

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



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Order Instituting Rulemaking Pursuant to Senate Bill No. 790 to Consider and Adopt a Code of Conduct, Rules and Enforcement Procedures Governing the Conduct of Electrical Corporations Relative to the Consideration, Formation and Implementation of Community Choice Aggregation Programs.

Rulemaking 12-02-009
(Filed February 16, 2012)

REPLY COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E)

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April 16, 2012

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I. INTRODUCTION

Pursuant to Rule 6.2 of the California Public Utility Commission’s (“Commission”) Rules of Practice and Procedure and the schedule set forth in the above-referenced Order Instituting Rulemaking (“OIR”) to implement Senate Bill (“SB 790”),¹ San Diego Gas & Electric Company (“SDG&E”) submits these Reply Comments. These reply comments, pertaining to Community Choice Aggregation Program (“CCA”), respond to the Opening Comments filed herein on March 26, 2012 by: an *ad hoc* group called the CCA Alliance (“CCAA”),² The City and County of San Francisco (“CCSF”), Shell Energy North America (US), L.P. (“Shell”), Local Power Inc., (“Local Power”) and Women’s Energy Matters (“WEM”).

The OIR proposes rules of conduct and enforcement procedures relative to electrical corporations marketing against CCA; however, the proposed revisions contained in the above-referenced Opening Comments exceed the scope of this proceeding, are overbroad, unduly

¹ Senate Bill 790 (Leno), Stats 2011, ch. 599.

² Marin Energy Authority, San Joaquin Valley Power Authority, South San Joaquin Irrigation District, City of Santa Cruz, the Climate Protection Campaign, Direct Energy, LLC., Noble Americas Energy Solutions LLC, Constellation NewEnergy, Inc., Alliance for Retail Energy Markets and Direct Access Customer Coalition are collectively referred to herein as CCA Alliance or CCAA.

burdensome and would impermissibly restrict a utility from communicating fully and accurately with its customers about the utility's Commission-approved tariffs, rates and services. They should be rejected. Specifically, SDG&E urges rejection of the following proposals to:

- Re-litigate or inject cost/revenue allocation, rate and rate design issues into this proceeding, notwithstanding that such issues are beyond the scope of SB 790, either have already been resolved, are pending resolution or are more appropriately resolvable in proceedings established to provide a comprehensive resolution of such issues, *e.g.*, general rate cases (“GRC”), rate design window proceedings and long term procurement planning (“LTPP”) proceedings. Addressing these issues in a piecemeal fashion would not yield just and reasonable rates.
- Require utilities to establish a functionally separate Retail Electric Generation Service,³ with separate financial accounting, notwithstanding that SB 790 requires only that a utility engaged in marketing or lobbying against a CCA program do so through an independent marketing division (“IMD”) with below-the-line accounting, *i.e.*, shareholder funding.
- Substitute draft Rule 19) b. in the OIR, requiring utilities who do not market or lobby against CCA programs to make an informational filing affirming that position rather than a compliance plan, with new rules for “non-marketing” utilities that are burdensome and overly broad and appear similar to the requirements that CCAA seeks to impose on utilities engaging in anti-CCA marketing and lobbying.
- Expand the definition of “Market” so as to impermissibly restrict all communications between a utility and its customers, even commercially protected speech that is truthful and not misleading.
- Add new rules that duplicate or conflict with currently-effective utility CCA-related tariff provisions, impose new fees that are undefined and new utility obligations to the benefit of CCA and detriment of bundled customers.

II. THE COMMISSION SHOULD REJECT PROPOSALS TO LITIGATE HERE ISSUES THAT ARE PENDING, RESOLVED OR MORE APPROPRIATELY RESOLVABLE IN PROCEEDINGS ESTABLISHED TO ADDRESS SUCH ISSUES COMPREHENSIVELY.

A. SB 790 Does Not Require a Change in Cost Allocation Methodologies, as Argued by CCAA, CCSF and Shell.

CCAA, CCSF and Shell contend that there are other statutory provisions in SB 790 that the Commission should consider in implementing SB 790, allegedly so as to avoid cross

³ See CCAA Comments at 5 and Appendix A at 3-4. CCAA defines this term to mean “the wholesale purchase and direct sale of electric energy to electric customers.”

subsidization and other potential rate distortions.⁴ In particular, they point to various cost allocation and rate design mechanisms to be considered in this OIR, *e.g.*, Cost Allocation Mechanism (“CAM”), allocation factors relative to generation, distribution and transmission, the Power Charge Indifference Adjustment (“PCIA”) and Non-ByPassable Charges (“NBC”) applicable to stranded cost recovery.

