule evidentiary hearings on cost issues, specifically those concerning the CRS and utility transaction and transition costs. This ruling schedules hearings for February 5 and 6, 2004. We will address outstanding procedural matters on February 5 before proceeding with witness testimony. I will cancel or defer the hearings if it appears the parties have reached or may reach agreement on some or all related cost issues. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) shall serve testimony on these issues no later than January 5, 2004. Other parties may submit testimony no later than January 20, 2004.

This ruling also directs PG&E, SCE and SDG&E to convene meetings open to all parties to this proceeding to discuss information needs of CCAs and prospective CCAs. The utilities shall submit a joint report on the results of the meetings. The report should propose information and data available to CCAs and prospective CCAs, methods for treating confidential customer information, and appropriate tariff charges for the information. The report will be due January 30, 2004. Parties may comment on the report by February 13, 2004.

Agenda and Topics for Workshop on Cost Issues

This ruling schedules a workshop for January 9, 2003, at 10:00 a.m. The purpose of this workshop will be to develop common understandings of related issues, determine common objectives, and reach agreements where possible. The goal of the workshop is to reduce the need for hearing time or, if possible, come to agreement on some or all issues that would otherwise be the subject of evidentiary hearings.

The workshop will address the following questions:

1. How should the CRS be structured? What, if any, cost elements should be included in the CRS for CCAs that differ from those in the CRS for direct access customers? Are there other ways the CRS should differ from that applied to direct access customers?
2. Should CCA customers receive the same CRS exemption offered to baseline residential utility customers? If so, how should that be accomplished? If not, what are the possible implications for CCA viability?
3. What types of significant transactions and transition costs will the utilities incur in working with CCAs? What, if any, tariff charges should the utilities include in their tariffs? Who should assume liability for these costs? What, if any, information is needed by the utilities from potential CCAs to determine these costs?

Parties may file pre-workshop statements that answer these questions no later than December 29, 2003. Statements should be no longer than ten pages. Parties should serve their statements electronically on the proceeding service list. If you have any questions concerning the workshop, please address them to the ALJ at kim@cpuc.ca.gov and copy all parties on your inquiry.

Reply Comments

Numerous parties to this proceeding filed opening comments on October 22, 2003. At the prehearing conference, I stated I would provide a date when parties may file reply comments and indicate areas of particular interest for those reply comments. Because the Commission will move ahead with workshops and testimony on cost issues in the near future, we will defer additional comments until after the parties and the Commission have better-defined these Phase I issues or begun the process of exploring Phase II issues.

Other Procedural Matters

Parties must serve all testimony and pleadings on all parties electronically using the service list posted at the Commission's website for this proceeding. Any party who requires assistance navigating the website for this purpose, or who requires any other assistance with Commission rules or procedures, should contact the Commission's Public Advisor at (415) 7032074 or public.advisor@cpuc.ca.gov.

Parties should respond to data requests with all relevant information within ten days of the request. In cases where provision of information is not possible within ten days, the party receiving the data request shall, within 3 days of the request, notify the party requesting the information of a date when the information may be provided. Parties shall meet and confer in the event of discovery disputes.

IT IS RULED that:

1. The Commission will conduct a workshop as described herein at 505 Van Ness Avenue, San Francisco, on January 9, 2004, at 10:00 a.m.
2. Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E) and San Diego Gas & Electric Company (SDG&E) shall submit testimony on issues relating to the cost responsibility surcharge and transactions costs no later than January 5, 2004. Other parties may submit testimony on the same issues no later than January 20, 2004.
3. Responses to the questions in preparation for the January 9, 2004 workshop must be filed with the Commission and served on parties no later than December 29, 2003.
4. SCE, PG&E and SDG&E shall convene meetings open to all interested parties to address the information needs of community choice aggregators (CCA)

and prospective CCAs, related confidentiality issues and tariff charges for such information. The utilities shall file and serve a report no later than January 30, 2004, describing information they may provide and under what conditions. Parties who wish to comment on the report must file and serve comments no later than February 13, 2004.

5. The Commission will conduct evidentiary hearings in this proceeding on topics addressed in this ruling on February 4 and 5, 2004, in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.

Dated November 26, 2003, at San Francisco, California.

Kim Malcolm
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Bifurcating Proceeding, and Scheduling Workshop and Evidentiary Hearings on all parties of record in this proceeding or their attorneys of record.

November 26, 2003, at San Francisco, California.

Helen Friedman

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.