Decision **PROPOSED DECISION OF COMMISSIONER PEEVEY**
(Mailed 6/11/2013)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Petition of the Marin Energy Authority, Alliance for Retail Energy Markets, City and County of Santa Cruz, Climate Protection Campaign, Constellation NewEnergy, Inc., Direct Access Customer Coalition, Direct Energy, LLC, Energy Users Forum, IGS Energy, Retail Energy Supply Association, Sam's West, Inc., Shell Energy North America (US), L.P., South San Joaquin Irrigation District, Texas Retail Energy, LLC, and Wal-Mart Stores, Inc. to Adopt, Amend, or Repeal a Regulation Pursuant to Pub. Util. Code Section 1708.5.	Petition 12-12-010 (Filed December 18, 2012)

DECISION DENYING PETITION FOR RULEMAKING AND CLOSING PROCEEDING

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DECISION DENYING PETITION FOR RULEMAKING AND CLOSING PROCEEDING

1. Summary

This decision denies the Petition for Rulemaking filed jointly by several parties[1] requesting that the Commission open a proceeding to review and revise existing cost allocation practices, along with the mechanisms used to determine non-bypassable charges imposed on departing load customers. The Petitioners argue that these practices and mechanisms, which are currently developed through a variety of proceedings on different topics, should be addressed in a single proceeding. Petitioners also assert that the practices and mechanisms currently in place must be re-evaluated to avoid subsidization of bundled customers by customers of other electric service providers.

This decision denies the Petition to open a rulemaking as unnecessary; most of the issues discussed in the Petition have been addressed by the Commission recently or are currently under consideration in existing proceedings. To the extent that any issues raised in the petition may require additional review, they can be addressed in proceedings such as the Long Term Procurement Planning proceeding and General Rate Cases.

2. Petition

The "Petition of the Marin Energy Authority, Alliance for Retail Energy Markets, City and County of Santa Cruz, Climate Protection Campaign,

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[1] The filing parties are: Marin Energy Authority, Alliance for Retail Energy Markets, City and County of Santa Cruz, Climate Protection Campaign, Constellation NewEnergy, Inc., Direct Access Customer Coalition, Direct Energy, LLC, Energy Users Forum, IGS Energy, Retail Energy Supply Association, Sam's West, Inc., Shell Energy North America (US), L.P., South San Joaquin Irrigation District, Texas Retail Energy, LLC, and Wal-Mart Stores, Inc., collectively the Petitioners.

Constellation New Energy, Inc., Direct Access Customer Coalition, Direct Energy, LLC, Energy Users Forum, IGS Energy, Retail Energy Supply Association, Sam's West, Inc., Shell Energy North America (US), L.P., South San Joaquin Irrigation District, Texas Retail Energy, LLC, and Wal-Mart Stores, Inc.," (the Petition) was filed on December 18, 2012. The Petition requests that the California Public Utilities Commission (Commission) initiate a new rulemaking to review and revise existing cost allocation practices and mechanisms used to determine non-bypassable charges for departing load customers. The petitioners ask that a new rulemaking do the following:

- Develop cost allocation and cross-subsidization principles to be used in procurement and Commission programs to avoid what the Petitioners perceive to be cross-subsidization of bundled customers by customers of other load serving entities (LSEs) such as Community Choice Aggregators (CCAs) and Electric Service Providers (ESPs).
- Phase out stranded cost recovery by the investor-owned utilities (IOUs).
- Change the calculations of non-bypassable charges imposed on customers leaving bundled service with an IOU to receive generation service from a different LSE.
- Develop requirements to improve utility transparency to reduce cross-subsidization of bundled customers by customers of other LSEs.

- Adopt a requirement that any new Commission Rulemaking that affects California retail energy markets identify potential cost allocation and cross-subsidization issues.
- Adopt a rebuttable presumption that large categories of IOU costs are procurement related and should be collected through generation rates, to be applied in future Commission proceedings. To collect costs from the customers of other LSEs, the IOUs would be required to demonstrate that the expenditures meet a stringent set of conditions, including that other LSEs do not and cannot provide similar benefits to those provided by the utility.
- Adopt rules that facilitate the development of CCA and other retail energy generation options.