Contrary to those assertions, however, SB 790 does not require a change in or examination of such issues in this OIR. Section 707(a) requires merely that the Commission adopt rules of conduct governing an electrical corporation marketing *against* a CCA program, and related complaint procedures, that will:

(1) ensure that an electrical corporation does not market against a CCA program, except through a shareholder-funded IMD that is functionally and physically separate from the electrical corporation’s ratepayer-funded divisions;

(2) limit the electrical corporation IMD’s use of support services from the utility’s ratepayer-funded divisions and ensure that the IMD is allocated costs of permissible support services on a fully allocated embedded cost basis, providing detailed public reports of such use;

(3) ensure that the IMD does not have access to competitively sensitive information;

(4) incorporate rules that the Commission finds to be necessary or convenient in order to facilitate the development of CCA programs, to foster fair competition, and to protect against cross-subsidization paid by ratepayers and;

(5) provide for any other matter that the Commission determines to be necessary or advisable to protect a ratepayer’s right to be free from forced speech or to pay for any direct or indirect expenditure by the electric utility for promotional or political advertising.

⁴ *Id.* at 21-33. *See also* Appendix B.

None of the criteria delineated in Section 707(a), including the necessary or convenient clause in item 4 above, upon which CCAA, CCSF and Shell rely to support the breadth of their proposals, support the contention that allocation or rate issues are mandated by this OIR. They are not. As discussed below, there are appropriate *fora* that have been developed to address these issues comprehensively. This OIR, however, is not one of them.

B. Revenue Allocation Issues Are Properly Addressed Comprehensively in a General Rate Case or Rate Design Window—Not in this OIR

The Opening Comments of CCAA, CCSF and Shell appear to propose revisions to entire categories of cost allocation. As noted, however, these issues are appropriately taken up in Phase 2 of GRCs and other related rate proceedings, where the issues may be addressed comprehensively. This OIR is categorized as a “quasi-legislative” proceeding, not a rate case—and no party has contested that designation.

More particularly, PG&E has pointed out that in its recent CCA Service Fee case, DACC sought to expand the scope of the proceeding. The Administrative Law Judge and Assigned Commissioner rejected that effort, stating:

In setting forth the above scope, we emphasize the narrow focus of this proceeding, which is only to evaluate the proposed DA and CCA service fees contained in the instant application as directed by Ordering Paragraph 22 of D.11-05-018. We note that we recently adopted a decision in Phase 2 of PG&E’s GRC adopting marginal costs of electric generation, transmission, distribution, and customer access to serve as the basis for allocating generation and distribution revenue among rate groups for use in the design of PG&E’s retail electric rates (D.11-12-053 in A.10-03-014). While parties may wish to examine information from that decision in the context of this proceeding, nothing set forth in the scope above should be construed to signify our intention to revisit or disturb any conclusions, authorizations or outcomes of previous decisions issued in A.10-03-014, or any other proceedings pertaining to PG&E’s GRC.⁵

⁵ Scoping Memo and Ruling of Assigned Commissioner and ALJ in CCA Service Fee Case, Application 11-12-009, issued March 27, 2012 at 6.

The referenced Ordering Paragraph 22 directed PG&E to file an application by a date certain “to comprehensively reassess all of its Direct Access and Community Choice Aggregation service fees.” Revenue allocation issues must be resolved comprehensively, not in piecemeal fashion that would occur if these issues were addressed in this OIR. All stakeholders must be at the table so that all relevant cost allocation and rate issues may be considered. It would be inappropriate and a poor allocation of limited resources for the Commission to allow this quasi-legislative OIR, designed to adopt a code of conduct and enforcement procedures, to be sidetracked with cost allocation and rate concerns that are clearly out of scope.

Further, it would be a serious misallocation of limited resources to permit parties to re-litigate or inject cost allocation and rate issues in this limited proceeding when such issues either are pending or resolved in other dockets, or subject to comprehensive resolution in such proceedings as general rate case proceedings, rate design window proceedings, and long term procurement plan proceedings that are able to resolve these issues comprehensively.

