BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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PROTEST OF THE CALIFORNIA CHOICE ENERGY AUTHORITY

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Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California ("Commission"), the California Choice Energy Authority ("CCEA") hereby files this protest to the *Application of Southern California Edison Company for Approval of its Charge Ready 2 Infrastructure and Market Education Programs* ("Application"). Notice of the Application first appeared in the Commission's Daily Calendar on July 10, 2018. Therefore, in accordance with Rules 1.15 and 2.6(a), this protest is timely filed.

I. INTRODUCTION

CCEA has reviewed the Application and identified a number of preliminary issues associated with Southern California Edison Company's ("SCE") Charge Ready 2 Infrastructure and Market Education Programs ("Charge Ready 2"). In short, Charge Ready 2 is flawed for a number of reasons, and should not be approved as-is. As explained in more detail below, the chief concern of CCEA is SCE's proposal to recover *all* costs associated with Charge Ready 2 through distribution rates, which *all* customers pay, even though many of the Charge Ready 2 programs will not be open to all customers. As described in more detail below, several programs proposed in Charge Ready 2 require program participants to take bundled service from SCE, and also require participation in an SCE-administered demand response program. CCEA argues

below that the issue of cost allocation between the generation and distribution functions ought to be given scrutiny in this proceeding. In short, SCE's request to recover over $760 million through distribution rates to support programs that are not available to all customers is an unfair and unreasonable proposal that runs contrary to the Commission's cost-allocation principles.

While CCEA addresses certain preliminary matters herein, and requests that these issues receive due consideration, CCEA anticipates propounding discovery requests related to various other matters in the Application, and therefore anticipates further review and analysis of these matters. Accordingly, CCEA reserves the right to address and protest other issues in the course of this proceeding as they arise and are further developed. As such, the information presented below is merely intended to inform SCE and the Commission of certain preliminary concerns and objections related to the Application.

II. BACKGROUND

CCEA is a California joint powers authority initially formed by the cities of Lancaster and San Jacinto, with expanding membership available to other cities interested in implementing Community Choice Aggregation ("CCA") programs using services provided by CCEA. Currently, the cities of Lancaster, San Jacinto, Rancho Mirage, and Pico Rivera are members of CCEA.

CCA programs, such as Lancaster Choice Energy ("LCE"), are strong supporters of Transportation Electrification ("TE") efforts. As further described below, LCE helped facilitate Phase 1 of the Charge Ready program. LCE is actively involved with the Antelope Valley Transit Authority ("AVTA"), which is currently converting its diesel buses to a 100 percent battery electric bus fleet, consisting of 83 buses. In doing so, AVTA will be the nation's first

fully electric fleet by the end of 2018.[1] LCE incentivized this transition to an all-electric bus fleet by offering a special electric vehicle ("EV") rate to AVTA. LCE is also partnering with AVTA on an all-electric vanpool car share fleet that will provide transportation for military service members from Lancaster to nearby Edwards Air Force Base, as well as other locations. Furthermore, Build Your Dreams, ("BYD"), the world's largest manufacturer of EV buses, located its electric bus manufacturing facility in Lancaster in 2013. Lancaster currently owns and operates fourteen EV charging stations, which are provided free for public use, and Lancaster will be installing an additional thirty stations throughout the community by the end of 2018.

In addition to climate goals, Lancaster is also investigating how these stations may be used as part of important demand response programs. As a natural outgrowth of its local presence, Lancaster has actively engaged with the community in order to develop EV partnership opportunities and has successfully secured various alternate sources of funding for infrastructure – funding that may not otherwise exist absent local government involvement. CCA programs, such as LCE, can play a catalytic role in TE efforts by bringing local knowledge, expertise, and support to encourage and incentivize fuel-switching.

In addition to the many TE efforts described above, Lancaster has been a strong facilitator for SCE's Charge Ready Phase 1 program. For example, Lancaster collaborated with SCE, Antelope Valley Hospital ("AVH"), the Antelope Valley Air Quality Management District, and Charge Point to launch the community's pilot site for SCE's Charge Ready program. The AVH's Charge Ready site setup includes six Charge Point Level II dual-port charging stations,

[1] Further detail on the bus conversion program is available at: http://www.avta.com/index.aspx?page=482 .

which provides 12 EV charging stalls in the hospital's public parking lot. Included as part of Lancaster's EV Charging Infrastructure Expansion plan, this is the first site to feature Lancaster-owned units, which will be networked with other Lancaster-owned EV equipment in the future. Both Lancaster and AVH are committed to a 10-year participation term with the program. Lancaster is encouraged by the success of this project and is confident that LCE, along with other CCA programs, can continue to be valuable partners in the TE and EV space.