The Petition notes that Senate Bill (SB) 790, enacted in 2011, directed the Commission to consider and adopt a code of conduct, rules, and enforcement procedures governing the conduct of electrical corporations relative to the consideration, formation, and operation of CCAs. SB 790 specifically states that the Commission shall "institute a rulemaking proceeding for the purpose of considering and adopting a code of conduct, associated rules, and enforcement procedures, to govern the conduct of the electrical corporations relative to the consideration, formation, and implementation of community choice aggregation programs authorized in Section 366.2."[2] In addition, SB 790 requires that the Commission "incorporate rules that [it] finds to be necessary or convenient in order to facilitate the development of community choice aggregation programs,

[2] Public Utilities (P.U.) Code Section 707.

to foster fair competition, and to protect against cross-subsidization paid by ratepayers."[3]

The Petition also acknowledges that the Commission opened Rulemaking (R.) 12-02-009 on February 16, 2012, to develop such a code of conduct. That proceeding focused on the development of rules to foster fair competition, and avoid cross-subsidization. The final decision in that proceeding, Decision (D.) 12-12-036, adopts a formal Code of Conduct governing the ongoing interactions between CCAs and IOUs, and establishes a complaint procedure for issues related to CCA and utility interactions, as required in SB 790. The rules adopted in that decision were developed to provide Community Choice Aggregators with the opportunity to compete on a fair and equal basis with other load serving entities, and to prevent investor-owned electric utilities from using their position or market power to undermine the development or operation of aggregators. These rules require, for example, that all marketing and lobbying activities be funded solely by shareholders, and that such activities may not be supported by ratepayers or subsidized by other activities. Those rules are intended to ensure that existing and potential CCAs are not at a disadvantage compared with other LSEs in communicating with or competing for customers, and have recourse to an expedited complaint procedure if necessary

The major substantive request made in the Petition is that the Commission reevaluate cost allocation and non-bypassable charge calculations and policies. The Petition asserts that "[t]he result of [current] Commission policies…

[3] P.U. Code Section 707(a)(4)(A).

designed to protect bundled customers… is to unfairly shift costs to CCA and DA customers and absolve the utilities from responsibility to adopt and carry out reasonable procurement practices."[4] Based on this assertion that existing policies unfairly shift costs from bundled customers to the customers of other LSEs, the Petition argues that existing Commission policies on cost allocation and fees do not "protect against cross-subsidization paid by ratepayers," as required in SB 790. The petition provides examples of several specific cost allocation and fee policies that it argues result in unfair cost shifting. Based on these specific examples, the Petition asserts that "SB 790 requires the Commission to re-evaluate [its cost allocation and fee calculation] policies and take a more balanced approach to cost allocation, cross subsidization and non-bypassable charge issues."[5]

The Petition also suggests that the appropriate procedural vehicle for addressing these substantive issues is a single rulemaking – a change to the Commission's current practice of addressing cost allocation and fee issues through a variety of proceedings. The petitioners assert that the current practice of addressing cost allocation and fee issues as they arise in Application and Rulemaking proceedings creates a risk "that the Commission will reach inconsistent – and potentially contradictory – outcomes in different cases."[6] The Petition lists recent and ongoing Commission proceedings that are addressing cost allocation and fees, and suggests that a new rulemaking could address some

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[4] Petition at 9.

[5] Petition at 9.

[6] Petition at 2.

of these issues directly and develop consistent standards to apply to future utility requests to allocate any costs to the customers of other LSEs.

3. Responses to the Petition

Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company (collectively, the investor-owned utilities or IOUs) filed a joint response to the Petition on January 17, 2013. The California Large Energy Consumers Association (CLECA), and (jointly) the Merced Irrigation District, the Modesto Irrigation District, and the California Municipal Utilities Association (collectively, the municipal utilities) also filed timely responses to the Petition. The Petitioners, the investor-owned utilities, and the California Farm Bureau Federation (CFBF) each filed timely reply comments on January 28, 2013. The IOUs, CLECA, and CFBF oppose the Petition, while the municipal utilities support it.