C. CAM Should Not Be Addressed Here.

Notwithstanding CCAA’s and Shell’s assertions to the contrary, CAM is outside the scope of SB 790 and should not be revisited here. In D.08-09-012, the Commission examined CAM comprehensively in the context of new generation non-bypassable charges (“NBCs”), direct access, municipal departing load, vintaging, cost responsibility surcharges and other issues and, among other things, declined to modify the length of the CAM, as adopted in D.06-07-029, due to insufficient justification (Conclusion of Law (“COL”) 24).

In discussing NBCs, D.08-09-012, COL 6, stated:

Since the IOUs are procuring and making procurement commitments on behalf of bundled service customers who are eligible to return to DA service up until the dates associated with these customers’ notices to return to DA service, these customers should, as is the case with all other

customers, be responsible for those procurement commitments made on their behalf and should be subjected to the D.04-12-048 NBC.

In addressing vintaging, COL 15 stated, “the time a commitment is made” is when the IOU executes a contract or begins the construction of a new generation resource, not deliveries begin under the contract or the generation resource becomes operations.

Finally, in D.11-03-051, the Commission modified D.10-12-035 to address CAM, NBCs and vintaging issues. D.10-12-035 approved the Settlement Agreement comprehensively resolving long-standing issues related to Qualifying Facilities, Combined Heat and Power Facilities and IOUs (“Settlement”).

Clearly, these are complex and interrelated issues that must be addressed comprehensively—not in isolation. Yet, that would occur if this OIR took up this charge. Proposals to inject this issue into this quasi-legislative proceeding must be rejected.

D. Efforts to Revise the PCIA Are Contrary to and a Collateral Attack on D.11-12-018.

CCAA’s efforts to revisit and revise the PCIA in this proceeding must be rejected.⁶ The utilities are in the process of implementing the recently updated methodology to calculate the PCIA in accordance with the directives in D.11-12-018. There, the Commission noted that the IOUs’ previously adopted 2011 PCIA rates were made subject to true-up once the IOUs calculate and implement revised 2011 PCIA rates determined in accordance with the revised methodologies in that proceeding. The effective date of the true-up for SDG&E was to be the date its 2011 ERRRA rates become effective.

It would clearly be a misallocation of limited resources to permit parties to resurrect and re-litigate PCIA, yet again, in this quasi-legislative proceeding.

⁶ CCAA Opening Comments at 30.

E. Procurement Obligations Should be Addressed in the LTPP, Not Here.

CCAA requests that long-term procurement issues be addressed in this OIR.⁷ That request is misplaced. Procurement issues must be addressed comprehensively and the LTPP is the appropriate forum in which to do so. Only there can all relevant issues be considered with all stakeholders at the table. Thus, in D.12-01-033, the Commission approved modified bundled procurement plans for the utilities that took into account changes in planning assumptions and procurement obligations resulting from the Settlement that the Commission approved in D.10-12-035 that comprehensively resolved long-standing issues between Qualifying Facility/Combined Heat and Power Facilities and IOUs. Clearly, these issues require comprehensive resolution and are outside the scope of this OIR.

F. Energy Efficiency Issues Should Be Addressed in the Energy Efficiency Proceeding.

WEM seeks to inject energy efficiency issues into this OIR, regarding whether and to what extent PG&E may use energy efficiency in its marketing and lobbying efforts against CCAs. The proposed rules in the OIR specifically address the prohibition on these sorts of activities and energy efficiency concerns as outside the scope of this proceeding. They should be addressed in energy efficiency dockets.

III. CODE OF CONDUCT ISSUES

A. Summary of SDG&E's Opening Comments

SDG&E's Opening Comments generally supported the thrust of SB 790 and the proposed Code of Conduct Rules, subject to narrowly drawn revisions and clarifications to ensure that SDG&E's ability to communicate fully and accurately with its customers about SDG&E's

⁷ *Id.* at 31-33.

Commission-approved tariffs, rates and services would not be circumscribed. Essentially, SDG&E requested clarification to ensure that:

- marketing or lobbying “against CCA” will not be construed to:
 - preclude a utility from accurately and fully addressing inquiries from or proactively providing information on the utility’s CPUC-approved programs, service and rates, including CPUC-approved tariffs and rates defining the utility’s and customers obligations and responsibilities under CCA Service; or
 - restrict a utility from participating in debates on CCA-related matters being considered by the Legislature or the CPUC with which a utility may disagree, and
- a utility will not be required to establish a separate marketing affiliate to deal with CCA matters unless it is warranted by utility-specific facts and circumstances.

