

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



FILED
10-07-16
04:59 PM

Order Instituting Rulemaking to Develop an)
Electricity Integrated Resource Planning Framework)
and to Coordinate and Refine Long-Term Procurement)
Planning Requirements)
_____)
Rulemaking 16-02-007
(Filed February 11, 2016)

**MOTION OF THE CITY OF LANCASTER, MARIN CLEAN ENERGY
AND SONOMA CLEAN POWER AUTHORITY FOR OFFICIAL NOTICE**

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October 7, 2016

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I. INTRODUCTION

Pursuant to Rule 13.9 of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California (“Commission”), City of Lancaster (“Lancaster”), Marin Clean Energy (“MCE”), Sonoma Clean Power (“SCPA”), which manage and operate Community Choice Aggregation (“CCA”) programs in their respective jurisdictions (collectively “CCA Parties”), request that the Commission take official notice of future load growth among operational CCA programs, and the growing number of communities formally exploring and planning CCA programs, including communities that are planning to launch or join CCA programs in the 2017-2018 timeframe, identified below.

The CCA Parties support a regulatory process that reflects and accommodates the significant growth expected in CCA program service and resource procurement. As mentioned by CCA representatives during the recent IRP workshop, held on October 26, 2016, additional engagement and cooperation with CCA program representatives is warranted and appropriate in light of expected CCA program growth and the significance of this growth on IRP-related issues. As such, the IRP analytical framework should more clearly describe this greater degree of

cooperation.¹ The information contained in this motion will be useful for the Commission's Energy Division as it devises a regulatory and analytical framework for Integrated Resource Planning (“IRP”) in this proceeding.

II. BACKGROUND

When Senate Bill (“SB”) 350 was passed in 2015, instructing the Commission to initiate the IRP Proceeding, there were three operational CCA programs in California: MCE, SCPA and Lancaster. With the addition of Clean Power SF and Peninsula Clean Energy, which launched this year, there are presently five operational programs. Additional programs are expected to launch in 2017, including Silicon Valley Energy Authority, Redwood Coast Community Energy, Los Angeles County, Apple Valley Choice Energy and the City of Hermosa Beach. Another round of programs is expected to launch in 2018. Several communities have also elected to join existing CCA programs rather than create separate programs.² Needless to say, CCA programs are becoming increasingly popular and are being adopted in a growing number of communities. Unsurprisingly, CCA program load has grown alongside the number of programs, and will continue to grow as new programs emerge. Table 1.1 below shows load forecasts among existing CCA programs and those that plan to form in the 2017-2018 timeframe and have

¹ The CCA Parties received a copy of the request from Energy Division staff, dated September 30, 2016, for informal written comments in response to specified questions on the Energy Division's proposed analytical framework for the IRP. The CCA Parties intend to provide informal written comments, and the CCA Parties look forward to further engaging in cooperative interaction with the Energy Division. This motion is not intended to displace informal written comments or further interaction, but rather the motion is being used to introduce factual information into the record for consideration by the Commission.

² For example, the Mendocino County Board of Supervisors voted to join Sonoma Clean Power earlier this year. *See* <http://www.pressdemocrat.com/news/5929824-181/mendocino-county-formalizes-intent-to>. Similarly, Lafayette, Walnut Creek, Napa, American Canyon, St. Helena, Calistoga and Yountville elected to join Marin Clean Energy. *See* <http://www.eastbaytimes.com/2016/04/25/7-bay-area-municipalities-join-marin-clean-energy-raising-prospect-of-lower-rates/>.

developed such forecasts.

The CCA Parties are providing information about emerging CCA programs and future load growth at this time primarily for the benefit of the Energy Division, which has the difficult task of engineering a regulatory and analytical framework and planning a logical sequence of events that will culminate in achieving the goals of SB 350. To that end, the Energy Division has issued a concept paper,³ held a workshop,⁴ and has also issued a list of questions on the analytical framework for the proceeding.⁵ So far, the CCA Parties have responded to each opportunity to provide input on the process, and plan to remain actively involved in this proceeding. Nevertheless, it is important that the information provided as part of this motion be adopted as part of the record in this proceeding, and so the CCA Parties opted to file this motion.

III. MOTION FOR OFFICIAL NOTICE

Rule 13.9 establishes Evidence Code section 450 *et seq.* as the standard for official notice. Evidence Code section 450 *et seq.* includes the standard for judicial notice and provides that such notice is warranted for certain government documents, including “[r]egulations and legislative enactments issued by or under the authority of the United States or any public entity in the United States.”⁶ The statute also permits judicial notice of “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.”⁷ Facts subject to official notice include

³ *CPUC Staff Concept Paper on Integrated Resource Planning*, Energy Division, August 11, 2016.