In the past, both the Commission and Pacific Gas and Electric Company ("PG&E") have exhibited meaningful efforts to include CCA programs in TE efforts. For example, under the Settlement Agreement in PG&E's EV Infrastructure and Education Program (Application 15-02-009), PG&E agreed that the generation supply for new EV charging stations would be provided by the relevant Community Choice Aggregator if the location owner was a CCA customer.[2] Within this agreement, PG&E also expressly recognized that Community Choice Aggregators must have a central role in the roll-out of the EV program. Thus, PG&E agreed that CCA representatives would be able to sit on the "Program Advisory Council" for the EV program, and CCA staff members were invited to participate with PG&E staff on the selection and marketing of potential charging station sites. Moreover, the Commission's decision on TE Priority Review Projects (D.18-01-024) also requires that Community Choice Aggregators be included on Program Advisory Councils. D.18-01-024 further requires sharing underlying data from TE pilot projects with Community Choice Aggregators.[3]

In light of all of the collaborative efforts that have occurred between CCEA members and SCE to date, CCEA is disappointed by the absence of discussion by SCE in the Application

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[2] See *Joint Motion for Adoption of Settlement Agreement*, in A.15-02-009, dated March 21, 2016, at 11-13.

[3] *See* D.18-01-024 at 94-95.

regarding the role and involvement of CCA programs. Moreover, as mentioned above, SCE is not only proposing to recover all costs associated with Charge Ready 2 through distribution rates, but also many of the Charge Ready 2 programs would not be open to CCA customers (who would be paying increased distribution charges to support these programs).

III. PROTEST

CCA customers are charged rates under a two-prong construct: (1) for generation services, CCA customers are charged rates set by the CCA program; and (2) for distribution and other services, CCA customers are charged rates applied by the incumbent utility and approved by the Commission. Thus, CCEA member customers receive generation services from their respective CCA program, and receive transmission, distribution, billing and other services from SCE. CCA boards are tasked with determining the rate structure for CCA programs.

It is important to recall that Community Choice Aggregators compete with investor-owned utilities ("IOU") in the provision of generation services, and therefore, SCE may have an incentive to improperly assign generation-related costs to the distribution component of rates. This incentive, coupled with the IOUs' inherent market power advantage, was determined by the Legislature to be a basis for rules to protect against cross-subsidization by ratepayers.[4] Accordingly, CCEA requests that the Commission carefully consider which expenses and costs

[4] *See* Senate Bill ("SB") 790 (stats. 2011, ch. 599); Section 2 ("Electrical corporations have inherent market power derived from, among other things, … the potential to cross-subsidize competitive generation services. *** The exercise of market power by electrical corporations is a deterrent to the consideration, development, and implementation of community choice aggregation programs. *** It is therefore necessary to establish a code of conduct, associated rules, and enforcement procedures, applicable to electrical corporations in order…to foster fair competition, and to protect against cross-subsidization by ratepayers.").

from Charge Ready 2 are properly assigned to the distribution function versus which expenses and costs should be assigned to the generation function.

A. Charge Ready 2 Costs Should Not Be Allocated Solely to Distribution Charges

CCEA is concerned by SCE's proposal to allocate the entirety of Charge Ready 2 costs to the distribution function, with no costs being allocated to the generation function.[5] CCEA understands that TE efforts are closely associated with goals and costs that are generation-related in nature. As such, CCEA believes that some portion of Charge Ready 2 costs ought to be allocated to the generation functions. At minimum, CCEA believes that the Commission should direct that the issue of cost allocation for TE programs be set for further investigation and final resolution.