B. The New Proposals Should Be Rejected.

The Opening Comments of the above-referenced parties, however, proposed significant revisions that should be rejected because they are out of scope, overbroad, unnecessary, and unreasonable.

1. No New Separation between Utility Generation/Procurement and Other Retail Services Should Be Required.

CCAA’s proposal to functionally separate what it calls the utility’s Retail Electric Generation Services (“REGS”) from other retail services is unsupported. CCAA contends that this functional separation is necessary “to further ensure [against] improper cross-subsidization of IOU marketing against CCA programs.”⁸ This proposal should be rejected for several reasons.

First, the proposal is overly broad and unduly burdensome, and CCAA has failed to establish any factual predicate as to why functional separation should be made generally

⁸ CCA Comments at 5.

applicable to all the utilities. Until such facts are adduced, on a utility-specific basis, no such functional separation should occur.

Second and more significantly, separation of retail electric generation business from other utility business is not in customers' best interests because it will result in cost inefficiencies and higher rates to customers. Such a result is especially untenable here where SDG&E has no CCA in its territory. Separation of its retail electric generation business would be a waste of time and result in needless expenditure of limited resources with no purpose served whatsoever. If a CCA were to form in SDG&E's territory in the future, an independent marketing function, with appropriate below the line accounting measures, would sufficiently meet the requirement of SB 790 and ensure that ratepayers are not paying for marketing/lobbying activities against the CCA program, in the unlikely event these sorts of activities were to arise.

Finally, even if SDG&E did have a CCA in its service territory, the costs to procure energy for bundled customers is not solely determined by volume of load or number of customers. When load departs, SDG&E's administrative costs do not necessarily decrease. The IOU is the provider of last resort and, as such, must provide retail electric generation services which costs must be recovered by bundled customers. Those are issues that would have to be explored and resolved comprehensively in the appropriate proceeding. As the Commission noted in COL 6 in D.08-09-012:

Since the IOUs are procuring and making procurement commitments on behalf of bundled service customers who are eligible to return to DA service up until the dates associated with these customers' notices to return to DA service, these customers should, as is the case with all other customers, be responsible for those procurement commitments made on their behalf and should be subjected to the D.04-12-048 NBC.

In any event, SB 790 does not require any new separation between utility generation/procurement and other retail services and CCAA has offered only speculation, not

facts, to support its proposal on a generally applicable basis. Accordingly, this proposal must be rejected.

2. Financial Accounting Provisions Are Unwarranted.

CCAA and CCSF contend that additional functional separation in cost accounting between the retail electric generation service provided by an IOU and all other functions of the corporation would better foster fair competition and ensure non-discriminatory treatment by the utility of CCA. Again, this assertion is based on pure speculation. Utilities are required to apply their tariffs in a non-discriminatory fashion. Moreover, CCAA and CCSF have offered no facts indicating that the proposed separate accounting provisions are necessary or appropriate for utilities that do not market or lobby against CCAs – which is the purpose of SB 790. And certainly, neither party offers facts demonstrating why it is necessary to impose requirements on such utilities that are more stringent than those imposed by SB 790. CCSF contends that “other than as to retail generation service, the IOUs should be required to provide CCAs and their customers the same level of service at the same price as they provide to bundled customers, their affiliates and their [IMD].⁹ As regulated entities, IOUs are required to apply their tariffs and provide goods and services in a non-discriminatory fashion at a Commission approved rate. There is no reason for CCSF and CCAA to propose and the Commission to adopt new rules to enforce an obligation that the utility already has. This proposal should be rejected.

3. Market Analysis and Reports Should Remain with the Utility.

CCAA and CCSF have proposed a new section 10 precluding the utility from providing access to market analysis and reports to its procurement department “to better foster fair competition” and ensure non-discriminatory treatment. Once again, this proposal goes far

⁹ CCFS Comments at 4.

beyond what SB 790 required and for the same reasons discussed in subsection 2 above, this proposal should be rejected. It is overly broad, burdensome and unnecessary.

4. Illinois Commerce Commission and Michigan Public Service Commission Rules Are Not Binding on this Commission.

CCAA relies on rules that the Illinois Commerce Commission (“ICC”) adopted in 2001 to support its proposal delete draft Rule 19) b. in the OIR and substitute it with sweeping new “Rules Regarding Non-Marketing Electrical Corporations” (“Non-Marketing Rules”) that CCAA is proposing for utilities that do not market or lobby against CCA, allegedly to address utility “inherent market power.”