3.1. Procedural Arguments Against Granting the Petition

The IOUs, CLECA, and CFBF oppose the Petition on both procedural and substantive grounds. On a procedural level, both CLECA and the IOUs note that Rule 6.3(b) of the Commission's Rules of Practice and Procedure[7] requires that a Petition for Rulemaking "state whether the issues raised in the petition have, to the petitioner's knowledge, ever been litigated before the Commission, and if so, when and how the Commission resolved the issues, including the name and case number of the proceeding (if known)." The opposing parties state that the Petition fails to meet this requirement because it does not list

[7] Unless otherwise noted, all references to Rules in this Decision refer to the Commission's Rules of Practice and Procedure, at http://docs.cpuc.ca.gov/WORD_PDF/AGENDA_DECISION/143256.PDF.

several proceedings in which cost allocation and rate design issues have been addressed. Specifically, the Petitioners omit numerous General Rate Case (GRC) Phase 2 proceedings,[8] including some in which some or all of the Petitioners have participated. The opposing parties also note that cost allocation and rate design issues are traditionally addressed in GRC Phase 2 and Rate Design Window proceedings.

In addition, the IOUs suggest that the Petition improperly requests a Rulemaking on an issue that the Commission has addressed within the 12 months previous to its filing. Rule 6.3(f) states that the "Commission will not entertain a petition for rulemaking on an issue that the Commission has acted on or decided not to act on within the preceding 12 months." The IOUs observe that the Commission addressed some matters raised in the Petition in several decisions in the 12 months preceding the filing of the Petition, including D.11-12-035 in the Electric Program Investment Charge proceeding (R.11-10-003), as well as in the ongoing Long Term Procurement Planning (LTPP) proceeding, R.12-03-014. The IOUs also note that the Petition was initially filed one year and one day after the Commission issued a fairly comprehensive decision revising the methodology used to calculate certain departing load charges.[9] This initial filing of the Petition was rejected due to filing errors, and a corrected version was filed on December 18, 2012.

The opposing parties also identify ongoing proceedings that are currently considering several issues included in the Petition. For example, the

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[8] See examples in CLECA Response to Petition (CLECA Response) at 4.

[9] See D.11-12-018.

LTPP proceeding is currently addressing issues related to the Cost Allocation Mechanism used for recovering the costs of certain types of generation. Similarly, cost allocation is currently under consideration in the San Diego Gas & Electric Company Phase 2 GRC. Because venues currently exist in which these issues can be reviewed, the IOUs suggest that it is unnecessary to open a rulemaking.

For all of these reasons, the IOUs and other opposing parties suggest that the Petition should be rejected on procedural grounds.

3.2. Substantive Arguments Against a Rulemaking

In addition to these procedural issues, the opposing parties also offer substantive reasons for denying the Petition. The opposing parties dispute the Petition's claims that SB 790 requires the Commission to revise existing cost allocation and departing load charge calculations. In addition, the opposing parties challenge the Petition's assertions that existing cost allocation and departing load mechanisms are unfair to CCA and Direct Access customers and represent improper cost shifting in violation of SB 790. The opposing parties also disagree with the Petition's contention that removing these issues from existing venues to a single, separate rulemaking would be simpler and more efficient than addressing them across different proceedings, as is the current practice. In addition, the opposing parties argue that the Petition incorrectly characterizes many types of revenue requirements, such as those associated with demand response and smart grid deployment,[10] as generation-related costs that should not be shared by the customers of CCAs and Electric Service Providers (ESPs).

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[10] CLECA at 8-9.

CLECA, for example, states that SB 790 does not require the Commission to revise its cost allocation or departing load charge calculations. CLECA notes that the law provides that CCA implementation "shall not result in a shifting of costs between the customers of the community choice aggregator and the bundled service customers of an electrical corporation,"[11] but does not identify any existing cost allocation or fee mechanisms that fail to meet this standard or must be changed.

Similarly, CLECA notes that SB 790 does not modify previously existing statutory language in Section 366.2, subdivision (f) that requires CCA customers to reimburse electrical corporations for certain types of costs incurred. CLECA concludes that "SB 790's modifications to Section 366.2 provide no basis whatsoever for eliminating stranded cost recovery, otherwise altering existing Commission decisions, or opening a rulemaking into cost allocation measures."[12]

Consistent with this position, CLECA and the IOUs suggest that Commission decisions on cost allocation and other fees paid by CCA customers are already in compliance with state law, which requires that "the Commission shall allocate the costs of… generation resources in a manner that is fair and equitable to all customers."[13] While CLECA agrees with the Petition that certain departing load charges should be re-evaluated, it observes that some such charges, for example the Competition Transition Charge (CTC), are required by state statute[14] and cannot be changed without legislative action.

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[11] See P.U. Code Section 366.2, subd. (a)(4).