The connection between TE efforts and generation services is manifold. Wider use of EVs, when combined with the ability of EV owners to have access to daytime workplace charging infrastructure, can facilitate the development of additional local solar power generation, by providing a load to take delivery of solar power produced during the daytime. Widespread adoption of EVs with variable charging mechanisms (or the ability to supply power back to the grid) can also benefit grid management. Another one of the corollary benefits of TE is that it has the potential to make use of otherwise stranded renewable generation assets, especially given the significant amount of projected departing load as a result of CCA growth across the state. SCE even explicitly indicates in testimony that TE can improve integration of renewable generation by using Time-of-Use ("TOU") rates as an incentive for load management.[6]

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[5] *See* SCE Testimony at 94 ("All revenue requirements associated with expenditures related to Charge Ready 2 below the cap of $760.1 million (2018$, direct spend) that are recorded in the BRRBA as of year-end will be recovered from customers through distribution rates in the subsequent year.")

[6] *See* SCE Testimony at 22.

Generation-related components of SCE's rates should be allocated to the generation function. As to these components, it is not fair, nor is it reasonable, to allocate costs to the distribution function. As mentioned above, Community Choice Aggregators compete with IOUs in the provision of generation services. SCE's proposal to include all Charge Ready 2 costs solely in distribution rates would result in inequitable cost-shifting to CCA customers in contravention of SB 790 and other statutory provisions.[7] SCE's proposal would also violate past Commission decisions that forbid generation-related costs from being allocated to distribution customers.[8]

This problem is accentuated because CCA customers will not benefit from the new programs, as they do not have the opportunity to participate in the programs. As explained in more detail below, SCE describes in its testimony the development of a number of new programs only available to customers who take bundled service from SCE. Since CCA customers are prohibited from program participation, SCE should not be able recover through distribution rates (from *all* customers) costs associated with deployment of programs which are only available to *some* (*i.e.*, bundled) customers.[9]

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[7] *See, e.g.,* Pub. Util. Code §366.3 ("The commission shall also ensure that departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load.")

[8] *See, e.g.,* D.97-08-056 at 8 ("Specifically, we will not permit allocations of generation cost to distribution customers. To do so would compromise market efficiency by producing artificially low utility generation rates […] and provide competitive advantages, which would stifle competition to the utilities.").

[9] *See, e.g.,* D.14-12-024 at 48 ("[I]f a program or tariff is only available to bundled customers, that program's costs shall be allocated solely to generation rates.").

B. CCA Customers Should Not Have to Pay Higher Distribution Rates to Support Programs Which Are Unavailable to Them

In testimony, SCE describes the "Charge Ready Make-Ready Expansion," whereby SCE plans to install make ready infrastructure for multi-unit dwellings ("MUD"), workplaces, fleets and destination centers to serve approximately 32,000 charging ports for light-duty EVs.[10] SCE will offer rebates in varying amounts, and up to 100% cost ($2000 for Level 1 or Level 2, and up to $27,000 for Direct Current Fast Charge ("DCFC")). A condition of eligibility for this program is that the customer of record "will be required to take service on one of SCE's time-differentiated rates."[11] Requiring a customer to take service on an SCE time differentiated rate appears to mean that CCA customers would not be eligible for this program. If this is not the case, SCE should provide clarification and more specifically describe how CCA customers may participate.

Similarly, under the "Charge Ready Own and Operate" program, SCE will offer customers in MUDs and governmental locations a turnkey option for SCE to own and operate the charging stations on their sites. As in the Charge Ready Make-Ready Expansion Program, the customer of record "will be required to take service on one of SCE's time-differentiated rates."[12] Additionally, "participating customers will be required to participate in a demand response program administered by SCE."[13] Again, CCA customers would not be eligible for this program.

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10 SCE Testimony at 32.

11 SCE Testimony at 39.

12 SCE Testimony at 52.

13 *Id.*

Any requirement that a program participant commit to participation in an SCE-only demand response program would directly contradict the principle of competitive neutrality adopted by the Commission in D.14-12-024, and further developed in D.17-10-017. The underlying objective of the principle of competitive neutrality is to ensure fair competition between the IOU demand response programs and those provided by Community Choice Aggregators and Electric Service Providers (*i.e.* competing providers).[14] The Commission previously determined that once a CCA program implements a demand program that is already provided by an IOU, the IOU must discontinue providing the program to the CCA program's customers within one year.[15] Since LCE has a demand response program under development, the Commission should keep these issues in mind.

