

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE  
STATE OF CALIFORNIA



**FILED**

02/28/19  
04:59 PM

Order Instituting Investigation on the  
Commission's Own Motion to Determine  
Whether Pacific Gas and Electric Company and  
PG&E Corporation's Organizational Culture  
and Governance Prioritize Safety.

Investigation 15-08-019  
(Filed August 27, 2015)

REPLY COMMENTS OF THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION

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February 28, 2019

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Pursuant to the email ruling dated January 22, 2019, by Administrative Law Judge Allen, granting the motion for extension of time to file opening comments on February 13, 2019, and reply comments on February 28, 2019, the CLECA<sup>1</sup> submits these reply comments.

**I. INTRODUCTION**

As the January 22, 2019 ruling indicates, there will be further opportunities for party comments. Accordingly, these reply comments are brief and respond only to the opening comments of the East Bay Community Energy, Peninsula Clean Energy Authority, Pioneer Community Energy, Silicon Valley Clean Energy, Sonoma Clean Power, Valley Clean Energy Alliance, and City of San Jose (Joint CCAs).

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<sup>1</sup> CLECA is an organization of large industrial electric customers of Pacific Gas & Electric Company (PG&E) and Southern California Edison Company; CLECA has been active in Commission proceedings since the early-to-mid 1980s. Some members take bundled service, some take Direct Access (DA) service, and some members take service from Community Choice Aggregators (CCAs). The member companies are in the steel, cement, industrial gas, mining, pipeline, cold storage, and beverage industries and share the fact that electricity costs comprise a significant portion of their costs of production. The retail costs of electricity in California are among the highest in the nation. CLECA members all participate in utility demand response programs and energy efficiency programs to mitigate the impact of these high costs on the global competitiveness of their products.

The Joint CCAs state, “PG&E should be removed entirely from the retail generation side of the business”<sup>2</sup>; this Joint CCA position includes terminating the utility’s demand response programs (to be turned over to the CCAs)<sup>3</sup> and foreclosing new DA opportunities in PG&E’s service territory.<sup>4</sup> CLECA disagrees with the Joint CCAs and urges the Commission (1) to maintain its adopted process for determining if and when a utility should stop offering a demand response program to CCA customers and (2) to comply with Senate Bill 237, approved on September 20, 2019. The Joint CCAs’s attempt to remove customer choice in demand response and direct access should not prevail.

## II. REPLY COMMENTS

### A. PG&E Should Retain Responsibility and Control Over Its Demand Response Programs

The Joint CCAs request to “[p]ut financial stewardship, responsibility and control over programs such as demand response, energy efficiency and transportation electrification under local [CCA] control.”<sup>5</sup> However, the Commission has held for demand response that:

We plan to ensure that a broad array of demand response options, including demand response provider options, is offered to customers. As we discuss below, it is the customers who should determine what role the Utilities will play in the future, through their selections from the various options that are provided. Utilities and third-party providers should fairly compete on a level playing field to vie for customers to enroll in their demand response programs. Furthermore, statistics measuring the success of the various new efforts we have embarked upon will materialize in the near future. But at this time, it is premature to dismantle the current demand response provider model where the utilities play the key administrative role.<sup>6</sup>

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<sup>2</sup> Opening Comments of the East Bay Community Energy, Peninsula Clean Energy Authority, Pioneer Community Energy, Silicon Valley Clean Energy, Sonoma Clean Power, Valley Clean Energy Alliance, and City of San Jose (Joint CCAs Opening Comments), at 4.

<sup>3</sup> Joint CCAs Opening Comments, at 6-7.

<sup>4</sup> Joint CCAs Opening Comments, at 3.

<sup>5</sup> Joint CCAs Opening Comments, at 3.

<sup>6</sup> D. 16-09-056, at 52.

The Joint CCAs rely on PG&E's bankruptcy to support their proposal, yet, as CLECA understands it, the bankruptcy court has and will provide for continuation of the utility's demand response programs, as well as its energy efficiency programs and transportation electrification programs.

More importantly, the Commission has established a process for enabling a CCA to be the sole provider of demand response to that CCA's customers. The Commission would determine if a CCA's demand response program is similar to a utility demand response program; if found similar, the CCA customers would no longer be able to participate in the utility's demand response program.<sup>7</sup> Commission Decisions 16-09-056 and 17-10-017 were carefully determined and balanced; they should not be changed in this investigation.

**B. The Commission Should Follow SB 237, Not Seek to Change It**

The Joint CCAs also state,

The Commission should support legislative amendments that give local CCA governing boards the ability to be the only provider of retail electric service to all customers in the community currently served by either the CCA or PG&E. Under this framework, when PG&E leaves retail service, PG&E's bundled customers would migrate to an existing or to be formed, CCA or municipal utility serving their community. Current direct access customers would not be impacted by this transition and would still be able to retain their service from an energy service provider. However, if a direct access customer wants to exit direct access or, if a direct access provider is unable to comply with state regulations, the direct access customer would migrate to the CCA serving their community.<sup>8</sup>

The Joint CCA position seeks to eliminate the risk of competition from the expansion of DA for CCAs in PG&E's service territory. This is anti-competitive and would not promote an improved

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<sup>7</sup> D. 16-09-056, at 46 ("Demand response customers shall have the right to provide demand response through a service provider of their choice"); *see also* D. 17-10-017, at 15 ("In balancing the objective of competitive fairness with the objectives established in the demand response goal and principles, this Decision establishes the following four-step process for implementing the Competitive Neutrality Cost Causation Principle").

<sup>8</sup> Joint CCAs Opening Comments, at 6-7.

safety culture at PG&E. The expansion of DA by 4,000 GWh is set by statute<sup>9</sup> and the legislation also requires the Commission to look at expanding direct access.<sup>10</sup> That expansion should not be limited or foreclosed in PG&E's service territory in this investigation into PG&E's safety culture.

### **III. CONCLUSION**

CLECA appreciates this opportunity to respond to the Joint CCAs and urges rejection of their proposals discussed above as an over-reach that is contrary to Commission decisions and anti-competitive.

Respectfully submitted,

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By: 

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February 28, 2019

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<sup>9</sup> Pub.Util.Code §365.1(e) ("On or before June 1, 2019, the commission shall issue an order regarding direct transactions that provides as follows: (1) Increase the maximum allowable total kilowatt-hours annual limit by 4,000 gigawatt-hours and apportion that increase among the service territories of the electrical corporations. (2) All residential and nonresidential customer accounts that are on direct access as of January 1, 2019, remain authorized to participate in direct transactions.")

<sup>10</sup> Pub.Util.Code §365.1 (f) (1) ("On or before June 1, 2020, the commission shall provide recommendations to the Legislature on implementing a further direct transactions reopening schedule, including, but not limited to, the phase-in period over which the further direct transactions shall occur for all remaining nonresidential customer accounts in each electrical corporation's service territory.")