[12] Joint IOU Response at 14.

[13] P.U. Code Section 365.1(c)(2)(B), see also Joint IOU Response at 14.

[14] P.U. Code Section 367.

In addition, CLECA argues that removing consideration of certain types of costs from GRCs and instead addressing them in a single rulemaking would complicate the resolution of GRCs. CLECA suggests that, because GRCs often involve settlements negotiated among many parties, removing costs from GRCs could make it more difficult for parties to negotiate settlements in these cases by removing some of the parties' flexibility and room to negotiate.[15] Similarly, CFBF disputes the Petitioners' position that cross-subsidization issues have not been adequately addressed in the past, noting that cross-subsidization is "routinely accounted for in Phase 2 of GRCs."[16]

CLECA and others suggest that the Petition assumes that all generation costs are for the benefit of bundled customers only, and categorizes many types of costs as generation costs, when other parties might see those same costs differently. For example, the Petition suggests that demand response and smart grid costs, among other cost items, should be assumed to be procurement costs and charged only to bundled customers. CLECA notes that, because the definition of generation and procurement-related costs is not agreed upon by parties, the question of whether these costs are procurement related and who should pay for them would likely end up being litigated, even if policy guidelines for procurement-related costs were set in a rulemaking as recommended by the Petitioners.

4. Discussion

The procedural concerns raised by the opposing parties, especially the petitioners' failure to list several proceedings in which related issues have been

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[15] CLECA at 5-6, CFBF at 2.

[16] CFBF Reply Comments at 3.

litigated before this Commission, are valid, but on their own do not persuade us to reject the Petition. On the other hand, the substantive issues raised by the opposing parties convince us that it would not be appropriate to open a rulemaking at this time on the cost allocation and fee issues raised in the Petition.

The Petition's major substantive claim is that existing cost allocation and fee mechanisms allow improper cost-shifting between bundled and unbundled customers, and as a result they violate the requirement of SB 790 to avoid cross-subsidization. Based on the assumption that current mechanisms lead to cross-subsidization, the Petitioners argue that SB 790 requires the Commission to re-evaluate both cost allocation decisions and the mechanisms used to determine departing load charges. The Petitioners further argue that addressing these issues in a single proceeding will increase not only fairness (by reducing cross-subsidization), but also consistency and transparency in future Commission decisions.

We find neither the Petitioners' assumption that current mechanisms are unfair, nor their conclusions that SB 790 requires a re-evaluation of these mechanisms at this time, to be persuasive; existing processes are appropriate for consideration of future modifications to these mechanisms.

As noted above, state law requires the Commission to allocate the cost of generation resources to ratepayers in a manner that is fair and equitable to all customers, whether bundled or unbundled customers. Provisions of state law address the need to avoid cost shifting, and do so in part by requiring CCA customers to reimburse IOUs for certain types of costs.[17] SB 790 does not explicitly require that the Commission review existing cost allocation and fee mechanisms, nor does it find that existing mechanisms violate the requirement that cost allocation and fees remain "fair and equitable to all customers." As a result, we find that SB 790 does not require a reevaluation of existing rates at this time.

Further, as noted by both CLECA and the IOUs, the Petitioners have presented no showing that existing cost allocation and fee mechanisms allow cost shifting or violate the provisions of SB 790 or other state laws. In fact, the Commission has found in past decisions that existing fee mechanisms divide costs appropriately between bundled customers and the customers of other LSEs. For example, in D.11-12-018, the Commission revised its methodologies for calculating certain non-bypassable charges, and various GRC Phase 2 decisions adopt cost allocation mechanisms. Arguments regarding various cost allocation mechanisms have been considered by this Commission and the adopted mechanisms have been found to be reasonable. These Decisions contain findings of fact and conclusions of law in support of the mechanisms that are currently in place.

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[17] IOUs at 12 through 14.

In addition, cost allocation between bundled and unbundled customers is routinely considered in Commission proceedings, and several of the Petitioners have participated actively in such proceedings. The Commission has consistently addressed cost allocation with the goal of avoiding cross-subsidization, consistent with state law that requires the IOUs to "recover from the community choice aggregator any costs reasonably attributed to the community choice aggregator, as determined by the Commission."[18] Towards this end, the Commission reviewed and modified the indifference charge methodology in R.07-05-025. In D.11-12-018 in that proceeding, adopted in December 2011, the Commission modified the calculation methodology for determining the non-bypassable Power Charge Indifference Adjustment. For these reasons, we find that current cost allocation and indifference charge calculation determinations are reasonable and consistent with state law, and it is not necessary to open a new proceeding to re-evaluate them. Existing cost allocation and fee structures may be re-examined in the future in response to changed circumstances or additional information, but, as noted by the IOUs, the Petition does not provide a showing of changed circumstances to justify such a review.