Finally, the "Charge Ready New Construction Rebate" would provide a rebate of up to $4,000 per port to developers of new MUD buildings to exceed local and State CALGreen building code (Part 11 of Title 24) and install EV charging stations.[16] As with the other programs, the customer of record will be required to take service on one of SCE's time differentiated rates.

Since these programs have the potential to significantly benefit SCE in terms of generation service, it is inappropriate that all Charge Ready 2 costs be recovered through distribution rates, which are paid by CCA customers who do not receive generation service from SCE. The Commission has previously determined that, where programs benefit bundled customers or are only available to bundled customers, costs should be recovered only from

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14 D.17-10-017 at 14-15.

15 D.14-12-024 at 49-50.

16 SCE Testimony at 55-56.

generation rates.[17] Therefore, at least some portion of costs ought to be allocated to the generation function in accordance with Commission affirmed cost causation and cost allocation principles.[18]

C. SCE Should Not Be Permitted to Artificially Deflate Generation Rates Because Generation Services Are Competitive

Particular scrutiny of cost allocation between the generation and distribution functions would not be necessary but for the fact that generation services are now competitive – increasingly so given the recent emergence of CCA programs. Community Choice Aggregators compete with the IOUs in the provision of generation services, and therefore anti-competitive cross-subsidization occurs when costs attributable to the generation function are improperly assigned to the distribution function.

In other proceedings, the Commission has required a "competitive neutrality" standard.[19] Therefore, CCEA requests that the Commission, in this proceeding, specifically address the issue of cost allocation between the distribution and generation functions. This request is consistent

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[17] *See, e.g.,* D.13-03-32 at 71 (affirming cost causation principles and rejection recovery of costs for a pilot through distribution rates where the pilot would only benefit PG&E generation customers.); *see also* D. 14-12-024 at 48-50 (adopting a demand response cost allocation principle).

[18] *Id. See also* D. 97-08-56 at 8 ("[W]e will not permit allocations of generation cost to distribution customers. To do so would compromise market efficiency by producing artificially low utility generation rates […] and provide competitive advantages, which would stifle competition to the utilities."); D. 12-12-004 at 53 (as related to cost causation, finding that that [Direct Access] and CCA customers should not have to pay for [San Diego Gas & Electric's] dynamic pricing tariff because they were not eligible to participate in the tariff without also returning to bundled service, "As a result, charging customers of other [load serving entities] to implement these tariffs, or even charging them for the incremental costs of implementing or maintaining tools supporting these tariffs (such Web sites or additional customer service), would be charging them for costs that they do not incur and that do not significantly benefit them.")

[19] *See, e.g.,* D.14-12-024 at 48 (addressing demand response programs and costs associated therewith).

with legislation that, after first acknowledging the inherent market power that IOUs derive from the potential to cross-subsidize competitive generation services, ordered the Commission in the context of CCA programs to protect against cross-subsidization paid by ratepayers.[20] SB 790 includes various provisions that speak about the IOUs' potential to cross-subsidize competitive generation services and that seek to redress this potential.[21] Forcing CCA customers to pay for IOU generation costs would be unjust and would violate the statutory prohibition on cost shifting among CCA and bundled customers.

D. California Policy Supports CCA Growth

CCEA has a strong interest in ensuring that California's policy goal of facilitating CCA growth and viability is fully realized.[22] In order to achieve this goal, it is important for the Commission to resolve the issue of whether attributing all Charge Ready 2 costs to the distribution function, as SCE proposes, violates the statutory prohibition on cost-shifting or otherwise disadvantages CCA programs and their customers. This issue is now ripe for review through the course of the Charge Ready 2 Application.

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20 *See* SB 790 (2011); Sec. 2(c); *see also* Pub. Util. Code § 707(a)(4)(A) (added by SB 790).

21 *See, e.g.,* SB 790; § 2(c) ("Electrical corporations have inherent market power derived from, among other things, *** the potential to cross-subsidize competitive generation services."] *See also* SB 790; § 2(h) ["It is therefore necessary to establish a code of conduct, associated rules, and enforcement procedures, applicable to electrical corporations in order to *** foster fair competition, and to protect against cross-subsidization by ratepayers.").