More particularly, under the Non-Marketing Rules, utilities who do not market or lobby against CCA programs would not be allowed to make an informational filing affirming that position, as provided for in draft Rule 19) b. Instead, they would be required to file a compliance plan substantially similar to the compliance plan that utilities engaged in anti-CCA marketing and lobbying would have to file. The Non-Marketing Rules also delineate with specificity proscribed behavior for the non-marketing utility, *i.e.* no marketing, no advertising, no tying, no cross-subsidization. The Non-Marketing Rules further require employee training and communication regarding these rules and that “[a]ll costs associated with these rules... shall be solely attributed to the Non-Marketing IOU’s generation function, and not included in the distribution function.” These non-marketing rules are an overreach, especially, where as here, SB 790 and this OIR focus solely on electrical corporations engaged in marketing and lobbying against CCA and require only that such activity be performed by the utility’s IMD.

CCAA’s reliance on the ICC and MPSC to buttress its proposal to impose stringent marketing requirements and functional separation on utilities who have determined that they will not market against a CCA program is misplaced. The actions of those state commissions

do not bind this Commission. CCAA and CSSF have offered no facts, only speculation, as to why the Commission’s proposed rules for non-anti CCA marketing utilities are inconsistent with SB 790. They are not. Section 19) b., therefore, should be retained and the proposed Non-Marketing Rules should be rejected.

5. The Expanded Definitions of Marketing and Lobbying Would Restrict the Utility from Communicating Fully and Accurately with Its Customers and Must Be Rejected.

CAA has proposed to revise the definitions of “Market” by inserting “when used as a verb herein, means to communicate.... (through any media venue including but not limited to the Internet, radio, and television).” This revision is a significant departure from the definition proposed in the OIR. It seems to incorporate all communication with customers, which is illegal for the reasons set forth below and in SDGE’s Opening Comments.

As discussed in its Opening Comments, it is well settled that generally, the government may not regulate or restrict a public utility’s otherwise lawful and truthful communications and marketing to customers for the purpose of engaging in the sale of electricity, unless certain conditions are met.¹⁰ And the California State Supreme Court has established that truthful commercial speech is protected by the First Amendment as long as it is lawful and not misleading.¹¹

CCAA’s proposed revision must be rejected so as to not impermissibly restrict or ban SDG&E’s ability to communicate fully and accurately with its customers about Commission-approved tariffs, products, services and rates.

¹⁰ *Central Hudson Gas & Elec. Corp. v. Public Serv. Comm’n of N.Y.*, 447 U.S. 557 (1980) (striking down a New York Public Service Commission ban on promotional advertising by public utilities). *See also Pacific Gas & Electric Co. v. Public Utilities Comm’n of California et al.*, 475 U.S. 1, 17 (1986).

¹¹ *In re Tobacco Cases II*, 41 Cal. 4th 1257, 1274 (2009) (“For commercial speech to come within [the First Amendment’s protection], it at least must concern lawful activity and not be misleading.”).

6. Other New Rules Should Be Rejected Because They Duplicate or Conflict with Currently-Effective CCA-Related and Other Tariff Provisions.

As a general proposition, rules of conduct should not attempt to duplicate similar provisions that are already a part of an IOU's tariff. Doing so can lead to customer and employee confusion. With that understanding, SDG&E responds to the following additions in Appendix A of CCAA's Comments:

"New subsection 3 provides for equitable application of all tariff provisions." There is currently no ambiguity with regard to a utility's responsibility to provide equal treatment to customers under its Commission-authorized tariffs.

"New subsection 5 provides that an IOU must refrain from: 1) speaking on behalf of any CCA program; 2) **giving any appearance of speaking on behalf of any CCA program...**" It is unclear how this bolded provision could be objectively determined with any reasonable certainty.

"New subsection 7 provides that an IOU shall provide comparable technical and operational services to the CCA Aggregator and its Retail Electric Generation division using the same fee schedule and the same performance standards." Proposed subsection 7 should be rejected as discussed further below.

New subsections 8, 9 and 13 essentially duplicate or attempt to modify existing tariff provisions and should be rejected.