We are also not persuaded that, even if a review of cost allocation and departing load charges were appropriate at this time, it would be either necessary or appropriate to address those issues in a single proceeding. It is not only reasonable but necessary to make cost-allocation decisions on a case-by-case basis informed by the specific contexts in which costs are incurred. CLECA in

[18] P.U. Code 366.2, subd. (c)(20).

particular provides a compelling argument that cost allocation decisions are most appropriately made with reference to the specific nature of the costs at issue.[19] The Petitioners implicitly acknowledge this necessity by requesting that the Commission use the proposed rulemaking to create standards for use in future proceedings, such as their proposal that the Commission adopt a rebuttable presumption and high burden of proof for allocating costs or applying non-bypassable fees to unbundled customers. This proposal for "consistent standards" is predicated on the assumption that cost allocation decisions ultimately will continue to be made on a case-by-case basis.

In addition, the specific requests made by the Petitioners, that the Commission impose a rebuttable presumption that all costs are generation-related unless the utility can prove otherwise, and that certain departing load charges should be discontinued, are not consistent with the statutory requirement that the Commission ensure that CCAs reimburse IOUs for certain types of costs. Determinations of whether cost sharing is appropriate, or whether unbundled customers are subsidizing bundled customers, are appropriately informed by the specifics of the situation. As provided in state law, the determination of whether a specific IOU proposal meets the requirements for collection from unbundled customers can only be determined through a thorough review of the proposal itself by this Commission. Such decisions are currently and appropriately made through individual proceedings, in which the balance between the cost responsibility for and benefits to bundled and unbundled customers can be examined in detail.

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[19] CLECA Response at 9.

It is not clear that moving all cost allocation and fee issues to a single proceeding would increase efficiency and transparency. In fact, certain issues raised in the Petition, including the calculation and application of the procurement Cost Allocation Mechanism, are currently under review in the ongoing LTPP proceeding, R.12-03-014.[20] Similarly, cost allocation for some IOUs is currently an open issue in ongoing GRC cases. Not only would moving these issues to a single new rulemaking require changes to the scope of those other proceedings, but it is not clear how decisions in the new rulemaking would be incorporated back into rates and fees. Setting cost allocation and fee policies in a single rulemaking, as requested in the Petition, would introduce an additional layer of decision-making into cost allocation decisions without removing the need to make final determinations in GRCs and program-related proceedings. For these reasons, we are not persuaded that addressing cost allocation and fee issues in one proceeding will result in significant increases in efficiency, consistency, and transparency. At the same time, we emphasize that IOUs must provide clear explanations of and support for their cost allocation proposals in applications and supporting testimony, to facilitate the development of a sufficient record on which to evaluate such proposals.

In summary, Petitioners have failed to convince us that initiating a rulemaking in response to this Petition would increase fairness or efficiency, and it is neither necessary nor appropriate to attempt to consider the issues raised in the Petition in a single proceeding at this time. Instead, the cost allocation and fee issues raised in the petition are appropriately addressed on a case-by-case

[20] 2nd Scoping memo in R.12-03-014.

basis, including through LTPP and GRC proceedings. The Commission, however, continues to be open to reevaluating specific policies and fees in appropriate proceedings if specific circumstances warrant doing so, and indeed some related issues are currently under review in other proceedings.