22 *See* D.04-12-046 at 3 (emphasis added) ("The state Legislature has expressed the state's policy to permit *and promote* CCAs by enacting AB 117…."). *See also* D.10-05-050 at 13 (emphasis added) "Certainly, Section 336.2(c)(9) [the provision in AB 117 that requires cooperation from the utilities] evidences a substantial governmental interest in *encouraging the development* of CCA programs and allowing customer choice to participate in them.").

E. CCA Programs Desire to Expand Their Own TE Program Offerings

It is imperative that the Commission recognize the potential for CCA customers to pay doubly for TE programs. The Commission's Energy Division Staff issued a background paper in preparation for the February 1, 2017 CCA En Banc hearing ("CCA Background Paper"). The CCA Background Paper highlighted how "there is currently no mechanism to ensure CCA and IOU [TE] programs are complementary rather than duplicative" and that "[a]s a result, there is a risk that CCA customers will pay for electric vehicle programs offered by the IOU and also pay for similar programs offered by their CCA."[23] Consistent with the cost allocation principle adopted in D. 14-12-024, CCA customers should not be required to pay for any duplicative or similar programs.[24] CCEA requests that the Commission be mindful of this issue in this proceeding and take remedial steps to ensure that this undesirable outcome is avoided.

As described above, CCEA members are actively developing their own TE programs. However, the entire cost of any CCA TE program must be funded from generation rates paid by the CCA program's customers. The only source of revenue, aside from grants, is derived from generation rates. As such, CCA customers bear the entire cost of any CCA TE program. For example, LCE engaged in extensive efforts to support Charge Ready Phase 1. However, unlike SCE, which has its administrative costs covered under the Charge Ready program budget,[25]

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23 CCA Background Paper at 10.

24 *See* D. 14-12-024 at 49-50 ("[We] adopt the competitive neutrality requirement that once a direct access and community choice aggregation provider begins to offer a demand response program, the competing utility shall discontinue cost recovery from that providers' customers for that or any similar program, no later than one year following the implementation of that program.").

25 See *SCE's Charge Ready Pilot Program Report*, filed on April 2, 2018 at A-35-36.

LCE's efforts in support of the Charge Ready program are unfunded. This is not reflective of the actual cost and significant contribution of LCE's efforts.

Therefore, when making cost allocation determinations, the Commission should keep in mind that while CCA programs desire to develop and fund more robust TE programs, they are limited in their ability to do so because they must keep their generation rates low in order to stay competitive. While CCEA supports TE efforts, requiring CCA customers to pay increased distribute rates to support SCE Charge Ready 2 programs that they are not eligible for would be an inequitable outcome.

CCEA looks forward to working with SCE and the Commission to identify all generation-related costs embedded in Charge Ready 2, and to ensure that such costs are not included in the rates paid by CCA customers. If SCE is including generation-related costs in rates paid by CCA customers, this outcome would be unjust and contrary to statutory cost-shifting prohibitions.

IV. PROCEDURAL MATTERS

As requested in Rule 2.6(d), CCEA provides the following responses:

A. Proposed Category

The instant proceeding is appropriately categorized at "ratesetting."

B. Need for Hearing

CCEA believes that evidentiary hearings may be necessary. However, CCEA is willing to work with other parties through stipulations in order to minimize, or perhaps eliminate the need for hearings.

C. Issues to Be Considered

CCEA is still evaluating Charge Ready 2 and issues associated with SCE's request, and therefore CCEA reserves the right to identify additional issues that should be addressed in this

proceeding. The issues described herein are intended to preliminarily inform SCE and the Commission of certain preliminary issues with which CCEA has concerns.

D. Proposed Schedule

CCEA has no comment on schedule at this time.

V. PARTY STATUS

Pursuant to Rule 1.4(a)(2), CCEA hereby requests party status in this proceeding. As described herein, CCEA has a material interest in the matters being addressed in this proceeding. CCEA designates the following person as the "interested party" in this proceeding:

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VI. CONCLUSION

For the reasons stated above, CCEA protests the Application. CCEA thanks the Commission for its consideration of the matters set forth in this protest.

August 9, 2018

Respectfully Submitted,

/s/ Laura Fernandez

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