⁴ *Options for Implementing the CPUC Integrated Resource Planning Process*, Workshop, September 26, 2016.

⁵ R.16-02-007: Requesting Comments on Analytical Framework for IRP Presented at 9/26 Workshop, Email Message from Energy Division, September 30, 2016.

⁶ Evid. Code § 452.

⁷ Evid. Code, § 452.

the contents of City Council resolutions and similar documents that memorialize official actions of local government.⁸

As further explained below, the standard for official notice applies to the fact that several operational CCA programs have forecast future load growth, as well as to the fact that a growing number of communities have passed resolutions or taken other official action to formally explore and plan CCA programs. Links to documents that support these facts are attached to this motion as Attachment A – Reference Documents. The contents of local government resolutions authorizing exploration of CCA programs or the programs themselves are legislative enactments by a public entity and are subject to official notice. Additionally, implementation plans and load forecasts contain facts related to CCA program formation and anticipated load growth that are not reasonably subject to dispute and capable of accurate determination by reference to the underlying documents.

The CCA Parties ask that the Commission take official notice of the facts contained in Table 1.1, which shows the launch date and expected load forecast of CCA programs that have either formed already or are anticipated to launch within the 2017-2018 timeframe and have prepared such forecasts.

⁸ See, e.g., *Shapiro v. Board of Directors of Centre City Development Corp.* ((2005) 134 Cal.App.4th 170, 174).

Table 1.1: CCA Program Load Forecast 2017-2018 (GWH)⁹

CCA Program	2017	2018
Marin Clean Energy	1,640	1,634
Sonoma Clean Power Authority ¹⁰	2,318	2,322
Lancaster Choice Energy	582	585
Clean Power SF	N/A	N/A
Peninsula Clean Energy	2,593	3,582
Silicon Valley Clean Energy	1,886	3,644
Apple Valley Choice Energy	220	282
Redwood Coast Energy Authority ¹¹	544	839
City of Hermosa Beach ¹²	N/A	N/A

⁹ Load growth identified in Table 1.1 is *not* an exhaustive list of CCA programs that may be serving load in the next two years. It is limited to programs that have prepared official load forecasts. The CCA Parties will seek to introduce additional and updated load forecasts as information becomes available. Moreover, while the CCA Parties recognize that this is just a snapshot of current activity, reflecting a dynamic, iterative process, the CCA Parties nonetheless believe this information is relevant and instructive.

¹⁰ Data does not reflect load associated with Mendocino County, which is listed in the following section as a likely new CCA program/expansion.

¹¹ Data is from Redwood Coast Energy Authority Draft Community Choice Aggregation Implementation Plan and Statement of Intent, September 2016. *See Attachment A – Reference Documents.*

¹² The City of Hermosa Beach has prepared and approved an implementation plan and plans to serve customers next year, but it did not include load forecasts in its plan. *See Attachment A – Reference Documents.* The CCA Parties understand that load associated with Hermosa Beach’s CCA program will be approximately 80 GWh.

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Source: See Attachment A – Reference Documents

In addition, the CCA Parties also ask that the Commission take official notice of the cities and counties listed below. These communities have passed resolutions or taken other formal action to explore CCA programs, or taken affirmative, formal steps to launch a CCA program within the 2017-2018 timeframe:¹³

- Alameda County
- Butte County
- City of Pico Rivera
- City of San Diego
- City of San Jose
- City of Solana Beach
- Contra Costa County
- Los Angeles County
- Mendocino County
- Monterey County
- Placer County
- Riverside County
- San Benito County
- San Bernardino County
- San Diego County
- San Luis Obispo County
- Santa Barbara County
- Santa Cruz County
- Ventura County

Links to documents supporting the facts listed in Table 1.1 and the list of communities above can be found in Attachment A – Reference Documents.

Because the facts described above meet the standard of the Evidence Code and Rule 13.9 by extension, the Commission should take official notice of the fact operational CCA programs

¹³ See Attachment A – Reference Documents. This is not an exhaustive list of communities exploring or planning CCA programs. The CCA Parties reserve the right to introduce additional information about communities exploring or planning CCA programs as information becomes available.

have forecast future load growth and the fact that a growing number of communities have passed resolutions or taken other official action to formally explore and plan CCA programs.

IV. CONCLUSION

For all the reasons stated, the motion of the CCA Parties for official notice of the documents described above should be granted.

Dated: October 7, 2016

Respectfully submitted,

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