5. Comments on Proposed Decision

The proposed decision of the assigned Commissioner in this matter was mailed to parties in accordance with Pub. Util. Code § 311, and comments were allowed in accordance with Rule 14.3 of the Commission's Rules of Practice and Procedure. The Petitioners, the municipal utilities, the San Diego Energy District Foundation (SDED), the IOUs, and CLECA filed comments on the proposed decision. The Petitioners, the municipal utilities, the IOUs, and CLECA filed reply comments. In general, the IOUs and CLECA urge the Commission to adopt the proposed decision without modification, and the other commenting parties recommend that the proposed decision be revised to grant the petition and open a rulemaking. SDED asserts that CCAs and other LSEs pay "excessive and inappropriate" costs under existing Commission-approved policies, and that these policies "present significant obstacles to market entry."[21] In particular, SDED suggests that the Commission should open a rulemaking to review and modify non-bypassable charges, if no other issues, arguing that excessive non-bypassable charges make "CCA programs less competitive than they would

[21] SDED Opening Comments on the PD at 4.

otherwise be."[22] The municipal utilities similarly assert "that departing-load charges have a significant adverse effect on customers."[23]

In their comments, the Petitioners assert that the proposed decision fails to address the Petition's request for increased transparency in cost allocation issues and the development of cost allocation principles. The Petitioners acknowledge that the Commission has examined some aspects cost allocation recently, but asserts that the Commission has looked at specific mechanisms without considering larger questions, such as how to minimize utilities' stranded costs, and whether the CTC and other charges are fair and consistent with state statute.[24] Similarly, the municipal utilities urge the Commission to phase out the CTC and other non-bypassable charges such as the Nuclear Decommissioning charge, stating that they are no longer necessary or appropriate.

In their reply comments, the IOUs describe the legal bases for various existing non-bypassable charges, and they dispute the Petitioners' assertions that the Commission has not considered the issues raised in the petition or should reconsider them in a separate rulemaking. CLECA similarly notes that the Commission has already reviewed and determined the fairness of cost allocation and fee mechanisms in other proceedings. CLECA also suggests that to the extent that utility testimony on cost allocation and fees are not transparent, the solution is for the Commission to "direct the utilities to provide a sufficient and

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[22] SDED Opening Comments on the PD at 5.

[23] Municipal Utilities' Reply Comments on the PD at 3.

[24] Petitioners' Opening Comments on the PD at 7-8.

clear explanation of any allocation proposals in the initial application and accompanying utility testimony."[25]

The comments filed on the proposed decision largely reiterate arguments made in previous filings within this proceeding. Arguments related to the fairness of existing charges and whether those charges are consistent with state statute are addressed in Section 4, above. Several small technical and clarifying changes have been made to this decision, and some clarifying language has been added in response to comments. No substantive changes have been made.

6. Rulings confirmed

All rulings, including electronic mail rulings, made by the assigned Commissioner and assigned ALJ are confirmed.

7. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Jessica T. Hecht is the assigned ALJ in this proceeding.

Findings of Fact

1. The Commission has addressed some matters raised in the Petition in several decisions in the 12 months preceding the filing of the Petition, including D.11-12-035 in the Electric Program Investment Charge proceeding (R.11-10-003), as well as in the ongoing Long Term Procurement Planning (LTPP) proceeding, R.12-03-014.

2. Some issues raised in the Petition, including the calculation and application of the procurement Cost Allocation Mechanism, are currently under review in ongoing proceedings, including the current LTPP proceeding, R.12-03-014.

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[25] CLECA Reply Comments on the PD at 3.

3. State law addresses the need to avoid cost shifting in part by requiring CCA customers to reimburse IOUs for certain types of costs.

4. It is not apparent that initiating a rulemaking on cost allocation and non-bypassable charges would increase fairness or efficiency, and it is neither necessary nor appropriate to attempt to consider the issues raised in the Petition in a single proceeding at this time.

5. The determination of whether a specific IOU proposal meets the requirements for collection from unbundled customers can only be determined through a thorough review of the proposal itself by this Commission.

Conclusions of Law

1. State law requires the Commission to allocate the cost of generation resources to ratepayers in a manner that is fair and equitable to all customers.

2. SB 790 does not require the Commission to reevaluate existing cost allocation or fee mechanisms at this time.

3. SB 790 does not find that existing mechanisms violate the requirement that cost allocation and fees remain fair and equitable to all customers.

4. Current cost allocation and fee calculation determinations are reasonable and consistent with state law.

5. Certain departing load charges, for example the Competition Transition Charge (CTC), are required by state statute and, without legislative action, cannot be discontinued until the specified costs are recovered.

6. It is reasonable to address cost allocation and non-bypassable charge mechanisms as they arise in proceedings, on a case-by-case basis.

O R D E R

IT IS ORDERED that:

1. Petition 12-12-010 is denied.
2. Petition 12-12-010 is closed.

This order is effective today.

Dated _____, at San Francisco, California.