C. Code of Conduct Proposals of Other Parties

In addition to raising forced speech issues relative to PG&E, Local Power proposes that the Commission should require the IOUs to make their books available to municipalities that request them under the California Public Records Act ("PRA"). Local Power's proposal should be rejected, not only because it exceeds the scope of this proceeding, but also because it

demonstrates a misunderstanding of the PRA’s scope.¹² The PRA is designed to promote prompt public access to public records. “Public records” are defined by the PRA as “any writing containing information relating to the conduct of a public's business prepared, owned, used or retained by any state or local agency . . .”¹³ The PRA provides a statutory framework that a state or local governmental agency must apply when responding to a request to publically release a document in its possession. In other words, the PRA only applies to the access of records held by state and local governmental agencies, not IOUs.¹⁴

IV. DISPUTE RESOLUTION ISSUES

SDG&E appreciates the need for expeditious dispute resolution. However, CCAA’s dispute resolution proposals are too stringent and fail to provide sufficient latitude to address the following:

1. Bi-lateral discovery must be provided for and 15 days may not be the appropriate due date for responses in all circumstances.
2. All evidentiary hearings should not take place 30 to 45 days after the complaint is filed. The timing should depend on the facts alleged and the quality of the information provided in the Complaint.
3. The dispute resolution process should not address whether and to what extent the Commission plans to file lawsuits on behalf of CCAs.

SDG&E’s Opening Comments provide a more flexible approach for handling these

¹² Cal. Gov. Code §§ 6250 et seq.

¹³ Cal. Gov. Code §6252(e).

¹⁴ *See, e.g.*, D.11-01-040, 2011 Cal. PUC LEXIS 38, at *15 (“The Public Records Act (PRA) requires an agency to justify withholding any record by demonstrating that the record in question is exempt under express provisions of the PRA or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.”).

issues, *i.e.*, allow the administrative law judge to determine on a case-by-case basis how best to move the case forward expeditiously, given the relevant facts and circumstances associated with the given complaint. This more flexible approach should be adopted.

V. CCAA PROPOSALS TO REWRITE RULE 27 IMPOSE NEW PENALTIES, AND MICROMANAGE UTILITY OPERATIONS SHOULD BE REJECTED.

In Exhibit A of their Comments, CCAA propose a series of new rules of how IOUs should operate. Some of those proposals are directly at odds with SDG&E's current Rule 27, some would micromanage details of customer service call center operations, and others would require utilities to compensate CCAs for costs which the CCAs could have avoided. No explanation of these proposals is provided. These include the following:

- Daily revenue transfers to CCAs, even though Rule 27.Q.3 has longer and different terms. (CCAA Opening Comments Exhibit A, page 6, item 7(b)).
- New Fees owed by IOUs to CCAs. (CCAA Opening Comments Exhibit A, page 6 items 7(a), (d), and (e))(Table of proposed fees not included).
- All unbilled charges and ISO penalties must be reimbursed by the IOU even if the CCA could have avoided these charges and penalties. (CCAA Opening Comments Exhibit A, page 6, items 7(a) and (g)).
- Detailed logs of issues must be maintained, including records concerning customer calls to call centers and issues raised by the CCA. (CCAA Opening Comments Exhibit A, page 6, items 7(c) and (h)).
- Billing format. IOU must redesign its bills as directed by the CCA to accommodate non-standard CCA proposals, at IOU expense. (CCAA Opening Comments Exhibit A, page 6, item 7(e)).
- Written explanations must be provided to the CCA within 3 business day explaining why customers have been dropped. (CCAA Opening Comments Exhibit A, page 6, items 7(d)). Failure to meet this requirement will result in an IOU penalty.

These proposals are clearly unreasonable. They should be rejected.

VI. PROCEDURAL AND OTHER ISSUES

SDG&E takes no position on whether a workshop would be helpful in this proceeding. SDG&E does note, however, that to the extent a workshop is scheduled, it should not be held until after the scoping memo has been issued and parties are afforded a reasonable opportunity to review it and develop positions.

VII. CONCLUSION

SDG&E appreciates the opportunity to file these Reply Comments. SDG&E respectfully requests that the Commission reject parties' proposals that would expand the scope of this proceeding beyond what is necessary and convenient to establish rules of conduct and enforcement procedures relative to CCA. Proposals to insert issues to address cost/revenue allocation, rates/rate design and functional separation of utility and procurement functions and related accounting must be rejected because these issues must be addressed comprehensively in proceedings designed for those purposes. More fundamentally, SB 790 does not require such separation or treatment of any of these issues. Finally, it is imperative that any Code of Conduct adopted in this OIR not restrict a utility's ability to communicate fully and accurately with customers about utility tariffs, services and rates.

Respectfully submitted,

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